Hansard

LEGISLATIVE COUNCIL

60th Parliament

Thursday 31 August 2023

By authority of the Victorian Government Printer

Members of the Legislative Council

60th Parliament

President

Shaun Leane

Deputy President

Wendy Lovell

Leader of the Government in the Legislative Council

Jaclyn Symes

Deputy Leader of the Government in the Legislative Council

Lizzie Blandthorn

Leader of the Opposition in the Legislative Council

Georgie Crozier

Deputy Leader of the Opposition in the Legislative Council

Evan Mulholland (from 31 August 2023)
Matthew Bach (to 31 August 2023)

Member	Region	Party	Member	Region	Party
Bach, Matthew	North-Eastern Metropolitan	Lib	Luu, Trung	Western Metropolitan	Lib
Batchelor, Ryan	Southern Metropolitan	ALP	Mansfield, Sarah	Western Victoria	Greens
Bath, Melina	Eastern Victoria	Nat	McArthur, Bev	Western Victoria	Lib
Berger, John	Southern Metropolitan	ALP	McCracken, Joe	Western Victoria	Lib
Blandthorn, Lizzie	Western Metropolitan	ALP	McGowan, Nick	North-Eastern Metropolitan	Lib
Bourman, Jeff	Eastern Victoria	SFFP	McIntosh, Tom	Eastern Victoria	ALP
Broad, Gaelle	Northern Victoria	Nat	Mulholland, Evan	Northern Metropolitan	Lib
Copsey, Katherine	Southern Metropolitan	Greens	Payne, Rachel	South-Eastern Metropolitan	LCV
Crozier, Georgie	Southern Metropolitan	Lib	Puglielli, Aiv	North-Eastern Metropolitan	Greens
Davis, David	Southern Metropolitan	Lib	Purcell, Georgie	Northern Victoria	AJP
Deeming, Moira[1]	Western Metropolitan	IndLib	Ratnam, Samantha	Northern Metropolitan	Greens
Erdogan, Enver	Northern Metropolitan	ALP	Shing, Harriet	Eastern Victoria	ALP
Ermacora, Jacinta	Western Victoria	ALP	Somyurek, Adem	Northern Metropolitan	DLP
Ettershank, David	Western Metropolitan	LCV	Stitt, Ingrid	Western Metropolitan	ALP
Galea, Michael	South-Eastern Metropolitan	ALP	Symes, Jaclyn	Northern Victoria	ALP
Heath, Renee	Eastern Victoria	Lib	Tarlamis, Lee	South-Eastern Metropolitan	ALP
Hermans, Ann-Marie	South-Eastern Metropolitan	Lib	Terpstra, Sonja	North-Eastern Metropolitan	ALP
Leane, Shaun	North-Eastern Metropolitan	ALP	Tierney, Gayle	Western Victoria	ALP
Limbrick, David[2]	South-Eastern Metropolitan	LP	Tyrrell, Rikkie-Lee	Northern Victoria	PHON
Lovell, Wendy	Northern Victoria	Lib	Watt, Sheena	Northern Metropolitan	ALP

[1] Lib until 27 March 2023
[2] LDP until 26 July 2023

Party abbreviations

AJP – Animal Justice Party; ALP – Australian Labor Party; DLP – Democratic Labour Party;
Greens – Australian Greens; IndLib – Independent Liberal; LCV – Legalise Cannabis Victoria;
LDP – Liberal Democratic Party; Lib – Liberal Party of Australia; LP – Libertarian Party;
Nat – National Party of Australia; PHON – Pauline Hanson's One Nation; SFFP – Shooters, Fishers and Farmers Party

CONTENTS

Thursday 31 August 2023

The PRESIDENT (Shaun Leane) took the chair at 9:32 am, read the prayer and made an acknowledgement of country.

Rulings from the Chair

Badges

The PRESIDENT (09:33): Yesterday evening Ms Crozier raised a point of order concerning members wearing badges in the chamber relating to the upcoming referendum. I said I would get back to the house on this matter, and I appreciate members giving me that opportunity. As I indicated at the start of the term, that is something that I will take up. At the time, I felt like I got myself into the weeds about whether the referendum should be determined a political matter or not. I think that is a debate for this house, not for me to consider about previous rulings and standards that have been set.

There are a number of rulings made by a number of previous Presiding Officers around the wearing of badges, saying that they should not be worn if they have advertising or political ramifications, so I would say that the wearing of badges for the referendum falls into where we should not be wearing them. I think we can have an easy consensus and probably we would not have debate at all about whether we have badges that support the Cancer Council or Legacy, which has got a badge sale at the moment, or anything like that. Any area where we can have consensus, we should all be happy with. But I am determining that these particular badges are not appropriate in the chamber.

As I said, I got a bit bogged down about whether it is political issue or not, and we all have our own opinions about that. But I put a lot of weight on what Ms Crozier said – 'Where does it end?' – because, as I said at the time, people could wear their 'no' badges, but then someone comes in with a huge 'yes' badge and then someone comes in with a bigger 'no' badge. Where does it end? I put a lot of weight on that comment. That was a really longwinded ruling, but I wanted to make sure everyone knew where I was coming from.

Committees

Select Committee on Victoria's Recreational Native Bird Hunting Arrangements

Inquiry into Victoria's Recreational Native Bird Hunting Arrangements

Ryan BATCHELOR (Southern Metropolitan) (09:36): Pursuant to standing order 23.22, I table a report on Victoria's recreational native bird hunting arrangements, including appendices, extracts of proceedings and minority reports from the Select Committee on Victoria's Recreational Native Bird Hunting Arrangements, and I present the transcripts of evidence. I move:

> That the transcripts of evidence be tabled and the report be published.

Motion agreed to.

Ryan BATCHELOR: I move:

> That the Council take note of the report.

I am pleased to present the final report of the inquiry into Victoria's native bird hunting arrangements. The report is the culmination of extensive evidence gathering over the last five months, including nearly 10,500 submissions, which is by far the most received by any committee in the Victorian Parliament's history. The committee held 28 sessions of public hearings over six days and heard from ecologists and environmental scientists, hunting groups, animal welfare groups, veterinarians, economists, unions, compliance and enforcement agencies, government departments and, importantly, individuals with firsthand experiences as hunters and animal rescuers.

We also got out and about to see things for ourselves on the ground, with site visits to Lake Connewarre outside of Geelong on the opening day of duck season this year and to Heart Morass near Sale. I also personally conducted a private trip to Kerang and the surrounding wetlands on the last weekend of the duck season and spoke to hunters and rescuers, all of whom were genuine in their positions and advocated clearly and calmly for their point of view. Many Victorians care deeply about recreational native bird hunting, and the depth of these feelings was clear to the committee.

Passionate interest in matters of public policy is a healthy sign for our democracy, as is being able to have that debate with respect and understanding of different points of view. But ultimately, as a committee, we had to weigh up the evidence, to reach a conclusion and form recommendations. It was clear that not everyone was going to agree, and they did not. To expect anything less would be to diminish these genuinely and deeply held views. To a majority of the committee, it was clear that Victoria should end recreational native bird hunting on all public and private land from 2024. This would bring Victoria into line with many other Australian jurisdictions.

It is clear from the environmental evidence of long-term decline in native bird populations, largely driven by habitat loss, and a worsening outlook as our climate continues to change, that despite record recent rainfall bird populations have not recovered. There are also considerable animal welfare issues associated with native bird hunting: unavoidable wounding rates and the killing of threatened and protected species. Compliance efforts, while improving from a low base, have a long way to go to be truly effective. There is a genuine need to allow for the control of native birds, including ducks that are considered pests and destroy agricultural crops. However, this can be managed through the existing authority to control wildlife process, managed by the conservation regulator and mirroring arrangements in New South Wales.

It was often extremely upsetting to the committee to see evidence of Aboriginal cultural heritage sites that were damaged or destroyed by game hunters. Just as disheartening was an apparent lack of a coherent process for monitoring this, reporting and responding to these issues by government agencies. Much more must be done.

Victoria already invests a significant amount of public funding into the monitoring of bird numbers and for compliance in bird hunting. The sheer size and geographic diversity of locations makes it a near on impossible task for the Game Management Authority to adequately enforce bird-hunting regulations, and significant investment would be required by IBAC, game licence holders or the taxpayers should native bird hunting continue.

The committee has also made findings on what regulatory change would be necessary should our first recommendation to end the practice not be adopted. There is a genuine need to do more to support outdoor recreation in Victoria, and that was clear from the evidence we received. Currently regulations exclude non-hunters from tens of thousands of hectares of public land during duck season. Ending hunting would allow these game reserves to be converted into outdoor recreation reserves for camping and boating and the like, allowing all Victorians to access them all year round.

I would like to thank my committee colleagues for their participation in the inquiry and assistance in formulating the final report. Throughout the inquiry all members conducted themselves in a respectful manner. I would also like to thank the committee secretariat, managed by Matt Newington, the research team, led by Kieran Crowe and Imran Ahmed, and the administrative support provided by Julie Barnes, Daphne Papaioannou, Sylvette Bassy, Jo Clifford and Adam Leigh. A lot of other parliamentary staff had to chip in and help as well, and I thank them all.

I would finally like to thank the committee's Deputy Chair, Mr Galea, for his stewardship of the committee's final deliberations during my recent absence on bereavement leave. Given this leave, I was absent from the committee's final deliberation meeting, and all the records of those deliberations are included in detail at the end of the report. However, I would like to place on the parliamentary

record that had I been in attendance I would have voted with Mr Galea, Ms Watt, Ms Purcell and Ms Copsey to adopt this final report and all of its recommendations. I commend the report to the house.

Melina BATH (Eastern Victoria) (09:42): This is a self-fulfilling prophecy, this select committee. The government stood up and said, 'I want to ban duck hunting', and lo and behold, some five months later this is the report tabled today.

> Habitat is key. If you have habitat, you have birds.

So says wildlife ecologist Dr Hiller. There is no logical reason to ban a sustainable duck-hunting season in Victoria, and we have had evidence to support that view. This inquiry has been driven by ideological and political reasons for payback to support issues in this house. The Nationals strongly back a sustainable duck-hunting season and quail season in Victoria, and the Nationals and Liberals minority report at the back of this committee report certainly endorses that. There is a Labor, Greens and Animal Justice Party alliance in this report. What they failed to recognise was Professor Klaassen when he said that given the specifics of duck biology, hunting 'doesn't really put a dent in the population'. They blatantly refused to listen to Dja Dja Wurrung elder Rod Carter when he said:

> I think more broadly to the importance of being a hunter – a hunter as such holding a very significant place within society, within a family, as a provider of sustenance to people. We also describe … the importance for us as First Nations people – but extending that to us as humans …

I endorse his position. I also agree with the unionist Trevor Williams that this is 'the thin edge of the wedge'. What will be next?

I would like to put on record my thanks to the secretariat – Matt Newington, Kieran Crowe, Imran Ahmed, Julie Barnes, Sylvette Bassy, Jo Clifford and any other members of the secretariat – that worked so very hard on this very short timed inquiry.

Georgie PURCELL (Northern Victoria) (09:44): I am absolutely stoked to speak on the tabling of this report today, and I join with my colleague in thanking the Chair and other committee members. I made it clear when I got elected that ending duck shooting was my number one priority, and today we are only one step away. This report says what we have been saying all along: that duck shooting is out of touch with community sentiment, that no action plan can completely stop wounding and suffering and that compliance is a near impossible task.

In 1990, before I was even born, Labor Premier Carmen Lawrence, in Western Australia, banned duck shooting. When she did it she said:

> Our community has reached a stage of enlightenment where it can no longer accept the institutionalised killing of native birds for recreation.

Now it is 2023 in Victoria and we are still killing birds for recreation, but this report provides the opportunity for us to become enlightened as a state and to protect our native wildlife from recreational slaughter. I call on the government now to action these recommendations swiftly. It is time for them to act. They can cancel the next duck-shooting season with the stroke of a pen, without passing any legislation, and we are very hopeful that that will happen before the year is over.

I am obviously not the first Animal Justice Party MP to be in here, and I want to thank my former boss Andy Meddick for all of the fantastic work that he did up until this point – this great win is also his – as well as Laurie Levy, who has been out on the wetlands for almost 40 years now. We want to be able to put him into retirement; he is in his 80s. I want to thank all the duck rescuers who have been out doing the hard work in this time as well and everyone who participated in the inquiry. Once again, we are calling on the government to act immediately.

Katherine COPSEY (Southern Metropolitan) (09:46): As a committee we heard from an array of witnesses and some key information was shared with us. A number of witnesses conceded it is impossible to conduct duck shooting without wounding. Witnesses with veterinary experience said it is impossible to conduct duck shooting without cruelty – behaviour that, if it was not part of the

recreational duck-shooting season, would constitute animal cruelty. We heard that in practice it is impossible to enforce hunting rules across the vast wetlands given over exclusively to shooters when the season is on.

When the committee visited Lake Connewarre for season opening, I found it really eerie to hear gunfire breaking the silence of an otherwise beautiful morning. I acknowledge the heroic efforts of rescuers, volunteer vets and community advocates over decades and particularly those who have been out on the front lines of our wetlands, saving our native ducks from slaughter, despite the significant impact this has on their wellbeing. I also want to acknowledge Sue Pennicuik, who was the Greens MP for Southern Metro and our former animals spokesperson, who brought this issue into this very chamber in her inaugural speech 17 years ago and many other times in the years since. Thank you, Sue. We are in an extinction crisis. Thousands of our native waterbirds are already under stress. The recreational slaughter of our wildlife must end. I really urge the government to act swiftly on this report and to save Victoria's ducks once and for all.

Like the other committee members, I am sure, I do want to thank everybody who participated but in particular our wonderful committee staff. They did excellent work assisting the committee, particularly given the record-breaking number of submissions that this inquiry received – over 10,000. For the site visits that you arranged and, given the public interest in the issue, the professionalism and dedication that you showed to your work, we thank you very much.

Evan MULHOLLAND (Northern Metropolitan) (09:48): I too would like to speak on this. As a member of the committee I came to this issue not knowing much about duck hunting and not really having an interest in ever going duck hunting. That is probably still the case, but I took the opportunity to join the committee with an open mind, and what I saw was the greatest of human spirit – ordinary working people enjoying what is a normal recreational activity. Going out to Lake Connewarre, particularly to Heart Morass, I saw some of the conservation efforts going on. What was an old salt desert plain was turned into a beautiful habitat sanctuary that ordinary working people were able to escape to. I heard from witnesses at the committee who likened duck hunting to a men's shed and said it was an escape from everyday working life, it was an escape from their mortgage. Many of these people are construction workers or workers on worksites who work the equivalent of a seven-day week, and they book their leave long in advance so they can escape with their family and go duck hunting. I have heard from working-class people in my electorate from Craigieburn to Reservoir, Kalkallo, Beveridge and Wallan, who have all told me they support duck hunting. For a lot of people it is a multigenerational family thing.

I think this committee from the start has been a stitch-up. That is not me saying that, that is Labor MPs briefing the media that this was always a predetermined outcome. They told the media there were no inquiries about how we could restrict licensing agreements or about how we could involve Indigenous Victorians in the preservation of wetlands. I thank the committee staff, particularly Matt Newington, but this has been a stitch-up. I support the working-class people in my electorate who just want to enjoy this recreational activity.

Michael GALEA (South-Eastern Metropolitan) (09:50): I also rise to speak on the tabled report of the Select Committee on Victoria's Recreational Native Bird Hunting Arrangements. As deputy chair of the committee I welcome the tabling of this report and I welcome its recommendations. As a committee we heard extensive evidence from experts, advocates and members of the broader community. The committee received 10,402 written submissions and heard from witnesses in 28 public hearings across Melbourne and regional Victoria. I would like to acknowledge the work of committee chair Ryan Batchelor, who diligently guided our work and ensured that every voice was heard at the table.

Based on evidence received, the committee has recommended that the government cease the recreational hunting of native birds in Victoria effective from next year. I support this recommendation. We have also recommended that the government convert existing state game

reserves used for duck hunting into outdoor recreational reserves to enable and encourage more Victorians to partake in outdoor recreation across our state. A proposed recommendation to empower the Game Management Authority to expand hunting of non-native pest species such as deer, foxes and rabbits was not supported by the non-Labor members of the committee and as such does not form part of the final report. I affirm my support for the continuation and expansion of hunting of pest species such as deer, foxes and rabbits.

It is now up to the government to evaluate our report and determine its response to the committee's report. As a member of the committee it is my hope that the government adopts our recommendations. Finally, I would like to thank all of my colleagues on the committee, Matt Newington and the rest of the committee secretariat team.

The PRESIDENT: To the gallery, there is no filming or photos to be taken under the rules of entering the Parliament, so if there is any of that, could that please stop.

Bev McARTHUR (Western Victoria) (09:52): I too would like to rise to speak on this report. Like Mr Batchelor, I could not be around for the deliberations, but if I had had a vote I would have been voting with my colleagues Ms Bath, Mr Mulholland and Mr Bourman. I thank particularly Ms Bath for the work she has put into the minority report. It is an extraordinary document, and it really deserves great credit. I would also like to thank the secretariat staff, who did an unbelievable job with massive problems with IT and so on. But above all I would thank the thousands of people who participated from outside the committee to this inquiry. They submitted reports, and they appeared before us in good faith.

I am sorry to say this was a stitch-up from the beginning. As Minister Blandthorn said when she moved the motion, duck hunting 'should be banned'. We knew the outcome was going to be a ban on duck hunting. There is an exemption, and that is for the traditional owners. So we have singled out one group in the community who can continue to shoot ducks. But this is extraordinary, and as Troy Gray said from the Electrical Trades Union, this is an attack on workers. I cannot believe that you people on the other side think it is a good idea to take away the rights of the working-class people of this state, who actually find this an outdoor recreation, a retreat from the hard work that they do, especially on your major projects. And as Troy Gray said, they would be walking off the job. I hope he keeps his word. He should, because that is what he told the committee. This is an appalling situation, what you have done. You had a predetermined position from the beginning, and you have delivered it. I say sorry to all those tens of thousands of people who do so much to ensure that the areas of wetlands are preserved and looked after so well. I look forward to all those people who think we should not be doing it getting out there and looking after the wetlands.

Sheena WATT (Northern Metropolitan) (09:54): I would like to join my colleagues in making some remarks on the tabling of the report of the Select Committee on Victoria's Recreational Native Bird Hunting Arrangements. In doing so, I would firstly like to acknowledge the enormous work of the secretariat and in particular acknowledge Matt Newington and Julie Barnes. Thank you for all that you have done. Thank you to my fellow committee members and to the chair Ryan Batchelor for taking us through what has been a very challenging and highly emotive committee process. As was stated, this committee has had the most submissions ever, with over 10,000, and it was a big piece of work for each and every one of us.

I really felt that it was necessary to make recommendations that speak beyond this report, given my commitment to self-determination, and highlight the cultural practices important to First Peoples on the path to treaty, which this state has so boldly embarked upon. The voices of First Nations people in this state need to be central to the decision-making that this Parliament undertakes. By listening to the voices and views of our First Nations people, I have made Indigenous land management a vital part of my report. I hope that the changes resulting from this committee can ensure that we continue on our strong path to First Nations self-determination.

Among the many witnesses that we heard from throughout the course of this inquiry, I would like to take a moment to acknowledge and thank Uncle Rodney Carter and Uncle Gary Murray for joining us at the hearings and for sharing wisdom, knowledge, culture and the aspirations of traditional owners and First Peoples across this state. In a year when the nation will be asked about whether they support a First Nations Voice to Parliament, my report fulfils my cultural obligations to listen to my elders and seniors and role model what the Voice will mean, because that is what a commitment to First Peoples self-determination and Voice is all about.

Jeff BOURMAN (Eastern Victoria) (09:56): Thanks must be given to the secretariat for a stellar effort in very trying circumstances. This report presents the government with a challenge. It invites the government to reject the expert advice of Eureka Prize winning ecologist Professor Richard Kingsford in favour of the unhinged ramblings of a secret lobby group whose representative showed up at a public hearing wearing a disguise. The government should reject that invitation. It invites the government to reject the voices of the blue-collar workers who are building its legacy. Their voice was articulated so strongly by no fewer than seven major trade unions. It invites the government to send a message to those workers that the government might stand beside them for photo opportunities, but it sure as hell does not stand with them. The government should reject that invitation.

It invites the government to put at risk the seats of its own MPs outside of the goats cheese curtain just to appease people who will vote for the Greens anyway. The government should reject that invitation. It also invites the government to reject the hand of friendship being offered by the federation of traditional owners and the Dja Dja Wurrung people in favour of divisive rhetoric from urban dwellers. The government should reject that invitation. It invites a government elected just nine months ago, with a clear mandate, to ignore its own commitments in favour of those being pushed by a fringe party that got its sole representative elected through sleight of hand. The government should reject that invitation.

Just last year the Premier said that he supported duck hunting, saying:

> Some of us play golf … some people go shooting …
>
> That's about finding a balance and I'm not about telling people what should constitute their recreational activities.

That was good advice. The Premier said what the government should do. I invite the government to do what it said. This report was a stitch-up. Anyone that was there for the entire time could not reasonably come up with this as a decent outcome. I think it is a sham, and I invite the government to ignore it.

Motion agreed to.

Papers

Australian Energy Market Operator

Electricity Statement of Opportunities

David DAVIS (Southern Metropolitan) (09:58): I move, by leave:

> That the Australian Energy Market Operator's 2023 *Electricity Statement of Opportunities*, 31 August 2023, be tabled.

Motion agreed to.

David DAVIS: I move:

> That the debate on this report be made an order of the day for the next of meeting.

Motion agreed to.

Papers

Tabled by Clerk:

Statutory Rules under the following Acts –

Circular Economy (Waste Reduction and Recycling) Act 2021 – No. 91.

Gender Equality Act 2020 – No. 94.

Mental Health and Wellbeing Act 2022 – No. 92.

Planning and Environment Act 1987 – No. 93.

Surveyor-General – Report, 2022–23 on the administration of the Survey Co-ordination Act 1958.

Department of the Legislative Council

Overdue government responses to standing committee reports

The Clerk: I have received the following paper for presentation to the house pursuant to the standing orders: President's report on overdue government responses to standing committee reports, as at 31 August 2023.

Business of the house

Adjournment

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (10:00): I move:

That the Council, at its rising, adjourn until Tuesday 3 October 2023.

Motion agreed to.

Members statements

Braybrook Men's Shed

Lizzie BLANDTHORN (Western Metropolitan – Minister for Disability, Ageing and Carers, Minister for Child Protection and Family Services) (10:01): I rise to update the house on my visit to Braybrook Men's Shed this week with the member for Laverton in the other place. The government provides $1 million each year to support men's sheds, and this funding is in recognition of the important contribution men's sheds make in our communities. Since 2015 we have provided 459 grants to men's sheds across Victoria, with this year's grants round yet to open. As one of more than 360 men's sheds in Victoria, Braybrook Men's Shed plays an important role in the community. We heard about some of their completed projects that have benefited the local community, such as vertical gardens built for Cohealth in Footscray, raised garden beds for a local primary school so that they are accessible for students using wheelchairs and a community pantry for Yarraville Community Centre.

There were also some great passion projects underway while we visited, including work on a handcrafted replica of the bass from Kiss, Gene Simmons's battleaxe-shaped guitar. We also heard touching personal stories of the positive impact that social connection through the men's shed provides, particularly the opportunity to open up about mental health issues with peers. Men's sheds provide our communities with space to work side by side on projects of interest and share skills and experience, and this government is proud to back men's sheds. I thank Graham, Stephen and the other shedders at Braybrook Men's Shed for welcoming me and the member for Laverton so warmly, and I look forward to seeing more of their creative and meaningful contributions in the future.

Ukraine Independence Day

Ann-Marie HERMANS (South-Eastern Metropolitan) (10:02): I rise to update the house on the wonderful opportunity I had to celebrate Ukraine Independence Day at the Ukrainian Community School in Noble Park with their festive concert and their Ukrainian lunch. It was a tremendous honour

and a privilege to be there. I was joined of course by Lee Tarlamis, Michael Galea and others. It was really, really heartening to be in a bipartisan situation where we were around the Ukrainian community, who not only are a second generation teaching their young people the language and the culture of their parents but have had to open their doors to the refugees that have come in from Ukraine who are now having to learn English. To reach out to them, to hear their stories and to see those children come out with their drawings was very moving, realising that these are kids that have left their fathers, their brothers, their uncles and their grandparents behind. It was really heartening. So I just want to reach out to them and wish them all the best.

Daffodil Day

Ann-Marie HERMANS (South-Eastern Metropolitan) (10:03): I also want to acknowledge that today is Daffodil Day, remembering those who have cancer. I have a father with cancer and I lost a favourite uncle, who was mayor of Knox three times, Cr Tom Blazé. A grandmother was diagnosed as having died from cancer, although we could never really confirm that, and I have a niece of 15 with cancer as well. There are many people and many friends that we have and have had that have passed away or are struggling with cancer. I think cancer touches every Victorian. In fact if we look at the stats, which I have here, it actually touches one in two Victorians. One in two Victorians will be diagnosed with cancer by the age of 75, with one Victorian being diagnosed every 15 minutes. It is frightening, it is sobering and I just want to reach out to all those who have cancer and tell them that we are thinking of them today.

Housing affordability

Adem SOMYUREK (Northern Metropolitan) (10:04): I call on the Andrews government to put aside electoral competition with the Greens in the marginal inner-city seats, which have high concentrations of renters, and do the right thing by Victorians by using the policy levers at its disposal to ameliorate the housing crisis where there is market failure so that it can deliver a sustainable solution for renters. Where there is market failure in essential services, governments must intervene. The rental crisis is a symptom of the housing crisis. Adopting reckless, populist policy instruments advocated by the Greens will lead to disaster for renters, as it will provide a disincentive to building more housing stock. As I sat in the chamber yesterday morning listening to Dr Ratnam railing against market mechanisms, for a moment I felt like I was back at a Labor Party state conference with the usual Socialist Left maddies railing against free markets. But while most Socialist Left leaders accepted market mechanisms after the collapse of the Soviet Union, Comrade Ratnam I see is still fighting the Cold War. Dr Ratnam reminds me of the Japanese soldier who continued to fight 30 years after World War II had stopped. I remind the government that the Greens are all care and no responsibility. The government must not allow themselves to be dragged into a race to the bottom by the populist policies of the Greens on this very, very important issue.

Assyrian community

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (10:06): I rise to update the house on an event that I attended this month in my electorate of Northern Metropolitan Region. It marked the 40th anniversary of the Assyrian community in Melbourne. I was joined at this event by the member for Broadmeadows and the member for Greenvale from the other place as well as federal member Maria Vamvakinou, the member for Calwell, and also the mayor of Hume City Council Joseph Haweil. The anniversary is a significant milestone for the Assyrian community in Melbourne's north and throughout our state. It was a fantastic evening filled with traditional music, folk dancing and celebration of Assyrian culture and history. One of the highlights for me was seeing all the young children wearing their traditional dress.

My electorate of Northern Metropolitan Region is home to a large Assyrian community, who make such a significant contribution. The number of children that were there is proof that the future of the Assyrian community in our state is very bright. The Assyrians of today also represent the survival of

an ancient and proud civilisation. From establishing the first known libraries to introducing some of the earliest known laws and regulations, the contribution of the Assyrian culture is still recognisable in so much of our modern society. I was honoured to attend such an event and celebrate with the community.

I would like to acknowledge the work of the Victorian Assyrian Community Inc. and their committee of management not only for organising the event but for all the work they do in preserving this ancient and proud culture. I would like to give special thanks to the president of the Victorian Assyrian Community Sargon Chaharkbakhsh and the emcee on the night Malek Younan for putting on a great performance.

Warrandyte by-election

Aiv PUGLIELLI (North-Eastern Metropolitan) (10:07): I rise today to congratulate Tomas Lightbody and all the Greens team out in Warrandyte for running an amazing, positive, people-powered campaign. There were a record number of signs in front yards across the electorate, a record number of volunteers on the ground, a record number of doors knocked on across the community, with frank conversations about the issues that matter to people – the cost of living and from housing to power bills to grocery prices to caring for our precious environment. There were lots of records and personal bests for the campaign team, but most notably a record Greens vote across the district. Around a 40 per cent swing at the booth in the township of Warrandyte is a phenomenal achievement for all involved. Thanks, Tomas, Deepak, Cass, Sophia, Asher and the many other volunteers who built this campaign: power to you.

International Overdose Awareness Day

Lee TARLAMIS (South-Eastern Metropolitan) (10:08): Today marks International Overdose Awareness Day. This is an opportunity to come together to remember, without shame or judgement, those lost to overdose. It is a time to acknowledge the grief of loved ones left behind, reduce the stigma of drug-related deaths and try to find ways to lessen the incidence and impacts of overdose. It is about helping to spread the message that drug overdose is preventable and about taking action to save lives.

We all know the impacts of overdose are far-reaching and fall indiscriminately, affecting people of all ages, from grieving families to first responders and healthcare and support service workers. Today I wish to express my heartfelt sympathy to those who have experienced the tragedy of losing a loved one to overdose or who have been impacted by it.

Too often those who are affected are left to bear the burden of this crisis alone and in silence. That is why this year's theme is 'Recognising those people who go unseen'. Today I would like to recognise these people and say: we see you. Today I seek to amplify your voices and acknowledge your strengths and experiences, which serve as examples to us all. That is why our government continues to take action to address this issue, whether it be through the medically supervised injecting service, which provides a safety-first medical approach focused on harm reduction and has safely managed more than 6750 overdoses and saved at least 63 lives, or the permanent committee of stakeholders we have established to work together to reduce the effects of overdose. This and much more are all part of the government's broader plan to tackle alcohol and drug abuse and build on an investment of more than $2 billion to more than double the number of residential rehabilitation beds, increase withdrawal beds and implement the *Ice Action Plan* and *Drug Rehabilitation Plan*. In concluding, to those affected by overdose, I repeat: we see you.

Voice to Parliament

Bev McARTHUR (Western Victoria) (10:10): Yesterday Prime Minister Albanese released the worst-kept secret going around, that 14 October would be referendum day. I would just like to quote Mr Mundine, a very highly regarded Indigenous leader. The yes campaign:

> … is a fantasy novel about a magical wand called the Voice that will solve all problems. Actually, they can only be solved by economic participation: kids in school, adults in jobs, business creation & home ownership.

I endorse what Mr Mundine said. Mr Batchelor revealed yesterday that he would be a proud voter for the yes campaign. I am here today to reveal, if you had not already guessed, that I will be a proud campaigner for the no campaign. I do not believe you solve division by creating division, still less by entrenching it in the constitution. The experience in Western Australia shows us the danger, but at least that law could be repealed. Once we put race in the constitution, we cannot take it out. We already have a clause on race in the constitution which probably should be removed. I have always argued that closing the gap is key but that it is about economic opportunity and nothing else.

> We are one, but we are many
> And from all the lands on earth we come
> We'll share a dream and sing with one voice
> I am, you are, we are Australian.

I reiterate what Martin Luther King said:

> I have a dream that my four little children will one day live in a nation where they will not be judged by the colour of their skin but by the content of their character.

Voice to Parliament

Sheena WATT (Northern Metropolitan) (10:12): Are you one of the 6.4 million voters who later this year will be voting in their first referendum? If you are like me and this year you face a new choice, let me help you out. Firstly, referendums are compulsory, a part of our democracy much like voting in the federal and state elections last year. But unlike last year, this time you are voting on a question, a question with two simple options: yes or no. Later this year you will walk into the ballot box and be faced with a question which is about two things: recognising First Nations people in the constitution and consulting with First Nations people about issues that affect them. Before you head in and vote, please consider this: your vote matters and your vote can help change the lives and futures of Aboriginal and Torres Strait Islander peoples. You are being asked if 65,000 years of history and the oldest living culture are worth recognising in our founding document. You are being asked if Aboriginal people deserve a say on the issues that affect them and their lives every day. You are being asked if governments can and should do better by First Australians. The date is official now. So on 14 October, as you consider that question, I hope you will join me in answering that question and in answering it with a 'yes'.

Daffodil Day

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (10:13): Today is Daffodil Day. We are in a position on 31 August every year – and I would hope every day of the year – to talk about the impact of cancer on the lives, the health, the wellbeing and the opportunities of those we love, those we care about, those we work with and those who may be among us who live with, and all too often die with, cancer.

In 2015 my brother Patrick died of prostate cancer. He was diagnosed at the age of 39, and he died at the age of 42. He was one of 3500 people every year in Australia who die of prostate cancer. If detected early, more than 95 per cent of people have a survival rate of greater than five years. Nobody ever died of embarrassment. So what I would say today, this Daffodil Day, is that if there is anything abnormal, anything unexpected or anything unfamiliar happening in your body, in yourself or in your sense of how you are going about your days, please get it checked out. Please get the test. It might be that you are able to see a prevention of bowel cancer, of colorectal cancer, of prostate cancer, of laryngeal

cancer – the list goes on – simply by getting your symptoms checked. Please do it today for the ones that you love, if not for yourself.

Smith Family

John BERGER (Southern Metropolitan) (10:15): I want to take this opportunity to update the house on my movements. Last week I met with the Smith Family Victoria in my office, and we talked about pathways, engagements and transitions to a better future and how to get there. The Smith Family do incredible work. I was reminded of the Smith Family ad with the little girl and the shopping bag and the yellow gumboots going to school and how incredibly powerful that ad is. One in six children live in poverty, and it is organisations like the Smith Family that are making a real difference.

Victorian National Parks Association

John BERGER (Southern Metropolitan) (10:16): I also met with the Victorian National Parks Association. They hold a vision for Victorian to have a diverse and healthy natural environment that is protected, respected and enjoyed by all. I know that many in my community of Southern Metro value their time in open spaces, and I commend the work that they do.

Housing affordability

John BERGER (Southern Metropolitan) (10:16): I also attended my first committee hearing for the rental and housing affordability inquiry as a member of the Legal and Social Issues Standing Committee. As a renter I have experienced firsthand the many struggles that renters hold. My community of Southern Metro has some of the largest numbers of renters in the state, and I speak to them almost every day. I am proud to be a member of the Andrews Labor government that is delivering nation-leading reforms in this space.

I hope that everyone in this chamber has a wonderful few weeks break. I am looking forward to getting back into my community and fighting for the local schools, quality healthcare systems and well-paying jobs.

Payroll tax

David DAVIS (Southern Metropolitan) (10:17): I want to make some comments today about the large number of doctors that came to Parliament yesterday and met with the Leader of the Opposition John Pesutto, Georgie Crozier and others from the opposition. It is clear that the government's GP tax, their health tax, is actually going to have a huge impact. It is going to cut bulk-billing. It is going to make primary care services, principally GP services, less accessible. It is going to push up charges for local people as GPs are forced to pay more and more of this payroll tax.

The government's absurd statements – and I saw in question time yesterday in the lower house the Minister for Health's absurd statement that nothing has changed – are simply a fabrication. The truth of the matter is the government is relentlessly hounding and hunting for revenue, and they have put the State Revenue Office on the job. They have let it off the leash. They have changed the SRO advice on its website, firstly last year and then most recently just a few weeks ago, and it is clear that they are hounding and chasing health professionals, doctors, dentists – the whole group. This is going to force up healthcare costs and cut bulk-billing. It is a dumb tax and a tax on health. It is a wrong tax, and it is being done with a sleight of hand. It is really a very foolish step that the health minister, the Premier and the Treasurer in this state are taking.

Business of the house

Notices of motion

Lee TARLAMIS (South-Eastern Metropolitan) (10:18): I move:

> That the consideration of notices of motion, government business, 63 to 171, be postponed until later this day.

Motion agreed to.

Bills

Energy Legislation Amendment Bill 2023

Second reading

Debate resumed on motion of Ingrid Stitt:

That the bill be now read a second time.

David DAVIS (Southern Metropolitan) (10:19): I am pleased to rise and make a contribution to this debate on the Energy Legislation Amendment Bill 2023. The bill is a step in the transition of the energy sector to achieve net zero emissions by 2045 while ostensibly ensuring reliable supply of energy to Victorian consumers. The omnibus bill amends the National Electricity (Victoria) Act 2005 and the National Gas (Victoria) Act 2008. It claims to deliver better outcomes. The main purpose is to amend the National Electricity Victoria Act 2005 to incorporate decision-making requirements that will apply to the minister when deciding whether to make a T-3 reliability instrument under the National Electricity (Victoria) Law. It also amends, as I said, the National Gas (Victoria) Act. It enables regulations to be made to:

> … prescribe a civil penalty for a breach of a declared system provision that is prescribed to be a civil penalty provision …

It makes further modifications to the National Gas (Victoria) Law as it applies:

> … to enable the Supreme Court to make an order that a person pay a civil penalty for a breach of a declared system provision that is prescribed to be a civil penalty provision …

It also updates references to the Essential Services Commission gas distribution system code – part 6 of the Essential Services Commission Act 2001.

The retailer reliability obligation (RRO) started on 1 July 2019, and it is designed to support a reliable energy system by requiring energy retailers with some large energy users to hold contracts and invest directly in generation or demand response to support the reliability of the national electricity market. The NEM, the national electricity market, is undergoing some significant transition driven by rapid technological change as we move to a lower emissions electricity system. There is a large influx of intermittent renewables along with recent and upcoming closures of thermal generators, and we know that some have already closed in Victoria – earlier than expected – and the government has not guaranteed a reliable supply of energy. There will be a need to take extra measures to ensure reliability of electricity supply. The COAG energy council agreed to implement the retailer reliability obligation to help manage the risk of declining reliability.

The RRO is designed to ensure retailers are accountable for reliability in a way they have not been before, and I will say something about this in a moment. If the RRO is triggered, it will require retailers to enter into sufficient contracts to meet their share of expected system peak demand. Retailers can choose to contract with any form of generation – it could be solar, hydro, gas, whatever, batteries. However, on the reliability enhancing firming: the firmer the contracted generation source is, the greater its contribution will be to meeting obligation. This is designed to provide some incentive for market participants to invest in the right technologies in regions where it is needed to support reliability in the national electricity market.

The provisions in the bill set out a framework, and this was recently amended to enable jurisdictional energy ministers to trigger the RRO. The bill will introduce Victoria-specific decision-making. I just want to make a point here. The Commonwealth and the whole national electricity market have been very much a mixed success, a mixed sort of outcome. For many decades Victoria had a very secure, cheap and reliable energy supply. We understand the issues with carbon dioxide emissions. We understand the fact that internationally a transition is happening. But the complex regulatory environment that has been created has actually not worked to Victoria's benefit.

I say that at the end of the day the Victorian government is responsible for ensuring reliable energy supplies in Victoria. The Victorian government is the one that has failed here. We know that reliability has declined. I will have something to say about the Australian Energy Market Operator (AEMO) report today in a moment, but it is very clear that Daniel Andrews, Lily D'Ambrosio and Labor have been in government for nine years now and the risks and problems of the energy market are almost entirely on their head. They should have taken the steps necessary to guarantee security of supply. They should have been taking the steps to make sure that the lights remain on, and the truth of the matter is they have not been.

I accept that there is confusion and that there are problems with the mixed regulatory environment that we face. I accept that the Commonwealth, of all colours, has not always been helpful in these matters, and I accept that other jurisdictions have complicated the matter significantly. However, at the end of the day, it is our government in Victoria. It is Daniel Andrews, who has been in power for nine years, Lily D'Ambrosio as the energy minister and all of the cabinet that is responsible for making the decisions and ensuring that our energy supply is not only transitioned in a useful way but that this is done in a way that is safe and a way that ensures reliability is there, and also that the price is not extreme. The surge in prices in the last three or four years has been absolutely slugging Victorians, absolutely slugging small businesses, absolutely slugging families, and that is directly the responsibility of Daniel Andrews and his government. They have been in power for nine years and they have allowed these price surges to occur. Daniel Andrews, Lily D'Ambrosio and the Labor cabinet in Victoria have to take full responsibility for the failures of energy policy, for the increased prices.

Now, I support the $250 rebate on energy, but that is just a very small part of the surge in energy costs faced by small businesses and families. That is a very small part. I paid my bill the other day, and it was $1490 – a huge bill, and that is one of the results of the surge in energy costs. And I am just very typical of so many Victorians –

John Berger: How many houses?

David DAVIS: I have one house in the city and one on the coast. I have two. I do not have a great number of houses, as many Labor MPs do.

John Berger: I thought there might have been a couple of houses.

David DAVIS: No. That is one house for one quarter, and that is a significant cost. And I am not alone in this; I am not meaning me to be particularly exceptional on this. I think what I am saying is that in fact everyone is facing significant increases in cost, and the persons that are responsible for this are Daniel Andrews, Lily D'Ambrosio and the Labor cabinet who have been in power for nine years. Labor has been in power now for 20 of the last 24 years, including the last nine years, so these massive surges in energy costs are entirely their responsibility. It is Labor that has allowed these energy costs to surge, Labor that has failed to put in place proper outcomes, Labor that has failed to plan for the future, Labor under Daniel Andrews and Lily D'Ambrosio that have clobbered, absolutely smashed, families with these huge energy costs, and businesses are suffering too.

It is difficult for some Labor MPs to understand, but their government has been in power for 20 of the last 24 years. Daniel Andrews has been in power for the last nine years, Lily D'Ambrosio has been in power. They are responsible for the energy settings in our state. It is them who have put it in place, it is them who are responsible for the high energy costs, it is them who are responsible for the unreliability of supply and the risks that we have seen today, and I will come to today's report in a moment.

The claim is that this bill will improve the functioning of Victoria's wholesale gas market by enabling regulations to be made to increase the maximum civil penalties. The change is designed to provide additional flexibility to the Australian Energy Regulator and the courts in determining appropriate response to instances of non-compliance and to help ensure civil penalties issued reflect the severity

of conduct and act as a deterrent. It ensures the compliance and enforcement regime is, as it is described, fit for purpose. The bill sets out to update several outdated references. This is housekeeping to some extent. We certainly as an opposition – I pay tribute to the work of David Hodgett as the shadow – consulted a large range of stakeholders. Broadly there is support for the bill.

There is already a program for AEMO to make an update, the reliability forecast – and I will say something about that in a moment – which is designed to inform the market of gaps between energy supply and demand and signal potential investment opportunities, and that is certainly what the report does, which we will refer to in a moment. The National Electricity Law was recently amended to enable jurisdictional energy ministers to trigger the retailer reliability obligation, and if a Victorian energy minister has the power to trigger the RRO, it is reasonable to place some of the decision-making criteria around this in legislation to ensure consultation occurs and appropriate standards are in place.

There are some real issues here about the role of these distant regulatory authorities. AEMO is a body that is out there that is responsible to energy ministers in nine jurisdictions – I think that is the number; I need to check that, but all on the east coast are certainly involved, as is the national government – so you have got a significant issue with the governance of AEMO and its responsiveness and a significant issue with the ability to clearly and cleanly see the responsibility. The important point I am trying to make today is that at the end of the day Daniel Andrews, Lily D'Ambrosio and the Labor government here have been in power for nine years and it is their responsibility and their failure to get Victoria into a good position with this bill.

I want to talk now to the report that we have just tabled in the chamber. I am going to give you the precise title of it: the 2023 *Electricity Statement of Opportunities*, August 2023 –

Tom McIntosh interjected.

David DAVIS: That is what I said: the *Electricity Statement of Opportunities*, a 10-year reliability outlook for the national electricity market, including the 2023 energy adequacy assessment projection.

Tom McIntosh: It is a 10-year outlook, Mr Davis.

David DAVIS: The 10-year outlook, as I quietly read. I am going to read from the executive summary here because I think it is important:

> The *Electricity Statement of Opportunities* … provides technical and market data for the National Electricity Market … over a 10-year period … It serves to advise on the additional development needs required to maintain reliability in the NEM.

When we look at the report in this 2023 assessment, it looks at risks coming up, and it says:

> … Australia's NEM is perched on the edge of one of the largest transformations … The scale of opportunity to meet an imminent and growing need for firm capacity, new forms of energy production, and significant consumer energy investments is unparalleled in Australia's energy history.

All of that is true. But it does say they are worried about Victoria:

> … this coming summer and over the entire ESOO horizon against the IRM, and from 2026–27 against the reliability standard.

That is the quote. They go further to make some very sharp remarks about Victoria. I will read the general lead-in here because I think this is important to understand what we face as a community:

> While generation, storage and transmission developments continue to connect to the power system, the assessment shows these committed and anticipated developments (generation, transmission and other solutions) are not yet sufficient to offset the forecast impact of higher electricity use and advised generator retirements. Delays to any other currently considered development may further worsen the reliability outlook.

> The forecast reliability gaps in the first five years of the horizon, in the Central scenario when considering only those developments that meet AEMO's commitment criteria, are in:
>
> - **Victoria in 2023–24** … forecast reliability gaps identified at the start of the horizon did not feature in the Update to 2022 … but have arisen due to a combination of factors, including an increase in the probability of coincident low wind, and high demand conditions, higher unplanned outage rates, withdrawn gas capacity –

this is on page 9 of the report –

> reduced CER orchestration, and the modelled derating of short duration storages

Read closely, you should understand that that points to significant risk for Victoria. In Victoria it goes further. It talks about the forecast reliability gaps identified in 2026–27 being aligned with the retirement of a South Australian power plant and being larger than those identified in the 2022 report. It says this is:

> … due to a combination of factors, including an increase in the probability of coincident low wind, and high demand conditions, higher unplanned outage rates, withdrawn gas capacity, reduced CER orchestration, and the modelled derating of short duration storages.

These are very significant warnings to Victoria that we are facing summers ahead which could be hot and dry, summers that actually may well not have sufficient energy available.

Tom McIntosh: Climate change is making that worse.

David DAVIS: I am not denying climate change. I have never, ever. You will never find a statement on record of me denying climate change ever. My point is that your government has been in power for 20 of the last 24 years and that Labor has been in power for the last nine years. We are in this position due to their failure to take the actions necessary to give us secure energy supplies. It is Labor's fault, it is Daniel Andrews's fault and it is Lily D'Ambrosio's fault. It is the Labor cabinet over the last nine years that have failed to put us in a position where we can bank on security –

Tom McIntosh: What would you do?

David DAVIS: Well, we would have done things very differently, actually, over the last nine years. What I am going to do here is point to the risks into the future and indicate that there is –

Tom McIntosh: Do you have plans to omit those risks?

David DAVIS: We would take steps to deal with that. One of them is we would have planned better from the start.

Tom McIntosh: What is your plan?

David DAVIS: I will tell you what we would –

Tom McIntosh: In government?

David DAVIS: In government we would have actually had generation capacity in place to deal with this. It might have been a mix of generation, and I think that is right. There would have been some gas firming in place.

Tom McIntosh interjected.

David DAVIS: Well, we are not in government; we have not been in government for the last nine years. It is your government that has been in power and your government that has failed to put that firming capacity in there. You have not put enough firming capacity in. The report is saying there is not enough firming capacity, and that is your government's fault. You have been there for nine years, and your government has failed to put the firming capacity in place. And when the lights go out in summer, your government will bear 100 per cent of the responsibility for its failure.

Tom McIntosh interjected.

David DAVIS: I tell you what, there is not necessarily sufficient –

Tom McIntosh: Have you read the report, Mr Davis? Have you read the full report?

David DAVIS: I have not read all of the report, but I have read much of the report. You may not have read all of the report either. What is clear is that there are very significant risks, and your government is the government that has failed to take the actions necessary to give us the security that is necessary.

Tom McIntosh: You couldn't answer what you would do if you ever got your chance in government.

David DAVIS: I could. I have told you that we would have better firming capacity in place. That is what we would have done – partly gas, but partly other things.

Tom McIntosh interjected.

David DAVIS: I am telling you. You have asked, and I have told you. I am happy to engage.

Trung Luu: On a point of order, Acting President, I understand this is a contribution by Mr Davis, not a debate. I could be wrong.

The ACTING PRESIDENT (Sonja Terpstra): I think the interjections need to be calmed down a little bit.

David DAVIS: I will not take up the opportunity of the interjections.

The ACTING PRESIDENT (Sonja Terpstra): That might be helpful.

David DAVIS: All right. I will seek to avoid taking up the opportunities of the interjections.

My central point is that the report today points to huge risks for the state – huge risks in the immediate term, significant risks into the long term – and this state government is not doing enough and has not done enough to put us in the position to have the security that we need. That is the key point. It is the state government's responsibility – the primary responsibility. It is Daniel Andrews's responsibility. It is the energy minister's responsibility.

I want to say something about the more general issue of these quangos at a national level. I am increasingly uneasy about their presence. This was true when I was health minister and it is also true in this energy sector. Where there is mixed responsibility, often the responsibility becomes less sharp and less clear for the particular jurisdiction. I think that that leads to ministers and departments focusing less sharply than they ought to on the actual outcomes.

On the regulations that are made, from recently talking to other jurisdictions, particularly in Britain, there is increasing concern across the Westminster world about not just the regulations that are made in the normal way but the regulatory and decision-making steps made by distant or third-party bodies that are in effect regulations. We have got to look more closely as a Parliament at how we work to scrutinise these decisions, to bring them to the Parliament so that they can be examined and we can see which are in the interests of our community and which are not. We need to look at ways to, in many cases, improve them. I make that as a more general point, but today AEMO has changed its advice from last year's and it has pointed to real risks both in the medium and longer term, but particularly in the short term for Victoria.

I want today to make no bones about it: Daniel Andrews and his government, the Labor government in Victoria, with Lily D'Ambrosio as the minister, are responsible for making sure that the lights stay on, making sure that industry is able to keep working and jobs continue to go forward and making sure that families are able to get the electricity that they need when they need it. We understand that energy policy is complex. We understand that there is no easy answer in all of this, but this government has

been in power for nine years. It has pushed forward. It pushed – let us be quite clear – for the early closure of a coal-fired power plant and left the state without the firming capacity that is necessary. Some of this has been adventurism on the part of this government and the policy of this government. They have been leaping into a direction without having the backup power that is necessary to ensure consistency and security of supply, and that is a risk to Victorians, to their health, to their comfort and to Victorian business.

If the lights go out, the damage that is done will be Daniel Andrews's fault, let us just be clear, and the fault of his cabinet, the Labor cabinet, over the last nine years. Nine years is not a short period of time. It is a long period of time where they could have put in place a whole series of measures that would have assisted, and they did not. They have not, and the risks are now laid out in the AEMO report very clearly. I urge people to spend the time reading it. It was released this morning. I tabled it this morning because I think every member in the chamber should spend time over the next break period reading it and understanding the risks that we encounter as we go into the summer period ahead and the period going forward from that. It is an important wake-up call. The fact is Daniel Andrews and his government have got to be held accountable for their errors.

Tom McINTOSH (Eastern Victoria) (10:43): I am very proud to stand today to support the omnibus Energy Legislation Amendment Bill 2023. Mr Davis has made a lot of comments and I will return to all those in due course throughout my contribution, but first of all I want to get on and talk about the important changes that are being made with this legislation to ensure that we have sufficient generation of supply to meet our electricity needs. The RRO, the retailer reliability obligation, is a bit of a mouthful but it is incredibly important, because what we are enabling is the minister to compel retailers to lock in contracts with generators to ensure that we have the supply that is needed in our state.

We are also ensuring, in doing this, that this minister and future ministers through this legislation will communicate this and will engage with the Premier, the Treasurer and the Australian Energy Market Operator when we have a situation where retailers or large consumers of energy – very, very big consumers of energy who make their own energy contracts – are not meeting future demand. Mr Davis talked about the AEMO report that was released yesterday. It does give important time frames. It gives the 10-year forecast for energy demand. So if we see at that three-year-and-three-month point that there is a gap between that demand element and the future electricity that the retailers are contracting in, it provides that trigger to say that that retailer or large consumer must go out and source that energy. It is ensuring that we are meeting the projected demand with the supply and ensuring those contractual agreements are in place.

It was ironic, hilarious – whatever you want to call it – when those opposite moved a motion yesterday asking for a commonsense plan. Mr Davis here was talking. I asked them what their plan is, and we will come back to that shortly. We are here on a piece of legislation showing the plan to ensure supply at a time when Victoria's energy generation has grown year on year for four years in a row. We are exporting more electricity than we need. We have a surplus year on year. I spoke in the chamber here yesterday about the fact that 36.5 per cent of Victoria's electricity is coming from renewable generation.

I think the fact that we are here with this legislation and with other pieces of legislation – we have got a lot of legislation this year in the energy space – shows that we are identifying the problem of removing emissions from our climate as we have a changing climate that we need to address, which I will come back to shortly too, because that does create bigger issues for us in summer when we are trying to provide electricity for our grid, particularly cooling during heatwaves. We are putting this legislation forward alongside other legislation that is ensuring this century's energy needs and this century's requirements of governments to provide electricity into the grid and to ensure we have the workers, to ensure workers are safe, to ensure communities are safe and to ensure we have clean, affordable power. This bill is just another example of this government stepping up to the plate in the leadership vacuum that has been in this country for much of the last decade and delivering on that.

On the AEMO report, I find it very interesting that Mr Davis has tabled that this morning. I challenged him in his contribution whether he had read the whole report, and he has not.

Members interjecting.

Tom McINTOSH: Well, you notice. I hope we get the opportunity to keep getting up and talking about this, because I am very proud of the action that we have taken on this side. Mr Davis talked about a plan. He kept coming to the fact that 'We need a plan' and that they would have done things differently. So I took the opportunity to ask Mr Davis, 'What would you do?' 'We'd have more firming supply.' 'Okay, well, what sort of firming supply, Mr Davis?' 'Gas.' 'Okay, gas will be part of it. We already have gas, Mr Davis. What else would you do?' 'Oh, I don't know. I don't know.'

I mentioned yesterday that around the country energy policy is driven by the National Party, so I actually feel a little bit of sympathy for the Liberal Party trying to get up and talk about energy policy, because they have stepped back from that. Even though energy policy is absolutely critical to the economic success of our state and our nation, they have stepped back and they have said, 'We'll leave this for the Nationals,' who, as I pointed out in my last contribution, had 22 energy policies in their nine years in federal government. I noticed that one of the Nationals state members here said it was the status quo for me to point out the fact that the federal coalition, the National Party and the Liberals somewhere there in the mix as well, had no substantive, cohesive position on energy. She said it was the status quo that I talk about the Nationals in federal power, and here we are. Mr Davis himself was talking about the grid and how it covers many states. We are talking about a national electricity system – or at least the east coast, as he pointed out – yet Ms Bath wanted to distance herself from her federal colleagues.

I tell you what, I will stand here and I will stand beside my Labor federal colleagues because I believe in principle in what we are doing. We are dealing with climate change, we are supporting workers and we are ensuring that Australians at the federal level and Victorians here have access to clean, affordable power, and that is why I am proud to stand alongside my colleagues – because it is a matter of principle, it is a matter of action, and those opposite do not have any principles other than to try and muddy the waters as much as they can. For the last 20-plus years we have known we needed to act on climate change, but they do not want to do it. Every single step of the way they want to slow down progress. Again, every year that we are delayed in action on climate change the problem actually becomes far, far worse. Again, it is like they are praying. As they like to be referred to, His Majesty's opposition are praying for a blackout. They want a terrible summer, and we know summers are getting worse and worse and worse due to climate change.

We will admit that it is a big pressure that is put on our energy system. We have got residents of our state in their homes needing to stay cool during hotter and hotter summers, and we saw what happened in Europe in their summer this year, with catastrophic fires and catastrophic temperature surges, where people were dying in their homes. It is beyond belief that those opposite are not wanting to take action on climate change when we know that the results are worse and worse for humanity every year, not to mention all the other species on the planet. We have got this continual stopping of our progress, which makes the issue worse and worse.

I wanted to speak to the report that Mr Davis actually did incorrectly reference, the electricity system statement of opportunities. That 10-year report is very important. It helps us look at the market and plan, which as I said, federally did not occur for 10 years, but now we are in a position where all the mainland is Labor and we can get on with that. Coming back to what this bill here does today, it allows us to identify the gaps and to ensure we fill those gaps with supply – with clean supply.

I have talked about how climate change is exacerbating the problem. One of the other issues we have is our coal generators. I was at Yallourn power station. There is a $400 million investment being made to upgrade that thermal coal generator to ensure that it does get to its end of life, that it does get to the period for which we need it to operate, because again, this is a massive transformational piece – to

switch our electricity system over. There is no denying that, and that is why we are up to the challenge and that is why we are bringing a plan. Again, like climate change with increased heat, the reliability of our coal generators is also an issue, and that is also in the report. But what is also in the report, if Mr Davis had read it all, is the fact that AEMO state that they have sufficient reserves to cover that shortfall. We have to acknowledge all the risks. We have to acknowledge all the complexities. We have to acknowledge how important it is to ensure that Victorian households – and I have talked about the health particularly of our elderly and vulnerable – and our businesses have electricity so our state can function and can function productively and be the economic powerhouse that our electricity system has enabled it to be for the last century, now and into the future.

We have got these pressures coming on. As AEMO stated in their own report, there are sufficient reserves. I hope that Mr Davis and those opposite read the full report. I notice that they have tabled it. I look forward to debating it if it does come back. But again, in my last contribution I asked and I keep asking: can the opposition provide the people of Victoria with something that resembles a plan – and probably on any of their policy areas – on energy? Their plan at the last state election was to go in and rip up farms and look for gas. Over the last decade they have supported coal seam gas: 'Let's rip open the waterways.' If you pollute the water below farmland, it is very, very – everything should basically come back to protecting future generations who will inhabit this planet. I grew up on a farm, and I am passionate about future generations of Victorians and Australians being able to work that farm. I tell you what, if you let coal seam gas and whatever chemicals go down into that water and back up through the land, that is not going to be productive farmland. I keep asking them for this plan. They say, 'More gas; more firming capacity.' As I said, we have firming capacity. I was just looking at the AEMO app. There is none required at the moment.

We do have coal; coal is in the system. We have a plan to reduce that. There is wind – I think it was 36 per cent wind feeding in and 6 per cent solar. It is there, but you do not bother to look at it. We ask you for a plan. 'We'd do things differently.' What would you do? 'We'd have more firming.' What sort of firming? What would you do? Please tell the people of Victoria, who care about climate change, who care about acting on it and who care about the future of their children and their children and their children. They care about it, so that is why we have brought a plan to people. It is offshore wind, it is our solar farms, it is our wind farms and it is the rooftop solar generated on homes, which is the cheapest electricity that you can get. It gets into people's houses – off their roof, into their house – for 2 to 3 cents a kilowatt. It is so, so cheap, yet those opposite, federal or state, just seem to have dragged their heels on it for so, so long.

We will continue down the path to 95 per cent renewables by 2035 and to net zero emissions by 2045. We will continue doing that, and we will ensure that the cheapest forms of energy – we are in a country with the most abundant solar and wind resources in the world – our solar, our wind and our hydro, are supplying Victorians and Australians in this interconnected grid that we have with affordable power that ensures our collective prosperity, our collective future and the future of our children and our grandchildren. I just hope that those opposite can see something that should not be political by nature. There should be a broad agreement that we need to get to net zero emissions as quickly as possible, and then we can debate the path there and we can debate sensible ideas – not nuclear, which is going to cost eight times as much. The community do not want nuclear.

Georgie Crozier: Oh, really? It's cleaner. You won't even have the debate – that's your problem.

Tom McINTOSH: I am happy to debate nuclear. Nuclear does make sense in certain places in the world where there is not the most abundant –

Georgie Crozier interjected.

Tom McINTOSH: Where would you like nuclear, Ms Crozier? I think we are going to debate this later today. I have got 12 seconds left, so we will come back to this. I am very proud of Minister

D'Ambrosio and this government's work on energy to provide clean, affordable energy for Victorians now and into the rest of this century.

Adem SOMYUREK (Northern Metropolitan) (10:58): I rise to support what I thought was a non-controversial bill. I rise to make a brief contribution in support of the Energy Legislation Amendment Bill 2023, which seeks to modernise and enhance Victoria's antiquated energy safety compliance framework. The rapid expansion of renewable energy and storage technologies has revealed significant flaws in Victoria's energy safety laws. The current laws are based on the 1990s risk assessments, hence they overlook the rise in small-scale renewables and battery systems. Energy is not just a commodity. It is that, but it is also an essential service that powers our homes, our industry and all of our lives. Therefore the government has a responsibility to ensure that it puts in place a robust regulatory framework so that every Victorian can trust the energy they use. When I say 'trust', I mean that they trust that their energy is safe, reliable and sustainable. I promised to make a brief contribution, and I think I have fulfilled my commitments. With that, I commend the bill to the house.

Georgie CROZIER (Southern Metropolitan) (11:00): I am pleased to be able to rise to speak to the Energy Legislation Amendment Bill 2023. It is a timely debate we are having considering the release of the Australian Energy Market Operator (AEMO) report today, the 2023 *Electricity Statement of Opportunities*. This report goes to, as it states, 'a 10-year reliability outlook for the national electricity market'. What is so concerning about this report today is that Victoria is in actual fact the worst jurisdiction in Australia for energy security.

Every Victorian is very concerned about energy reliability but also energy costs. Energy costs under the Andrews Labor government have skyrocketed and under the Albanese government they have skyrocketed. Despite their offering a couple of hundred dollars here or there to help with cost-of-living pressures and their promises to bring down energy prices, they have meant nothing. Energy prices are out of control, and they are hurting everyday Victorians. Businesses, households, big industry – everyone is hurting because of the policy decisions of this government, and that is a fact. You cannot deny that energy prices are rising as people get their electricity bills, especially over these winter months. It has been exceptionally cold in some parts, and there have been stories that people have not been able to afford to put on their heating, so they have gone to bed early. It is particularly the elderly and the vulnerable that are suffering because of this. This is a basic requirement of a modern-day economy, but we do not even have the basic right of cheap energy. That is a direct result of government policy.

If you look at the government's policy and their target of net zero, they must do this sensibly. That is what we argue. If you are going to transition to that target, then do it sensibly. What is this government doing? It is shutting down gas supply to new households in just a few months time. What an absolutely ludicrous policy decision made by Lily D'Ambrosio and Daniel Andrews. I mean, they are peas in a pod coming from the Socialist Left. This takes a really blunt instrument to any new home owner who wants to have choice and wants to have energy security, because we know that there is not that reliability in the system. This report states it. It states that there is not the reliability in the system and Victoria is the worst in the country in terms of reliability.

All of those people who are passionate about climate change – I do not have a problem with that. The climate is changing. It always has and it will continue to do so. There is no argument in that. Using your natural resources is completely fine. I grew up on a farm and we had solar panels on our house, which was sensible, back in the early 1990s and late 80s when they first came out. But you cannot do it across the board in a modern-day economy when you have got a massive population increase, when you have got industry requiring energy, when costs are going through the roof. It is killing the economy as well as being unreasonable to households and small business.

I was speaking to my drycleaner a few months ago. She said to me, 'Georgie, what are we going to do? Our electricity bill was $4000 a month this time last year. It's now $8000. We can't pass those costs on to the customers, because they will complain, so we're working harder.' She and her husband

work so hard. That is a business that so many Victorians appreciate and need in terms of getting about their daily business. That is what they want to provide, yet they are being absolutely smashed because of high energy prices. We are talking about energy and talking about transition, and the government say they think they have got all the answers. But their answers are hurting people. They are actually hurting people, and people are seeing it, because of those energy bills that are coming in. Those small businesses, like the one I have referred to, are seeing their energy bills coming in. The business has to make a decision: 'Do we continue, or do we shut our doors and go and do something else?' Therefore the customer loses out, and our society and our community lose out when you have a shutdown of business because they cannot operate, because it is too expensive. That is happening across the board in Victoria. It is a sign of the times to come when we have got a government that is running a debt of close to $226 billion. How do we pay for that? How do households pay for that? How do small businesses pay for that, when they are copping in the neck these higher energy prices?

Government have a responsibility here, and they have failed every Victorian household and every small business. In fact every business, every one, they have failed. They have failed because of their ludicrous decisions to ban gas and not even understand how there is that resource that can be used and the technology that is available. Their issue is just close down, smash everything up and let us just hope for the best. Well, the headline says it all: 'The crisis summer in blackout state'. It is coming. That is what they are warning, the so-called experts. You tell us to listen to the experts; well, the experts are saying it is coming. And Victoria, in this very report, is the one that is faring the worst.

I digress, because I think it is an important debate that we need to have to get those issues out there. But this bill talks about the retail reliability obligation framework established under the National Electricity Law; it is an important part. That is why I mentioned in my preamble that reliability, because the reliability is not going to be there. This report says so. This bill introduces Victorian-specific decision-making criteria and consultation safeguards to be used in the event the Victorian minister needs to trigger the RRO – that is the retail reliability obligation framework – in response to an emerging risk of significant electricity disruption. Well, again I say this minister – who would have to be one of the worst energy ministers, and goodness knows there are so many question marks already over her undertaking with her own branch members; she says she does not have anything to do with that, and nobody believes that in a pink fit – gives Victorians no choice, just demands that what is happening is the right way. Well, I do not have significant confidence in the minister having that responsibility, quite frankly. But nevertheless, this is what this bill does. I think it is important to know that that RRO will be made in consultation with the Australian Energy Regulator and the Australian Energy Market Operator, as well as the Treasurer and the Premier.

While the Treasurer, the Premier and the energy minister do have significant power in this regard, they are acting on behalf of every Victorian when there is a disruption of supply. It is important that that consultation is undertaken and not used for political purposes, like what has been done, because it is Victorians that are suffering because of those political decisions made in this area and previously. We need to have improvement in the functioning of Victoria's wholesale gas market by enabling those regulations to be made to increase the maximum civil penalties payable for those that do not comply. But we also need – and that is what this bill will do – to make sure that that gas market and supply is there.

The bill also goes to updating several outdated references to the Essential Services Commission gas distribution system code in the National Gas (Victoria) Act 2008, and that will obviously go some way to helping to interpret things. But nevertheless, this is an important debate that we are having because of the issues that Victoria is facing. We want reliability, we want consultation and we want the government of the day to be acting in the best interests of Victorians and have that consultation and work with those national partners to ensure that reliability of energy is provided to Victoria. That is what this bill is supposed to do, and I hope it does. This is going to the government's aim of getting to net zero by 2045. It seems like a long way away, but in real terms it is not terribly far away in terms of these complex market issues. If you look at the changes that are happening around the world with

the renewable energy market, I think there are changes in other parts of the world that Victoria and Australia cannot ignore and should not ignore. We really need to be looking at that and understanding what is going on there.

Obviously I have not had a chance to read this report, since it was just tabled about an hour ago, but I think there are some important elements in it. But what is very concerning is the fact that Victoria is at risk of blackouts and of power shortages, and that will impact our vulnerable, it will impact households, it will impact mum-and-dad households and it will impact businesses when those power outages occur. Let us hope they do not happen. I grew up, as I said, on a farm. Power outages happened before the transmission lines were put in place, so we would have power outages the whole time, crank up the diesel generator, get the gas stove going and have baked beans on toast if we were lucky. They were the basics that we had to go to. But that was a long time ago. You look in dismay, but it happened.

Ingrid Stitt: Oh, I remember it well. I had a three-week-old baby.

Georgie CROZIER: Well, you see? That is not so long ago. I am talking even further back than that. But we do not want to get to that point where we are having those blackouts. That is the point. We want a sophisticated, modern economy and community where we can have reliable energy sources and, yes, use those natural resources through the renewables that are there. But we cannot be so blind to the fact that they are not there, because of the lack of infrastructure in transmission, and they are not going to be supported for many, many years to come. That is the critical point here. So we need to be realistic about what can be achieved and what can be done. But I think, again, what is happening here is very concerning around the warnings in this report that say that Victoria is worst placed anywhere in the nation for widespread and regular blackouts.

Jacinta ERMACORA (Western Victoria) (11:12): I am pleased today to speak on the Energy Legislation Amendment Bill 2023, a very important bill that will strengthen the electricity and gas regulatory framework. The government has been committed to delivering the transition to net zero emissions by 2045. Of course as a proactive government we recognise that this transition period requires a reliable supply of energy to Victorians. The government is committed to ensuring that Victorians are receiving better outcomes from energy retailers by enhancing protections and giving more certainty to consumers. This bill is an omnibus bill that does several things. It will amend the National Electricity (Victoria) Act 2005 to solidify the retailer reliability obligation framework, it will improve the operation of the wholesale gas market, it will enable an increase of the maximum civil penalties for contravention of the rules and it will improve interpretation of the National Gas (Victoria) Act 2008 by updating several outdated references to the gas distribution system code.

The amendments will strengthen energy security for Victorians by ensuring that in the event of market failure there are steps the government can take to protect security of supply. The key purpose of the amendments to the National Electricity (Victoria) Act 2005 is to align it with national energy reforms by empowering the efficient regulation of electricity generation, transmission and distribution. It establishes the framework for reliable energy supply, promoting competition and facilitating market mechanisms such as the regulatory powers of the Essential Services Commission to oversee pricing, licensing and compliance in the electricity sector. The act will be amended to introduce decision-making criteria which are Victoria specific for the Minister for Energy and Resources to consider when creating a T-3 reliability instrument under the National Electricity Law, triggering a retailer reliability obligation in response to growing potential for a substantial electricity supply interruption. Once triggered, a retailer reliability obligation mandates electricity retailers to secure a minimum level of electricity generation capacity to ensure reliable supply to consumers, enhancing grid stability and preventing disruptions. It also imposes obligations on electricity retailers and major consumers to establish agreements with electricity producers in anticipation of projected supply shortages occurring in a three or more year period.

This approach stimulates proactive contracting, a crucial driver for attracting essential new investments in power generation within that time frame. Ultimately this mechanism encourages

retailers to contribute to grid reliability by contracting sufficient energy resources, enhancing overall system reliability. The minister must make the decision in consultation with the Australian Energy Regulator and the Australian Energy Market Operator as well as the Treasurer and the Premier. The purpose of the consultation requirement is to ensure the decision is informed by the most up-to-date information regarding the energy sector and the broader economy. This follows a recent decision by the federal Labor government to amend the national energy laws to enable ministers to trigger the retailer reliability obligation without AEMO forecasting a shortfall, with the intention of this being a stopgap measure while a fit-for-purpose capacity investment scheme is developed. After all, this is about the transition.

In turning to the second limb of the bill, the National Gas (Victoria) Act 2008 will also see amendments to its respective rules, the national gas rules. Similar to its electricity counterpart, the National Gas (Victoria) Act 2008 provides the legislative framework that governs the gas industry, for establishing regulations for safe and efficient gas supply, transportation and distribution. The act empowers the Essential Services Commission to oversee market activities, pricing and licensing, ensuring consumer protection and fair competition. It promotes reliable gas supply mechanisms while also addressing environmental and safety standards and aligning Victoria's gas industry practices with national energy policies.

The proposed amendments aim to enhance the operational efficiency of Victoria's wholesale gas market. This will be achieved through increasing the upper limits of civil penalties imposed on distributors found to be in violation of market regulations. This will be achieved through empowering the minister to prescribe civil penalty provisions in the national gas rules specific to Victoria's declared wholesale gas market, with penalties equivalent to civil penalties under the national gas laws. This bill does not propose to introduce any new civil penalties. This grants increased flexibility to both the Australian Energy Regulator and the legal system, allowing them to respond effectively to contraventions and ensuring that penalties appropriately mirror the severity of the offence in order to deter other providers from non-compliance. This aims to optimise the compliance framework, fostering improved consumer outcomes and harmonising penalty levels with those observed in other wholesale gas markets along the eastern coast. At present our maximum civil penalties are lower than those on the rest of the eastern coast because of amendments made to the national framework in 2020, and this bill aims to correct this misalignment.

The smallest amendment – yet it is a highly important amendment – in this omnibus bill updates several outdated references to the gas distribution system code in the National Gas (Victoria) Act 2008. The Gas Distribution System Code of Practice outlines the basic rules for running and using the gas distribution system by covering how the system operates, connecting and expanding the system, disconnecting and reconnecting, installing meters and testing them, reading data, managing energy limits, resolving customer issues and meeting distribution contract rules. As you can see, there is an awful lot to keeping the power on in this state. This amendment will help improve the accurate interpretation of the act. A specific amendment will replace, under section 42 of the act, 'ESC Gas Distribution System Code' with 'ESC Gas Distribution System Code of Practice', properly reflecting that the code is now a code of practice. This is a proactive amendment by the government to prevent any potential misinterpretation of outdated terminology, ensure clarity and certainty for industry and AEMO and ultimately protect consumers from paying too much for gas.

These amendments are another example of the Andrews Labor government putting in place policies to ensure a reliable energy market for Victorians during the state's transition to 100 per cent renewables. We have made it clear that our next target is 65 per cent renewable electricity generation in Victoria by 2030 and then 95 per cent by 2035. This is after already meeting our 2020 renewable energy target of 25 per cent. We are already aware that enhancing reliability involves introducing fresh renewable capacity into the market. Our government's energy strategy has achieved significant success in accomplishing precisely this. These ambitious renewable energy targets are the foundation of our energy strategy, setting a clear direction for investors to follow. The Andrews Labor government

has supported the energy targets and investors with policies that promote the deployment of new renewable energy capacity, such as the bill before us today. Also the government launched and supported five projects, coming to a total of 800 megawatts of new renewable generation capacity, from the first renewable energy target auction, the largest of its type in Australia. The second Victorian renewable energy target auction will bring forward 623 megawatts of new renewable generation capacity and deliver up to 365 megawatts of new battery energy storage.

This is not to mention the $1.3 billion Solar Homes program, which is delivering renewables at the household level and has already helped over 200,000 households access rooftop solar. Rooftop solar has generated nearly five times the power generated by gas in Victoria this year, and it will only grow as the 10-year Solar Homes program continues to roll out. And how could I forget to mention that we are bringing back the SEC. The SEC is supporting Victoria's renewable energy transition, driven by an initial investment of $1 billion towards delivering 4.5 gigawatts of renewable energy. Having publicly owned renewable energy will drive down prices and improve reliability for all Victorians. This policy structure constitutes a meticulously designed strategy aimed at shifting away from undependable coal-fired generation and moving towards more affordable renewable energy, all the while guaranteeing the uninterrupted provision of power to residences and businesses throughout the state. Since privatisation there has always been an issue with delivery of a sustainable energy market for Victorians. Lack of supply only drives up prices, which is often a barrier to market operations being motivated by supply. This is detrimental to Victorians because supply of electricity is crucial. What we do know is that renewables have been the saviours in the recent electricity crisis spurred by the breakdown of several coal-fired generators across the east coast and the war in Ukraine seeing shortfall in supply.

Our investments in renewable energy over the past eight years are responsible for wholesale power prices in Victoria being consistently the lowest in the national electricity market. In fact across the national energy market there is a very strong relationship between higher shares of renewable energy and lower wholesale prices. Victoria is still at the whim of unreliable coal-fired generation and high fossil fuel prices, but Victorians have been better protected by a reliable energy supply than the northern states, which are more dependent on coal and gas. This is why the retailer reliability obligation is in place – to incentivise additional capacity over the medium term and to ensure that supply will meet the demands of the state, not to mention it also holds retailers and large energy users to account. The retailer reliability obligation will work with longer term measures to support new capacity and shorter term measures that AEMO can utilise in the event of coal outages on peak demand days.

This bill helps smooth out the bumpy road of transition for consumers, for businesses, for the marketplace and for the economy in this state, and I cannot reiterate enough just how much our investments into renewable energy will provide a long-term future of more affordable energy but also a more secure energy supply in the long term for this state. The worst thing to do would be to do nothing, and the second worst thing to do would be to stick to fossil fuel energy production alone, which would absolutely build up the level of risk in our energy grid to an unsustainable level over time. There is no doubt that this government and the minister for energy are absolutely doing the right thing by supporting and initiating this bill.

Trung LUU (Western Metropolitan) (11:28): I rise today to make a contribution to the Energy Legislation Amendment Bill 2023, which makes amendments to the National Electricity (Victoria) Act 2005 and the National Gas (Victoria) Act 2008. My contribution to add to this is that I have great concern about the comments made this morning in relation to the minister not being able to guarantee there will not be any blackouts this coming summer. I know in the past Victoria experienced blackouts due to circumstances which were unforeseeable, but moving forward the government and organisations, in looking out for the public and Victorians, should have some clear indication in relation to the certainty of the energy supply. Victorians should have some idea that their energy and electricity will be secure in the summer coming up. As we know, we are constantly hearing about

climate change and how the weather is getting hotter, and yet this government cannot guarantee there will be no blackouts. My concern is for all the elderly citizens in my constituency with the uncertainty of whether there will be blackouts.

What is more and what was brought to my attention in relation to this report this morning is that the watchdog is ranking our state as one of the worst in Australia for energy security. All these expert departments and groups have raised this issue, and yet the government cannot guarantee there will be no blackouts for our citizens. It is astounding. I am speechless that this is the case in a First World country. I remember arriving here not so long ago. Victoria once had among the cheapest gas in the world and the most excess gas in the world, yet now we are struggling with energy and concerned about blackouts. That was over 40 years ago. I do not know what is going on and how our state is going backwards so that we cannot have energy security in a First World country. It is just astounding.

I have spoken to our Shadow Minister for Energy and Resources David Hodgett in another place on various consultation he has done with stakeholders. He has actually gone through to various organisations in relation to our energy situation in Victoria. These are just some of the companies and organisations which have been spoken to, and they too have expressed some concerns in relation to our situation. I just want to name a few he spoke to: Energy Networks Australia, the Clean Energy Council, Energy Consumers Australia, Energy Grid Alliance, AGL – all these major organisations – AusNet and the Australian Energy Council. Yet the government cannot guarantee or have any certainty in relation to our energy situation coming up this summer, and that is in only a few months to come, so that is my great concern.

I understand the Australian Energy Market Operator just issued a report that was tabled this morning. I have not had a chance to read it, but I will definitely get to it in relation to how my constituents will be greatly affected, especially as mine is the most vulnerable electorate in the state with the most diverse community, and they too are wondering what is going on with this state in relation to how we are moving backwards on living standards. I know the cost of living is rising due to other circumstances, but energy and our living standards seem to be taking a backward step in a First World country.

What is more concerning is that we as a nation keep expressing concern in relation to global warming and climate change but we are not actually focusing on how we are going to address our climate situation and our energy situation to ensure that our citizens are in a situation where they can move forward knowing that there will not be any blackouts. So I hope the ministers can look into this situation more closely and take more interest in relation to the people's welfare in our state. I am really troubled in relation to the thought of having a blackout. I have experienced that in the past, and I know many of those in this chamber have also mentioned their experiences with blackouts, but my concern is with all my elderly constituents who are vulnerable when the government cannot have any certainty moving forward with our energy situation. I do understand that we are in a phase of transitioning to more renewable resources, but we should also consider our living standards in relation to how we are going to transition from one stage to another without affecting the living standards, the conditions and the welfare of our constituents.

I just want to put in my contribution my great concern about how this state, in a First World country, cannot guarantee its own citizens that we have enough energy to make sure there are no blackouts with summer coming up only a few months away. In my past employment before I moved to government I responded to a lot of frontline emergency calls, including from elderly people going through hardship, living in a situation where the affordability of energy was an issue and the affordability of living standards was an issue. The climate itself, we know it is getting warmer, yet we have no guarantee from the minister that this state can assure citizens who require energy for air conditioning, as well as hospitals and other accommodations that look after the elderly and vulnerable people, that there will be no blackouts moving forward. On extremely hot days of summer, when vulnerable people are living in conditions which require energy to operate those air conditioners, they are in a very precarious situation which might affect their health. My concern is for constituents in my area, which

has a high number of people with vulnerabilities and a high number of disadvantaged people. They have to worry about blackouts moving forward, which is something that is out of their control. That is why I am asking government to look after them. I do really hope the minister and the government can take more interest in our energy situation and our energy security and ensure that there will be no blackouts and that there will be some sort of certainty when my constituents require energy to operate those air conditioners. That is what I would like to express again in my contribution in relation to the minister's interest in our energy situation moving forward.

Michael GALEA (South-Eastern Metropolitan) (11:38): I also rise to speak on the Energy Legislation Amendment Bill 2023. I rise to speak in favour of this bill, and I rise to speak in favour of it because this is a bill that will assist our transition in Victoria to a more sustainable, a more reliable and also a more equitable energy future. This bill does not merely address energy concerns, it serves as a framework for the state's transition to a greener future, and these measures are in line with our international obligations and our pledges to address climate change. It is a step that will affect every citizen and industry and the very future of this state, and it is a step that will change this state in profoundly positive ways as well.

The Energy Legislation Amendment Bill 2023 is a key legislative backbone of our broader energy transition plan, and this of course has been years in the making. The plan has been developed through extensive consultation with a wide variety of stakeholders, experts, policymakers and the like, all with the aim of reducing our overall greenhouse gas emissions, improving our energy security and also fostering our sustained and continued economic growth, now and well into the future. This bill sets out something of a financial outline that seeks a balanced investment from both the public and the private sectors. It proposes an estimated allocation of $10 billion over the next five years, which will be directed towards upgrading existing energy infrastructure, investing in renewable energy projects and financing innovative technologies that will make energy production in this state more sustainable. What a good thing that is. I hope those opposite will agree with me that a more sustainable, stronger and more robust energy network can only be a good thing. I am sure that members of His Majesty's most loyal opposition will bring their support to the table; I certainly hope they do.

Furthermore, the bill will amend several laws, making them more compatible with energy transition objectives overall. This includes changes to regulations that govern the use of our renewable resources, modifications to grid management and revisions of standards for energy consumption across many different sectors. By providing the legal and the financial framework that is necessary, this bill will enable a more sustainable and a more secure energy future for our state. This energy future will derive from the larger energy transition plan, which will aim to shift to renewable energy, enhance energy security and create, as I say, those sustainable and long-lasting economic opportunities for all Victorians.

A pivotal aspect of this bill, the Energy Legislation Amendment Bill 2023, is the transformative amendments to the existing legal framework. For instance, the bill recommends changes to the Victorian Renewable Energy Act 2006 to encourage greater use of wind and solar as well as hydro-electric power. It amends the national electricity market regulations to facilitate better grid management and improve the efficiency and the reliability of our energy supplies. One example of these measures is the bill facilitates the establishment of microgrids in rural and isolated communities. These microgrids can operate independently of the national grid, thereby improving our overall resilience and our energy accessibility to these areas whilst reducing their dependence on fossil fuels. Another significant change is the energy efficiency standards for industrial sectors, which are aimed at reducing the overall carbon footprint of factories and encouraging more sustainable practices. Companies which meet or exceed these standards will also be eligible for tax incentives. This will facilitate a win-win situation for businesses and the environment.

These amendments are not just isolated changes. They are also part of a broader strategy to align our energy policy with the needs that we face in the 21st century. By making these changes the bill aims to create an integrated, efficient and sustainable energy system that is robust enough to meet our future

demands and is flexible enough to adapt to technological advancements as they progress. One does not have to look far back to see what those technological advancements look like. Day by day we are seeing further and further steps. One does not have to look far to see evidence of the government's plans and policies in this place coming into effect. Whilst some in this chamber have expressed their doubts about transitioning towards renewable energy, this is a Labor government – the Andrews Labor government – that gets on with the job of effectively building our renewable economy.

This government has successfully surpassed our 2020 renewable energy target of 25 per cent, and we are well on track to meet our revised target of 65 per cent renewable energy generation by 2030 and 95 per cent by 2035. Our $1.3 billion Solar Homes program has empowered over 200,000 Victorian households. In fact rooftop solar energy in our state has already produced nearly five times as much power as gas has this year. I did make a contribution yesterday and touched on the Solar Homes program in my speech on another perhaps fruitless attempt from the Liberal Party to distract from their lack of policy.

Jacinta Ermacora: Fruit loops.

Michael GALEA: 'Fruit loops' perhaps is a more accurate way of describing it, as my colleague Ms Ermacora says. Fruit loops indeed. Who knows what they are going to come up with next. Talk to a different person on that bench and you get a different policy. Talk to them on a different day and you will get a different policy, just as we saw with the now recently departed, and thank goodness for that, federal Liberal government which had, I believe, 22 different policies in this space – here we go, a new press conference, grab a new policy, off we go. But that is not how we do things here in Victoria and that is not how we do things with the Andrews Labor government. We have a clear plan, a clear strategy, that is delivering results.

The solar rooftop program has seen an investment of $540 million from the Renewable Energy Zone Fund to modernise our infrastructure and to scale up our renewable energy production. Since 2014 we have more than tripled renewable energy generation in Victoria, and I am sure those opposite will join me in celebrating that as well. Let us be clear: we have accomplished all of this in contrast to previous Liberal governments in this state, which strangled investment in renewable energy.

The Liberals must adapt. This is not a passing phase but a new norm. Those who fail to adapt will become the Kodaks of their era, outdated and irrelevant. We are part of an international movement towards renewable energy. Countries like Germany and countries like Denmark have demonstrated the social, economic and environmental gains that can be achieved. They stand, as we do as well, as living testaments to the viability of our renewable energy future. We intend to match them every step of the way, and we intend also to beat them at that.

When discussing this bill, the Energy Legislation Amendment Bill 2023, I hope members understand that this is more than just legislation. It is a critical part of the framework that is going to build our future. We are not merely recommending or advocating for change, we are already part of a change that has proven to be successful around the world. This bill is a natural and a necessary step in Victoria's progressive renewable energy journey.

This bill, the Energy Legislation Amendment Bill 2023, offers benefits beyond just environmental conservation. For the public, the most immediate advantage will be a decrease in energy costs as a shift to renewables will reduce our reliance on expensive, costly fossil fuels. These savings will be especially beneficial for our lower income households, who spend a higher proportion of their income on energy. And it is 31 August today, so I will take this opportunity to make one last plea to all Victorians who have yet to take up the Andrews Labor government's fourth round of the $250 power saving bonus. It is now a quarter to 12 in the morning, and you have just over 12 hours left to claim this round of the power saving bonus. 11.59 tonight is when this program ends. We have seen a phenomenal take-up of the program this year. We have seen 1.81 million Victorians voting with their feet.

Bev McArthur interjected.

Michael GALEA: I know Mrs McArthur is not a fan of it, but we have seen 1.81 million voting with their feet and saying this is good. We have also seen tens of thousands of Victorians change their energy plans, having gone through the power saving bonus process. Of course with the Victorian Energy Compare website the benefit is you do not just get the $250 to help with the cost of power bills, you also get a list of all the energy providers in your area. We have seen many, many tens of thousands of people take up those offers of a better rate as well, saving them more hundreds of dollars in the process, so it is a fantastic program. I have really enjoyed the chance, along with my colleague Mr Tarlamis, to be out in the community. As I said yesterday, we had street stalls in Berwick, we had street stalls in Rowville, and with another good colleague as well, Mr Edbrooke the member for Frankston in the other chamber, we had a huge turnout at Karingal Hub, where we had hundreds and hundreds of people – over 300 people – and $75,000 back in the pockets of working Karingal families just in one afternoon. So for those who are still a bit recalcitrant, I do say get on board. It is a good program and we have had a huge take-up from the community.

Lee Tarlamis interjected.

Michael GALEA: My colleague Mr Tarlamis has the details on his iPad. He has the website there. Mrs McArthur, I would invite you to take the opportunity. I am sure Mr Tarlamis would happily do it for you in the chamber. That might be a first: the first power saving bonus application in the chamber of the Legislative Council. I could not think of a better person to claim it than you, Mrs McArthur. Absolutely take advantage of that. For the many, many – I am sure many – people watching this at home, you do have just 12 hours left, so I strongly encourage anyone if you have not already. Of course we know 1.81 million Victorians are obviously smart enough; they have already gone and taken advantage of it. And those few left, do not leave it too late. You have got 12 hours. Claim it tonight. It is one more way in which this government is delivering the cost-of-living relief that our communities so richly need.

The Energy Legislation Amendment Bill 2023 offers other benefits beyond environmental conservation, as I say. It also will create, as I also mentioned, a win-win scenario where we will fulfil our moral and environmental obligations whilst also providing these tangible benefits to our residents, to our citizens and to our businesses as well. The transition to a cleaner, more efficient energy landscape is not just a technical necessity, it is also a social imperative. Given the market challenges that can be faced, particularly since the privatisation of the energy sector in the 1990s, the relevance of this bill could not be more critical. Over the last year an energy crisis, fuelled by many rising costs for many different reasons, has elevated costs, which have been inevitably passed down to consumers, affecting Victorian households and businesses. It is for this reason that we must stay absolutely focused on our plan for a renewable energy future, to avoid these shocks.

Renewable energy has proven to be a stabilising force amid this turbulence. Our strategic investment in this sector has made Victoria a leader in the national electricity market, boasting the lowest wholesale energy prices. There is compelling data showing that high renewable energy contributions are inversely related to lower household prices across the NEM. Victoria is not immune to vulnerabilities tied to fossil fuels, nor is the market to international conflicts. A proactive approach to renewables has granted us a certain level of protection, far more than states that are still overwhelmingly dependent on coal and gas – states that are still in a position that those opposite would rather have us in. By passing this bill, we will build on this strong foundation and we will set ourselves on the path of energy stability, environmental responsibility and economic growth.

The technological impacts of this bill are immense. They are also exciting, so I do say again to colleagues: get on board with the power saving bonus, and get on board with this bill too. This bill goes beyond simply replacing fossil fuel based power plants; it paves the way for innovation in the energy sector. By providing incentives for research and development, we are able to usher in groundbreaking technologies like advanced solar panels and more efficient wind turbines and perhaps

even harness newer forms of energy that are currently still theoretical. Moreover, this bill incentivises the adoption of smart grids and energy storage solutions.

Bev McArthur interjected.

Michael GALEA: I am sure we will eventually debate nuclear energy in this chamber, and I certainly look forward to the contributions of Mrs McArthur and Mr McGowan on that. One more shining example, a shining, bright green example, of the conflict and division within the Liberal Party; we see it again and again. I look forward to your contributions on the Nuclear Activities (Prohibitions) Repeal Bill 2023 – I hope we will get to that today; we will see where we get to with that. If you can find some time amongst your busy internal conflicts in the party room today, we look forward to seeing you in the chamber to discuss that bill. But in the meantime – in the few seconds I have left – for the reasons I have outlined, this is a bill absolutely worth supporting. This is a strong, stable step towards a responsible, renewable energy future.

Members interjecting.

Michael GALEA: They do not like me mentioning their internal conflicts, I know, but that is okay. For the reasons I have outlined, I do commend this bill to the house.

Bev McARTHUR (Western Victoria) (11:53): I rise to speak on this bill, and I just want to go to the hypocrisy of those on the other side, for a start. We have heard a lot about renewables, so just let me fill you in on a renewable project in my electorate Ms Ermacora did not speak about but she should know about. On Friday 4 August the Victorian Minister for Planning Sonya Kilkenny released an assessment of the Willatook wind farm project following the preparation of an environment effects statement and completion of a planning inquiry. Among the recommendations were widened turbine-free buffer zones for the brolga and bats, which would reduce the number of turbines and the farm's energy output, along with a five-month moratorium on construction throughout the brolga breeding season from July through to the end of November.

Wind Prospects managing director Ben Purcell said the decision blindsided the company. This is a renewable energy company. You want to have renewable energy projects everywhere, but this is what you are doing to an energy company. He said the company was blindsided by this drastic change in direction from the minister. He said it would require 300 to 400 onsite workers to down their tools and construction equipment to sit idle for five months of each year. That clearly would render the whole project unviable. The construction of these projects generally takes two years, so this direction from the minister about a renewable energy project renders that project totally unworkable. It is not just an issue with the Willatook wind farm, it is an issue with the industry more broadly. It sets out a really dangerous precedent. So do not come in here and lecture us about renewables when you are actually making sure they cannot operate or they cannot get underway.

> The Minister's assessment includes recommendations that go well beyond existing guidelines (in the case of brolga) and other topics that were not raised throughout our engagement with government or the subsequent panel inquiry (such as the construction moratorium) …

That is Mr Purcell from a renewable energy company. He said:

> This represents an issue not only for Wind Prospect, but for all every proponent of any infrastructure project navigating the planning system in Victoria.

The Clean Energy Council energy generation and storage director Nicholas Aberle said the assessment 'set a disastrous precedent' that 'would jeopardise the state's renewable energy and climate goals'. So you have been caught out for being total hypocrites on the issue of supplying renewable energy – total hypocrites. Do not come in here and lecture us and then out in the real word do another thing: stop a renewable energy project getting underway. How do you answer to that?

This state used to have the most reliable, accessible and affordable energy in the country. Australia had the most reliable, accessible and affordable energy in the world. We led the world. We have the

most resources to provide energy in this country, and yet we export them but refuse to access them for the benefit of our people and the productive capacity of the enterprising people of this country and particularly this state. We need to increase the supply of energy, not restrict it. You are restricting the supply of energy in this state. You have got a one-sided approach, just like in the duck-shooting inquiry, to energy: it can only be renewables. We have abundant coal. We could convert it to the best HELE coal-fired power stations. We could use the facilities for hydrogen production. We have got abundant onshore conventional gas, which you do not want to tap into. You are banning gas in houses. You are banning woodfired heaters and facilities in houses.

A member interjected.

Bev McARTHUR: You are. In the end in this state we are going to end up having to use candles. They cannot be made of tallow, because the Animal Justice Party will not let you use tallow for candles, let me tell you. That will be done.

At the moment the big issue affecting energy in this state is a reduction in the supply, because you have got a single-minded approach to it. The second problem is the transmission, and that is killing off rural communities and the most important agriculture sector. The minister is here. She should be standing up for the farmers of rural and regional Victoria to actually make sure they can –

Tom McIntosh interjected.

Bev McARTHUR: There will be no chips left for you, mate, over there. Chips will be gone. I am into saving our spuds. We need to save our spuds. You are destroying the potato industry. Look at my lovely friends in the Greens over there. You are destroying biolinks; you are cutting a swathe through biolinks. Forty-five farmers gave up land and hundreds of thousands of trees have been planted. You are just going to cut them down. It is unbelievable. You talk about being clean and green. There is nothing clean and green about the way you are going about transmitting energy in this state. You are a disgrace; you are a pack of hypocrites. I will continue my berating after question time.

Business interrupted pursuant to standing orders.

Questions without notice and ministers statements

Bushfire preparedness

Melina BATH (Eastern Victoria) (12:00): (265) My question is to the Minister for Environment. Under your government's so-called Safer Together policy of a statewide average target of 70 per cent residual risk, entire regions face a summer bushfire season of unacceptably high community danger, property danger and life danger. This year Forest Fire Management Victoria's Latrobe district has an alarming residual risk of almost 85 per cent. Why are you putting the lives and property of people in Latrobe district in a serious state of jeopardy?

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (12:01): I thank Ms Bath for her question. It is an important issue and something I know that our dedicated teams right across the state within FFMVic and also our other fire agencies are absolutely focused on, because we know that the climate is getting hotter. We know that the outlook for the upcoming bushfire season is very serious. And of course, as you would expect, they are fully focused on making sure that they are taking a risk-based approach to minimising the risks across the community.

Ms Bath, you would be aware that not all of the risk is even across the state. It depends on a number of different factors in different regions. The good news, though, is that the overall residual risk for the state is well below the 70 per cent target that has been set. We take a risk-based approach now to reducing risk in the highest risk areas, and that is a direct result of implementing IGEM's recommendations after the devastating bushfires in 2019 and 2020. We will continue to be absolutely focused. Our agencies are hard at work, working cooperatively between the CFA, FFMVic and of

course public land managers and private landowners, because everybody needs to play their part in terms of reducing risk.

I can indicate that overall the current risk rating is 62 per cent across the state, which is well below the 70 per cent target that has been set. There are a range of ways in which we can reduce the risk, and they include of course planned burns. There have been over 200 planned burns undertaken by our teams across FFMVic. There are also mechanical treatments and of course the important work that the CFA do together with FFMVic about making sure communities have their bushfire plans in place.

We know that climate change means that these challenges are just going to increase year on year, and our government is absolutely focused on making sure that our FFMVic teams right across Victoria have the support they need and have the equipment they need to be able to address community safety right across the public land estate. I know that the CFA are very focused on that in respect of how they support landowners across private land.

Melina BATH (Eastern Victoria) (12:04): Minister, I thank you for your response, but in no way did you go anywhere close to discussing the Latrobe district, which is at an almost 85 per cent residual risk, so I ask: the Victorian bushfires royal commission recommended a 5 per cent annual rolling target of fuel reduction across the public forest estate. However, since Labor introduced the 'Safer Together' policy, less than 1.5 per cent has been achieved across the state. Minister, before the window of opportunity for planned burns closes, will you guarantee that the residual risk target for Latrobe district will be met to better protect the lives of these regional Victorians?

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (12:04): I think that Ms Bath is conflating a few different issues here. As I have explained, the residual risk targets that are set are in direct response to recommendations made by IGEM as a result of the bushfires royal commission and the devastating impacts that those events had on communities. What Ms Bath fails to want to hear is that there is already a risk-based process in place. There is no point reaching targets that do not actually target the areas of highest risk, and that is exactly what our hardworking agencies and FFMVic are working on in the lead-up to the next fire season and beyond.

Prisoner phone calls

David ETTERSHANK (Western Metropolitan) (12:05): (266) My question is for the Minister for Corrections. Victorian prisoners pay more for phone calls than prisoners in any other state in Australia. A 12-minute phone call costs $7, more than prisoners earn in a day. The cost of and time limits on phone calls restrict meaningful connections between prisoners and their families. Contact with family has been linked to positive outcomes for both prisoners and their families following release. Minister, during your appearance at the Yoorrook commission on 15 May you heard evidence of the disproportionate impact the cost of phone calls is having on Victoria's First Nations people given their unique family and cultural obligations. You acknowledged that the charges are excessive and gave a commitment to do something about it, so I ask the minister: what progress has been made in reducing the high cost of phone calls in Victorian prisons?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:06): I thank Mr Ettershank for his question and his passionate interest in my corrections portfolio. I do need to recognise that phone calls in our corrections system are significantly higher than what they are in the community. There are a number of reasons for that. One is the contractual settings in place, because there is more complex monitoring of those calls for the safety obviously of the facilities but also the broader community. There are restrictions on who people in our custodial settings can communicate with; Corrections Victoria manage that process. But as you have clearly and correctly stated, at the Yoorrook commission we heard from our First Nations communities about the importance of connection with family and community to help in people's rehabilitation.

As minister, I have stated that I am committed to looking at this issue and exploring all options to improve connection with family and community, and I can report to the chamber that we have more digital options in place in our corrections setting. People have options to return to in-person visits since the pandemic. Obviously that has returned now. Most of the COVID-based restrictions no longer exist. But we also have Zoom calls that we do facilitate for prisoners. That was put in place through the pandemic, but we have kept it. We have got the technology in place at no cost for prisoners. That is an option. Prisoners can list people for Corrections Victoria to approve – usually family and community members – that they can contact, and they have access to those facilities. But in terms of telephone calls specifically, that is something that I have asked the department to look at. There are a number of options we are exploring, but that work is ongoing.

David ETTERSHANK (Western Metropolitan) (12:08): I thank the minister for his response. Following on from your final point there, I am not sure whether I have understood it correctly, but obviously a key recommendation of the inquiry into children affected by parental incarceration was to go that one step further beyond phone calls and to explore the provision of live chat across all Victorian prisons. Is the government actually doing that or is it giving consideration to that option, and what is the status of that process, please?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:09): I thank Mr Ettershank for his supplementary question. As I stated, during the pandemic Zoom facilities were provided. Tablets were purchased and a range of technology implemented across our premises. I understand that at all the main prisons that is available. You need to pre-book; there is that requirement. I think that is for security reasons, because obviously there is a risk. There is a criminal element there that may try to take advantage of these services that really are for direct family and community support purposes. So they are available. I can provide further details to you later in terms of how prisoners can access those services. They are across the board, and we are looking at expanding those kinds of digital opportunities for engagement.

Ministers statements: kindergarten funding

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (12:10): I rise to update the house on the $3.6 million investment in bush kinder programs across the state. Last week I joined parliamentary secretary in the other place Katie Hall to announce the opening of Labor's bush kinder grants, providing $6000 to support more kindergartens to set up nature programs, giving children more opportunity to learn outdoors. Bush kinder gives children the chance to learn while they are expanding their curiosity and independence in a natural environment, putting them in touch with nature through outdoor activities and creative play. The grants for bush kinder programs starting next year are now open and will support 150 kinders across Victoria each year to take children's learning outdoors, and I encourage all interested services to apply now.

While I am on my feet, I note that those opposite have been very interested in how many kindergartens we have been building across the state, so I would like to inform the house of a further five kindergartens to be delivered on school sites in 2025. That is on top of the 17 that I have already announced for delivery in 2025 and on top of the 10 announced for delivery in 2024. I am really looking forward to additional builds in those communities that need them, including Ballan Primary School, Greenvale Primary School, Lakes Entrance Primary School, Whitfield District Primary School near Wangaratta and Dimboola Primary School. This is all part of our record investment in early years education in Victoria, building those kinders that are going to be required to roll out the Best Start, Best Life reforms, helping our children learn through play and giving every child in Victoria the best start in life.

Malmsbury Youth Justice Centre

Matthew BACH (North-Eastern Metropolitan) (12:12): (267) My question today is for the Minister for Youth Justice. Minister, isn't it a fact that a young person at Malmsbury has refused to

move, and instead of using a forced response there are now staff required to remain at his unit in Malmsbury, reducing the safety for other staff in the facility, due to chronic shortages?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:12): I thank Dr Bach for his question and his interest in my youth justice portfolio. Dr Bach would be well aware that I will not get into operational matters of that detail. I will leave it to the professionals who handle these matters. In terms of placement of young people in our facilities, that is a matter for the experts in the field, and I trust the commissioner and the general managers in our youth justice facilities to do that work.

Matthew BACH (North-Eastern Metropolitan) (12:12): I ask this supplementary with little hope of a fulsome response, but I am going to ask it anyway. Minister, will you direct your department to move this young person so the staff allocated to babysit one person can be put back to regular duties, thereby improving safety for all staff and other detainees?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:13): I thank Dr Bach for his question. I think Dr Bach is clearly showing a bit of naivety about how government operates. The department does not operate that way, where I direct them in relation to operational matters of that detail. I trust the experts in the field to do their job appropriately with the guidelines in place, and I support our staff that are doing amazing work, regardless of the complexities they deal with. I want to give a shout-out to all our staff in youth justice facilities, particularly the frontline staff. They are dedicated, passionate and about giving these young people the best chance to turn their lives around.

University sector industrial action

Aiv PUGLIELLI (North-Eastern Metropolitan) (12:13): (268) My question today is to the Minister for Higher Education. This week, as I am sure you are aware, university staff around Victoria are on strike. For years our university staff have been overworked and underpaid, stuck on casual contracts and unable to plan for their future. Our universities are slowly being transformed into corporate degree factories which are more focused on lavish new buildings and bloated salaries for vice-chancellors rather than returning to their roots as institutions for education, research and academia. University staff like those at Melbourne Uni are striking for secure work, safe workloads and fair pay. Minister, what will you do to support university staff to fight for their rights as workers and push back against the corporatisation of our university system?

The PRESIDENT: I am struggling in terms of whether this falls inside the minister's responsibilities under the executive orders. I am happy for the minister to answer as she sees fit.

Gayle TIERNEY (Western Victoria – Minister for Training and Skills, Minister for Higher Education, Minister for Agriculture) (12:15): I thank the member for the question. The member might not be aware, but the fact of the matter is that the higher education system in this country is funded primarily by the federal government. We did as a state have $350 million of funds that were set aside during the COVID years so that we could align what we needed to do as a government and our priorities with the capabilities of the university sector. Having said that, though, the fact of the matter is that they are self-governing organisations. We take a keen interest in what happens in universities. That is why I have regular contact with the vice-chancellors and that is why we have quarterly meetings with the vice-chancellors as well, and we go through a whole range of things, including student safety, which obviously has been front of mind for some time and again more recently.

In terms of university staff matters and the industrial relations that happen on campus and the negotiations with the enterprise bargaining agreements, they are a matter for each and every university and the union, primarily the NTEU, on all occasions. What we do as a state government is legislate for a range of things – we have had wage theft, and obviously that applies to the university sector – and also of course we deal with a whole range of referrals at certain points in time and we ensure that the appropriate information is provided to those seeking advice. But by and large the funding

arrangements for the university sector are dealt with by the federal government and the industrial relations primarily, again, by the Fair Work Commission. But, having said that, we also have some specific laws in this state that do pertain to university staff.

Aiv PUGLIELLI (North-Eastern Metropolitan) (12:17): I thank the minister for the response, and I too acknowledge the intersecting levels of government that play a part in the university sector being what it is. This week at Melbourne University they are holding the longest strike in around 167 years – since stonemasons downed tools to call for the 8-hour workday, which I am sure some on the government benches will have heard about. Minister, in solidarity with these striking workers at Melbourne Uni, will you join me on the picket line tomorrow?

The PRESIDENT: I do not think I will pass that question on.

Ministers statements: training and skills

Gayle TIERNEY (Western Victoria – Minister for Training and Skills, Minister for Higher Education, Minister for Agriculture) (12:18): Victoria was the epicentre of training and skills this month. We were proud to host the WorldSkills national championships right here in Victoria. Many school students got to witness not only the incredible skills of our young students, trainees and apprentices but also the variety of careers a vocational, technological and service-orientated education can unlock. This government knows the value of investing in Victoria's TAFE and training sector, and this was proven by our incredible Victorian competitors at WorldSkills. Victoria took home 59 medals – more than a third of the total medals and the most of any state. Our competitors won gold in 16 categories, including heavy vehicle mechanics, landscape construction and graphic design to name a few. I would like to congratulate Magnus Andersson and Will Vestergaard, who won not only a gold medal in mechatronics but also the best-in-nation award. They had the highest score of all competitors at the championships.

This month we also hosted the 69th Victorian Training Awards. As always, the awards were filled with many inspirational stories of hard work, determination and the transformational impact of high-quality skills and training. From Trainee of the Year Rebecca Hope, who brings her lived experience with autism to the role of program coordinator with Amaze, to TAFE Gippsland, whose incredible transformation over the past six years was recognised with the Large Training Provider of the Year award. I would like to congratulate every winner, competitor and finalist on their fantastic performance. This is why Victoria is the training and skills capital of the nation.

Corrections system

Matthew BACH (North-Eastern Metropolitan) (12:20): (269) I have got another question for Minister Erdogan, this time in his capacity as Minister for Corrections. Minister, are all new prisoners received at prisons in Victoria subjected to a pat-down-style body search?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:20): I thank the member for his question and his interest in my corrections portfolio. What I will say is that there are a range of processes for intake of new prisoners into our correctional facilities. These are operational matters handled by experts on the front line, so I want to give a shout-out and recognise the amazing work and thank all the people on our corrections staff that do this work. It is a very challenging job, but they do it knowing that they are making a difference to all Victorians, keeping us all safe and also caring for those in their custody.

In terms of the practices in place, there are a range of processes in place in terms of their training, whether that be – your description – obviously pat-downs or whether that be the use of technology at a range of facilities. I know at Dame Phyllis Frost, for example, we have reduced the need for pat-downs because we have implemented state-of-the-art technologies meaning that the women there are not subjected to that behaviour, because we know it can be very traumatising to enter a corrections facility and that process can retraumatise some of those women that have already had difficult lives in

the first place. So there are a range of tools at the disposal of the very qualified, hardworking, dedicated staff.

Matthew BACH (North-Eastern Metropolitan) (12:21): I thank the minister for his response. On some of those other tools, reports suggest that pat-down searches of detainees have been replaced by X-ray scanning machines in at least one prison facility but that staff have not been sufficiently trained to operate the machines. Minister, can you guarantee that all operators have completed accredited training and are fully qualified to operate these machines?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:22): I thank Dr Bach for his supplementary question in relation to procedures for people's intake into our corrections facilities. As I stated, there are implemented a range of technologies. There is training available for staff. People take quite detailed training actually in the use of these new technologies in place, and in relation to how they are implemented and how they are used, I will leave that to the experts, but it is my expectation that they use the appropriate tools at their disposal depending on the situation.

Police resources

Rikkie-Lee TYRRELL (Northern Victoria) (12:22): (270) My question is for the Minister for Police in the other place. As residents in small communities with single-officer police stations, some of my constituents have raised concerns about their own safety. With negotiations between VicPol and the police association underway and the potential for these vital community officers to be removed in order to fill shortfalls in larger stations, my constituents are concerned their safety will be compromised. In some of these towns it can take more than half an hour for officers to reach them in an emergency. This is unacceptable when there should be a police officer located within that community. So can the minister assure my constituents that their local community-based police officers will stay local and continue to keep their communities safe?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:23): Thank you, Mrs Tyrrell. I will take that question to the Minister for Police in the other place, and I will make sure you get an appropriate response.

Rikkie-Lee TYRRELL (Northern Victoria) (12:23): Thank you, Minister. Has a plan been implemented to encourage new recruitment and retention of existing officers within the police force?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:24): Thank you, Mrs Tyrrell. Thank you for that supplementary question. I will pass that on to the police minister in the other place for an appropriate response.

Ministers statements: youth justice system

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:24): In my youth justice portfolio our core objectives are keeping the community safe whilst helping those young people in our care turn their lives around. As a government, we do not want young people coming into contact with the criminal justice system in the first place. That is why we are investing in diversion and early intervention programs to discourage children from offending behaviour. The expert evidence tells us that holistic family-centred programs can play a key role in the rehabilitation of young people, addressing the root causes of offending. Two youth justice programs that do this are the multisystemic therapy and functional family therapy programs. Since 2019 we have directly invested over $14.5 million into these programs. I want to thank our partners at OzChild and Anglicare Victoria for their hard work and dedication in delivering these targeted programs.

These are just two examples. They are part of more than $2 billion invested since 2014 to overhaul our youth justice system and drive better outcomes for young people and the community. This investment is working. Victoria has the lowest rate of young people in custody in the nation. We have

one of the lowest rates of Aboriginal young people in custody. It is no surprise that the numbers in custody are around the lowest they have been for almost 20 years. Through investing in our system and by investing in programs like multisystemic therapy and functional family therapy, we can prevent young people from entering the youth justice system. And when they do, we can take action to ensure that a young person's first interaction with the youth justice system is also their last. Solutions that help young people turn their lives around and keep the community safe are something we should all be supporting.

Ballarat car parking

Joe McCRACKEN (Western Victoria) (12:26): (271) My question is to the Minister for Regional Development. I want to talk about car parks in Ballarat. Do the 280 car parks at 118–122 Creswick Road in Ballarat, which your department contributed $851,839 towards, form part of the 2018 election commitment of 1000 car parks to be built in Ballarat?

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (12:26): I have got to say, Mr McCracken, it is a joy and a pleasure to have a question from you in relation to regional Victoria.

Georgie Crozier interjected.

Harriet SHING: No, I am being very sincere, Ms Crozier. And I have got to say I actually do welcome the opportunity, Mr McCracken, to talk about the work that is happening to deliver car parks across regional Victoria and indeed to make sure that when we get these car parks through to places such as Ballarat they are making the difference that we want to see in those growth areas and those often really condensed areas of the cities and CBDs where we need to make the best use of land. We have delivered a range of opportunities in partnership with council, including leasing land for a short-term purpose to meet some of that need and to free up some of the resource that is so required, and in 2018 we provided a funding envelope of $2 million to the City of Ballarat to assist. That is by way of context in terms of that other work that has been undertaken to date.

We have delivered 612 car spots through the City of Ballarat under the parking action plan, and that includes 280 spaces at Creswick Road, which were available for use from November 2019 until May this year, when it closed for development of the site. We have also delivered 135 additional car spaces at the Ballarat station precinct, and we are investigating options to deliver the remaining 253 car spaces within a 500-metre radius of the GovHub as part of the funding arrangements. We have two sites in terms of development of the car spots in partnership with RDV, and that is 113 spots across Havelock Street and White Flat oval, and a further two sites at Market Street, which is 36 spaces, and the Ballarat Base Hospital, which is 400 spaces, being delivered through the Victorian Health Building Authority to commence construction in 2023. And we are continuing to work through the way in which we can maximise use of a range of other facilities, including the GovHub, around taking pressure off surrounding areas, again, so that more people within Ballarat and surrounds can find a car park when they head to the busiest parts of this growing community.

Joe McCRACKEN (Western Victoria) (12:29): Thank you, Minister, for your response. As you said, 118–122 Creswick Road was actually leased on a three-year contract and the possession of that land was taken back by the landlord in May this year, so effectively we have got 850-odd thousand dollars that has been spent on car parks that are no longer there. Minister, how does that represent value for money?

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (12:29): Thank you very much, Mr McCracken. Again, the lease involving acquisition of that land for the purpose of meeting those car-parking requirements meant that we could provide replacement car spots in – as you know as somebody who calls that part of the world home – what is a really congested part of the city and a place where there is increasing demand for car spots. There was funding provided to council to replace their car parking at sites that were determined by

council. This is something that has always formed part of alleviating pressure while other work continues. It is important to have these interim processes underway so that while we are getting on with those jobs of delivering these record investments in funding, not just in Ballarat but around regional Victoria, we have those interim steps in place to make sure that in partnership with councils, in partnership with communities, we are taking pressure off surrounding areas. When you talk about what price, Mr McCracken, that means that, when people need a car spot, because land has been leased they are in a position to be able to find one.

Bushfire preparedness

Katherine COPSEY (Southern Metropolitan) (12:30): (272) My question today is for the emergency services minister. The *Age* reported that Victoria's aerial firefighting and waterbombing capability has significantly decreased. Documents from Emergency Management Victoria plus data from the National Aerial Firefighting Centre suggest that our capability for the state has fallen around 40,000 litres below last summer's level. Emergency Management Victoria dispute this. They suggest that levels will remain around the same as they were last year, which we note was a La Niña wet weather season, even though we are now facing an increased risk of El Niño and an increased risk from climate change. Minister, how many litres of capacity do we have for this upcoming bushfire season?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:31): I thank Ms Copsey for her question and for giving me another opportunity, as well as the officials who have been out, to assure the Victorian community that reports of diminished aerial capacity are in fact false. Unfortunately it took a lot of time having to have the emergency management commissioner and the chief of CFA go out and correct misinformation. It is really disappointing when people are putting this information out there and taking up resources to try and respond to it. It was in Ballarat where I was talking to the chief about this exact issue.

Let me be very clear: there is no reduction in the number of firebombing aircraft in Victoria this year compared to last year and no reduction in waterbombing capacity. As I said, reports have been incorrect, and I am not sure what the motivation for this misinformation is, because anybody would know that misinformation such as this can cause anxiety, can cause stress. I just do not know why people would have that motivation in them. But just to reassure the chamber, I might repeat some of the comments from the officials. Acting emergency management commissioner Chris Stephenson said in response to 'Do we have enough aircraft to fight fires?':

> Absolutely. We've got the same as we've had for the last few years …

Victoria remains well prepared for the high-risk period for fires. I want to echo his comments in that our aerial firefighting fleet comes online progressively across the state according to risk. They do play an important role. They are not the only equipment that deals with fire; obviously we have our on-the-ground experts as well. But I can assure you, Ms Copsey, those reports are incorrect and Victoria is well placed for the upcoming season in relation to the equipment and resources provided by the government.

Katherine COPSEY (Southern Metropolitan) (12:33): I do note that my specific question was how many litres of capacity we have for this upcoming bushfire season. To go to my supplementary, there have also been reports that we have lost access to a Chinook helicopter for firefighting due to a contract dispute. New South Wales has started buying their own vehicles for firefighting rather than relying on contracting vehicles from elsewhere for this sort of reason. Will Victoria also now start buying its own vehicles for firefighting capacity?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:34): Ms Copsey, when it comes to the selection of the aircraft, I leave that to the experts, but for the 2022–23 summer season Victoria had 50 aircraft. Procurement for the final aircraft for this fleet is almost complete and will be finalised shortly. I go and have a look at the planes and the helicopters

and get briefed on them, but I am certainly not well placed to choose which is the best aircraft to respond to the risk in Victoria. We also have a surge capacity of up to 100 aircraft that we can call on on a needs basis. It is pleasing that we have not had to call on the amount of reserves that we have. But our core fleet will be 50 this year, the same as it was last year, and there are more aircraft available around the state if needed. Hopefully they are not.

Ministers statements: regional development

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (12:35): I rise today in my role as Minister for Regional Development to talk about the really wonderful buy-in and engagement that is happening for rural and regional communities, for sporting organisations and for local councils, tourism boards, our regional partnerships and so many others as the work around the regional package forums and round tables continues. This builds on a range of conversations that I have been pleased to continue with people right across rural and regional Victoria to make the most of the $2 billion regional package and to make sure that, when we talk about the six pillars which apply to this record investment of more than $2 billion, at the heart of these conversations and these meetings in large groups and small we have First Peoples, accessibility and inclusion, economic, social, environmental, sport and wellbeing values.

It was wonderful to join the Minister for Housing Colin Brooks last week in Shepparton for a further conversation about the work to deliver permanent sporting infrastructure – in Shepp, for example, that is the BMX facilities – as well as to talk about $1 billion in additional funding for a least 1300 social and affordable homes, $150 million for the Regional Worker Accommodation Fund and so many other initiatives which councils large and small, organisations and communities are really excited about. This ranges from the Tiny Towns Fund and the additional $10 million that is available through that through to sporting infrastructure, all-abilities operations and programs, and First Nations engagement and economic development. These are conversations that are directly informing the work of delivering on this regional package. This is a collaborative approach, informed by good co-design and engagement. I cannot wait for the next one to come in Geelong next week and for the ones that follow.

Written responses

The PRESIDENT (12:37): Minister Erdogan will get written responses from the Minister for Police for both of Mrs Tyrrell's questions.

Constituency questions

Eastern Victoria Region

Tom McINTOSH (Eastern Victoria) (12:37): (392) On Tuesday I asked the Minister for Treaty and First Peoples in the other place how Victoria is implementing the *Uluru Statement from the Heart*. I thought this was an obvious matter of importance to my constituents in Eastern Victoria and indeed all Victorians; however, those opposite called a point of order. I have discussed the Uluru statement with the Gunaikurnai Land and Waters Aboriginal Corporation, the Bunurong Land Council Aboriginal Corporation and Willum Warrain Aboriginal Association. Additionally, many, many constituents across Eastern Victoria have asked me what Victoria is doing to reconcile with our First Peoples and how we are implementing the *Uluru Statement from the Heart*. So I ask again: Minister, how is Victoria implementing the *Uluru Statement from the Heart*? We are at a time when addressing appalling mortality rates, home ownership and plain decency and respect to our First Nations people is crucial. I fully support constitutional recognition and a Voice to Parliament, and I hope on 14 October all others in this chamber will do so too.

Western Victoria Region

Bev McARTHUR (Western Victoria) (12:38): (393) My question is for the Minister for Roads and Road Safety and concerns the Darlington track. We cannot call it a road. It is in my electorate. It

is just a track. Last month an 80-kilometre-per-hour restriction was placed on the road. Instead of it being fixed or even built properly in the first place, we just put up an 80-kilometre-per-hour restriction sign. As Cr Nick Cole says, it is in response to all the Grand Canyons that we now call 'potholes'. And it is not just one short stretch of a Grand Canyon; the speed limit has now been extended for more than 12 kilometres. It is a Grand Canyon of 12 kilometres. Tyres have been torn apart and cars damaged. But worse still, multiple drivers and riders have left the road on one corner near the Bookaar fire shed, and tragically, one man hit two trees and was airlifted to Melbourne in a critical state. So Minister, when will you fix the road and all other roads like it in regional Victoria?

Northern Metropolitan Region

Adem SOMYUREK (Northern Metropolitan) (12:40): (394) My question is directed to the Minister for Public Transport regarding the provision of bus services in Craigieburn and Donnybrook. I have received numerous correspondence from residents of Cloverton estate in Kalkallo distressed at being stuck in traffic every day just to leave their estate. With only one road going in and out of the estate, residents say they have to wait an hour every day to travel 1 kilometre to get onto the main road. It is true that the population of Kalkallo has increased exponentially from 105 people in 2016 to 5502 in 2021, but that is no excuse for the gridlock, because the population projections have been forecast for a very long time. The government has only recently taken steps to build a new road. The population projections show that a road on its own will not fix the problem. I ask the minister to introduce more direct bus services to Cloverton estate to link with the Donnybrook and Craigieburn train line.

Southern Metropolitan Region

John BERGER (Southern Metropolitan) (12:41): (395) My question is for the Minister for Veterans in the other place, Minister Suleyman. The Andrews Labor government is committed to honouring our veterans, and part of this commitment is ensuring our younger generations are aware of their history of service and sacrifice, whether it be the Boer War, the beaches of Gallipoli, World War II, Afghanistan or Iraq. The Anzac legend of our diggers' mateship is fundamental in understanding Australia's history; however, many young people do not know enough about it. I want to ensure that young Victorians, particularly in my community of Southern Metro, can understand, appreciate and respect the Anzac legacy. That is why my question to the minister is this: can the minister advise how young people in Southern Metropolitan Region can connect with the Anzac legacy through the Premier's Spirit of Anzac Prize? I look forward to hearing more about the Premier's Spirit of Anzac Prize from the minister.

Southern Metropolitan Region

Georgie CROZIER (Southern Metropolitan) (12:41): (396) My constituency question is for the Minister for Planning, and it is in relation to Fishermans Bend. In 2018 the Fishermans Bend framework made clear commitments. These were commitments made by the government, including a number of things around light rail and a community hospital I might add, which have not been delivered and are nowhere to be seen. It is just on a piece of paper on some website somewhere, and it has not been delivered. Importantly that light rail is for the entire community. The council, the residents and all those involved are incredibly frustrated around what the government has promised with nothing coming to fruition. So my question to the government is: when will the framework be acted upon? When will the Fishermans Bend development actually be delivered? The council, the community, the residents and businesses all want some clarity around this issue, which they feel is in limbo.

South-Eastern Metropolitan Region

Rachel PAYNE (South-Eastern Metropolitan) (12:42): (397) My constituency question is for the Treasurer. My constituent is the owner of Skye Medical Centre, a bulk-billing GP clinic. They are concerned that a recent ruling by the State Revenue Office will result in them owing a substantial

amount of payroll tax, which is to be calculated retrospectively. Like many areas, Skye struggles with adequate access to bulk-billing GPs, with less than half of the centres in the area offering bulk-billing for new patients. So my constituent asks: would the minister consider offering an amnesty to this clinic, similar to that occurring more broadly in Queensland and South Australia, to ensure those living in Skye can access bulk-billing services?

Northern Victoria Region

Wendy LOVELL (Northern Victoria) (12:43): (398) My question is for the Minister for Public Transport. Romsey is a small regional town located 64 kilometres from the Melbourne CBD and has a population of just over 4000 people. Better Futures Romsey is an active community group that serves as a voice for local residents regarding the future development of the Romsey region. I was recently contacted by a member of Better Futures Romsey, who highlighted the lack of public transport infrastructure servicing the town. There is currently no train line to Romsey, despite research conducted in 2021 and detailed in the draft *Romsey Structure Plan* indicating that 28 per cent of the population commute to the metropolitan area for work each day. Will the minister detail any plans the government has to improve the public transport infrastructure for the Romsey community into the future?

Southern Metropolitan Region

Katherine COPSEY (Southern Metropolitan) (12:44): (399) My question is for the Minister for Housing. One of my constituents in Southern Metro is a resident of public housing who has recently lost her job and has applied for the JobSeeker allowance. She currently has no income, and during this cost-of-living crisis daily costs are rapidly depleting her savings. Added to this, she is now being threatened with eviction from her public home as she cannot pay her rent. She recently requested a rent reduction from the Department of Families, Fairness and Housing and she was informed it can only be assessed once she has secured the JobSeeker allowance. However, we all know that there are increasing wait times for Centrelink. Currently, and despite the department's awareness of this situation, she is still being threatened with eviction. Minister, given Centrelink wait times have increased over the years, will the government revise its policy so rent reduction is available from when a JobSeeker application is submitted so that public housing tenants are not driven further into poverty while waiting for Centrelink approvals?

Southern Metropolitan Region

David DAVIS (Southern Metropolitan) (12:45): (400) My matter is for the Treasurer, and it concerns an issue that some others in the chamber have referred to and that I talked about yesterday as well. This is the state government's new tax on GPs and health professionals – this new and extraordinary payroll tax that has been put on primary care, clobbering doctors, clobbering the supply and smashing the availability of bulk-billing. It is a very stupid tax; it is counterproductive. In my area of Southern Metropolitan Region I have had a number of representations. What I would seek from the Treasurer is, first of all, the release of the expected collections of tax in Southern Metropolitan Region and an amnesty for those who are being clobbered by this shameful tax – a payroll tax on health, a payroll tax on doctors and a tax to smash bulk-billing. Bad news, Mr Andrews.

South-Eastern Metropolitan Region

David LIMBRICK (South-Eastern Metropolitan) (12:46): (401) My question is for the Minister for Transport and Infrastructure. Many constituents have contacted my office to express their frustrations with the increased traffic congestion brought about by simultaneous major road projects happening all over the region. The Narre Warren-Cranbourne Road project has closed so many adjoining streets that getting through this main thoroughfare is a complete nightmare. With the recent closure of Linsell Boulevard – at both ends, I might add – traffic has become so backed up it is flooding into residential streets within the Hunt Club estate, including on bus routes used by children commuting to and from school, which is very dangerous. The Clyde Road duplication project can

barely keep up with the booming development in the area. Journeys which used to take 10 minutes are now close to an hour. As the population increases in these areas it is critical that they remain accessible, especially for emergency services. Minister, what is the government doing to relieve the increased congestion brought about by these numerous projects?

Western Metropolitan Region

Trung LUU (Western Metropolitan) (12:47): (402) My constituency question is for the Minister for Environment regarding the Cheetham Wetlands. On behalf of a constituent in Hobsons Bay, I ask the minister: could she inform the house whether the government has any plans to support the Hobsons Bay wetlands centre? Many of my constituents, together with Hobsons Bay City Council, have been calling for this wetlands centre for many years. The centre would be focused on sustainability. It would provide teaching and learning facilities for constituents and support critical ecosystems and diverse flora and fauna. 150 species of birds and frogs call the wetlands home. The wetlands centre would also cater for all ages and abilities, featuring viewing towers, walking trails, lavatories, research facilities and water-based spaces. At the last state election the coalition committed $5.5 million to the centre.

North-Eastern Metropolitan Region

Aiv PUGLIELLI (North-Eastern Metropolitan) (12:49): (403) My question is to the Minister for Education, and it relates to tech schools. I recently met with a teacher who lives in my region and teaches at one of our wonderful tech schools here in Victoria. I was interested to learn more about the courses that they run and the fact that local schools apparently are unaware of the courses and training that tech schools can offer students. Tech schools have specialised technical programs with a focus on science, technology, engineering, arts and mathematics. They provide the equipment and expertise to prepare students for jobs of the future. Given there is only one of these schools in my region, and only a handful across the state, what will you do to make sure that nearby schools are aware of and are best able to take up the wonderful opportunities that technical schools offer?

Northern Metropolitan Region

Evan MULHOLLAND (Northern Metropolitan) (12:49): (404) My question is to the Minister for Education. Last week I had the pleasure of catching up with Abdirizak Mohamed, who is the leader of Somali Voice Victoria. Somali Voice is an organisation that advocates for the many thousands of Somalis living in Melbourne, many in my electorate. I recognise Abdi for his leadership of the organisation doing important work. Like many of us, Somali Victorians want to pass on their culture and language to their children. It begs the question why Somali is not a language recognised in the Victorian curriculum. So many community-based schools are able to teach their own language to their local communities, so my question to the minister is: does the Department of Education have any active plans and considerations to introduce Somali into the curriculum, and if not, why not?

Western Metropolitan Region

David ETTERSHANK (Western Metropolitan) (12:50): (405) My constituency question is also for the Minister for Transport and Infrastructure. My constituent is a resident of Melton and dependent on public transport for her daily commute. She was first concerned that delaying the airport and Geelong fast rail projects would have a knock-on effect to the *Western Rail Plan*, which includes the electrification of the Melton line, and then became deeply concerned by media reports recently that pointed to leaked documents showing the plan may have been axed altogether. So my constituent asks: can the minister confirm whether the electrification of the Melton line will proceed and the likely time line for the delivery of that project?

Northern Victoria Region

Gaelle BROAD (Northern Victoria) (12:51): (406) My question is to the Minister for Health on behalf of a local Bendigo gardening business. Can the minister please clarify what COVID rules still apply for a gardening business that does work for NDIS clients? Is it true that the business is unable

to employ people who have not been vaccinated for COVID-19 even if they test negative the same day but staff with COVID can work provided they have been vaccinated? We are now well past the state of emergency and the pandemic is over, but it appears as though inconsistent rules still apply that are making it difficult for businesses to fill workforce shortages.

Eastern Victoria Region

Melina BATH (Eastern Victoria) (12:52): (407) My question is to the Minister for Outdoor Recreation. Today we have seen the Animal Justice–Labor–Greens alliance hand down a flawed report that would see the banning of native duck hunting in Victoria. This report ignored the science. It ignored the ecologists' decision and comments of Klaassen and Kingsford around the interim harvest model as being an exemplary model for the continuation of duck hunting. It has ignored a whole raft of recommendations, and it also is a frustration to my constituent Field and Game conservation volunteer Gary Howard OAM, who asked me to ask the minister to ensure that she listens to the science and rejects the flawed report that would see duck hunting banned. Minister, will you reject this report?

North-Eastern Metropolitan Region

Nicholas McGOWAN (North-Eastern Metropolitan) (12:53): (408) My question is for the Treasurer. This has already been asked today, and I will repeat it because it is an emerging issue and quite an alarming one. I want to quote one of the practice managers from a medical clinic in my electorate of Ringwood:

> I am the practice manager at the clinic and am opposed to the State Government changing the structure of how general practitioners are paid. As a small business, we … have been forced to change from bulk billing to mixed billing to try cover the extreme costs of keeping the medical centre open for business. If the proposed payroll tax changes were to go ahead, there would be no choice but to close our doors, leaving a community already struggling to find quality health care when they most need it in an even worse state than it already is.

I ask the Minister for Health to urgently review this, but of course specifically because I can only do one minister, I ask the Treasurer to scrap the GP tax. To quote this constituent:

> After everything we went through during the pandemic, providing immunisations, putting staff at risk on a daily basis, the everchanging rules and regulations, changing the way we treat patients, general practice has been through enough. Changes to the payroll tax will be the nail in the coffin for us.

Sitting suspended 12:54 pm until 2:03 pm.

Bills

Energy Legislation Amendment Bill 2023

Second reading

Debate resumed.

Bev McARTHUR (Western Victoria) (14:03): Now, where did I finish? I do not know where I finished, but I will start again. I thought it might be interesting to give you a little story. Last week the shadow minister and I went on a trip along the two transmission line routes. It was depressing and eye opening. I have got to tell you, there are people out there with serious mental health concerns over how this transmission line rollout is affecting lives. People have been in hospital. To quote one of the people who is not long out of hospital, 'If the government continues down this path, they'll have blood on their hands.' That was the warning we were given about the way you are conducting the rollout of transmission lines in this state.

A figure we heard repeatedly came from the Victorian government's own projections of what the future will look like. The then Department of Environment, Land, Water and Planning, now the Department of Energy, Environment and Climate Action, published its policy directions paper for offshore wind in 2022. On page 19, figure 7 states that to achieve the 60 gigawatts of generation needed

for the state's 95 per cent renewable energy target using onshore wind and solar would require up to 70 per cent of Victoria's agricultural land. I repeat: 70 per cent of Victoria's agricultural land would be required to meet the renewable energy target.

We are not about to build tonnes of pumped hydro, and even offshore wind seems to be running into obstacles. You know, there is a whale somewhere in the offshore wind space that is a concern, so we will not be able to have an offshore wind farm because there will be a whale problem. Never mind about the people problem that exists all the way along these lines. We will probably stop an offshore wind farm because of whales. We are stopping one, as I said earlier, because of brolgas, and we have ended old-growth logging because of other wildlife. So the offshore wind farm issue is serious. We have now got basically no projects offshore, but even if we did they would meet a very small fraction of what is required. But there is a better way we could deliver the energy targets that you have demanded without devastating the agricultural community, the environment and the lives of so many people and communities from Sydenham to the New South Wales border.

Tom McIntosh: We've been asking for days to hear from your side an idea.

Bev McARTHUR: Well, the ideas are there, mate, and they are very good. It is called plan B, if you have not come across it, and it uses many existing easements. It will be cheaper to build the transmission lines and far less impactful on the communities. I do not know whether you understand what happens if you build 80-metre-high transmission towers across a piece of agriculture – especially a potato farming business – because there are easements involved, and you cannot farm within these easements, obviously. There are boom sprays required, which actually reach higher than some of the dropped lines of transmission. And why are they dropping down? Because you are trying to pump more power through them, and they then get weightier and they become closer to the ground.

We have got a situation where Australian Energy Market Operator's immediate grid development plan in Victoria includes another 650 kilometres of transmission lines with 1270 kilometres on brand new easements – brand new, not using existing easements, because of course the business model for this is to build more transmission, not retrofit, make use of what is there and do it better. This is 40-year-old technology you are embarking on. Try and get with the modern era and use the best possible technology. Around the world they can do it, but it seems here we are going to use AEMO's old-fashioned approach of putting new transmission lines all over this state, crisscrossing the place like a spider web and boring your way through biolinks, even over a reservoir that is used for firefighting. So that will prohibit the use of firefighting aeroplanes to put out a fire in the Lerderderg forest. Now, that will be great. If that catches on fire, forget about Bacchus Marsh – it will be gone. You are in the outskirts of Melbourne with a fire caused largely by electrical elements. There was a fire caused by electrical elements in my electorate a while ago in the St Patrick's Day fires – totally caused by electrical elements. You have got trees that fall on powerlines, and then they fall down, because nobody clears the roadsides these days. So you have got metre-high phalaris, which is like a fire wick, and you wonder why there is a fire. You do not clear the roadsides and you insist on having wildlife corridors on roadsides, which end up as fire wicks, and you create massive bushfires. Thousands of acres were burnt and umpteen thousands of stock were lost – fortunately no lives. So we have to do it a better way.

AEMO are a disgrace the way they are unrolling out their transmission idea for the whole of the eastern seaboard – a total disgrace. Frankly, this government is a disgrace. You should be looking at all forms of energy if you want to increase supply and not restrict yourself to one variation, but you should look at the very best way you can transmit the energy that has the social licence of the community to deliver it. We need to work out how it is done, best practice, around the world and in other parts of Australia as well. So while we are debating this bill I think we have got to come to grips with the greatest issue of energy supply, which is transmission.

Wendy LOVELL (Northern Victoria) (14:11): I rise to talk on the Energy Legislation Amendment Bill 2023. This bill obviously forms part of the government's commitment to managing the transition

of the energy sector to achieve net zero emissions by 2045 while ensuring that we have reliable energy for Victorian consumers. But I do not think they are fulfilling the second part of that, ensuring reliable energy.

This is an omnibus bill. It amends the National Electricity (Victoria) Act 2005 and also the National Gas (Victoria) Act 2008, and it is supposedly going to deliver better outcomes for Victorian energy consumers. But what we note about this bill is that it does not supply one additional kilowatt of electricity. There is no additional electricity that is going to be generated for the use of Victorians because of this bill. What this bill does is it shifts responsibility. It shifts the responsibility from the government for ensuring secure energy supplies and places that responsibility on retailers and large customers. It places the responsibility on them to secure contracts with electricity producers to manage future supply. It does this by creating retailer reliability obligations that the minister can enact when they feel it is necessary. This, as I said, is not going to generate any additional electricity for Victorian consumers, who are currently suffering so much in this state. Their bills have skyrocketed. They are extremely concerned about the government's phasing out of natural gas as an energy source in this state and many of them are very aggrieved by that.

What we have seen overnight is a report released by the Australian Energy Market Operator, AEMO – the *Electricity Statement of Opportunities* it is called – which is a 10-year outlook. That was released last night and reported on in the *Herald Sun* this morning. It paints a very bleak picture for reliable electricity supply over the next decade here in Victoria. In fact the report has warned that the accelerated retreat from coal generation has not been met with enough renewable energy sources to consistently guarantee supply. So it is already telling us that over the next 10 years we are going to have shortages of supply – because this government has done nothing to secure future supplies of energy in Victoria.

The report highlights a number of areas, including that Victoria is facing more regular blackouts over the next 10 years and that coal, gas and diesel shortfalls have been identified as a material risk to the grid. It also says that the Andrews government's ban on gas will have a significant impact on winter electricity consumption, meaning we will need to use more electricity if we do not have gas for heating. It also says that Victoria's concerns will spike with the closure of Yallourn power station in 2027–28, and it says that transmission projects coming on line are not keeping up with the pace of traditional coal-fired power station closures. This report outlines that this government have failed Victoria, that they have failed to secure our energy supplies into the future and that we are in a parlous state in this state.

It also predicts that over the summer we are going to have significant blackouts. It says that soaring summer temperatures are expected due to El Niño and that this will seriously test supplies, with the biggest risk of blackouts being in January 2024. In my electorate in January 2024 on many, many, many days in many, many, many electorates the temperature will be in excess of 40 degrees. We sometimes have days on end of 40 degrees in areas like Mildura, Swan Hill, Echuca, Shepparton, Wangaratta, Wodonga and many others throughout the north of the state. People in these areas will die if they do not have air conditioning. The elderly will die, and it will be because there is no electricity available to them. I would hope that the government do something rather quickly about producing electricity, but as we know, it takes many years to bring new supplies on line, and this government have wasted the last nine years in securing additional supplies in this state.

The report notes that 62 per cent of the country's coal-fired generation is due to close before 2023. It goes on to say that new and planned renewable projects are struggling to make up the potential shortfalls, particularly during extreme weather periods, as the population rises and the states are facing the biggest changes to our supplies that we have seen since the introduction of electricity and reticulated gas in this state.

It is a sad situation Victoria finds itself in because of ideology. It is time that both Labor and the Greens realise that their ideological views are making it harder for Victorians not only in the space of energy –

as we see in this bill, with there not being enough energy to generate power for people to keep their heating going, to keep their air conditioning going or indeed even to cook their food or keep their lights on at night – but also for the dairy farmers in the north of the state with their need to keep milk at lower than 4 degrees Celsius in order for it to be able to be used for consumption and to be picked up by the milk processing plants. If there is no electricity, this state is going to face a huge shortage of milk, and that will be squarely on the shoulders of this government.

But it is not only in the electricity space that the Greens and Labor policies are failing Victorians. We can also look at the housing space and some of the proposals that they are putting forward that would absolutely kill the private rental market and would have dire consequences for people in this state. Rents will absolutely balloon if we go ahead with the types of policies that these two parties are putting forward. If they say they are going to have a rent cap, well, that will just kill the private rental market, and then those properties will be sold off. Governments do not have enough properties to house the people that would need to be housed in this state, and many of those people would not qualify for subsidised housing anyway, so where are they going to live? Where are they going to live if there is no private rental market? They are the sorts of things that this government need to consider.

But when it comes to electricity and the supply of natural gas, this government is failing Victorians significantly. Mrs McArthur spoke very eloquently about the VNI West project, which impacts largely her electorate but also parts of my electorate. There has been a lack of consultation with communities about those towers going through their farms and the impact that that will have on productivity and a lack of information around whether they will be compensated for the loss of productivity on their farms and whether that compensation will be ongoing. It is just appalling.

This government just does things to people rather than doing things for people. Governments are supposed to govern for the people, not for the government at the expense of people. But that is something that Labor never understands, particularly when you get a tired Labor government that has run out of ideas. How many pieces of legislation have we had this week? Two. We have had two pieces of legislation this week.

Sonja Terpstra: On a point of order, Acting President, I note that the bill that we are debating at the moment is called the Energy Legislation Amendment Bill. A lot of Ms Lovell's contribution that I have heard has related to the rental crisis and then finally attacking the government about all manner of things that do not relate to energy. I would ask that perhaps Ms Lovell confine her contribution to the scope of the bill.

The ACTING PRESIDENT (Bev McArthur): Thank you, Ms Terpstra. I note you are not tired. Ms Lovell might come back to the bill, but certainly housing is involved in energy.

Wendy LOVELL: Thank you, Acting President. I had moved on from the rental market. I had come back to the legislation before us, which is one of the two pieces of legislation that we have for debate in a whole sitting week of Parliament. I can remember the days when we would debate six bills in one day in the Parliament. We would stay all night and debate bills, because there was a legislative agenda in the state. But this government has no legislative agenda. They have run out of ideas and all they are doing is imposing on people in Victoria ideologically driven pieces of legislation that are going to make it harder for Victorians in this state and make electricity even more expensive.

Their failure in the electricity area is going to result in major blackouts and could result in the deaths of some of the elderly if they cannot run their air conditioners. It is not just about when there is no electricity to run their air conditioning but also about the cost of running that air conditioning. This is going to be devastating for many, many Victorian households, because you are driving up the cost of electricity in this state – driving it up. That is going to be devastating for families, for the elderly – for every Victorian. And for businesses – you go into businesses now, businesses that used to be quite bright to display their stock, and you note that two-thirds of their lights are turned off because they cannot afford the electricity bills, because the cost of energy has risen so much under Labor.

Labor should hang their heads in shame. They are making it harder for Victorians in every aspect of their lives. It is time that we moved on from the ideologically driven agenda and got back to governing for Victorians, not doing things to Victorians.

The ACTING PRESIDENT (Bev McArthur): Ms Terpstra, in purple, will speak now.

Sonja TERPSTRA (North-Eastern Metropolitan) (14:23): Thank you very much, Acting President McArthur. I love your acknowledgement of my colourful dress code today, being purple. I rise to make a contribution on the Energy Legislation Amendment Bill 2023. Unlike Ms Lovell's contribution, I am going to inform the house about what this bill is actually about. I will talk about what it is about rather than what is not about and things that have nothing to do with anything in relation to the bill. It was quite a wild ride there, I might say.

I will begin my contribution by outlining for the house and for those who might be playing along at home – the three people and a hamster who might be watching us right now. They will be enlightened to know that the bill is about none of the things that Ms Lovell just talked about. The bill has three components. The first adds decision-making criteria to the Victorian legislation in the event that the Minister for Energy and Resources triggers the retailer reliability obligation. There is the first thing. The second thing is that it enables an alignment between penalties applied to Victorian gas market participants and to those in other jurisdictions. The third change in this bill is that it changes outdated references to the gas distribution system code, which is now known as the Gas Distribution System Code of Practice. So these amendments are technical in nature but provide confidence to Victorians that energy markets are working in their favour.

We just heard a whole bunch of stuff over there that had nothing at all to do with any of this, and before I get into some of the detail about this, I am proud to be part of the Andrews Labor government, who have got such a strong track record. We heard all the gloom and doom today about, 'The sky is falling. There's going to be no electricity. It's going to be terrible and it's bad for Victorians. It's all going to come crashing down.' Well, I tell you what, the amount of people who have taken up solar on their rooftops are smashing it. We are going to smash our renewable energy targets, and we are working incredibly hard to reduce our carbon footprint as well.

Tom McIntosh: The highest per capita in the world.

Sonja TERPSTRA: The highest per capita in the world, and then we are rolling out batteries as well. I will get into some of these details in a second. To simply say that we will have no electricity is fanciful. Our wind farm projects – in Victoria, we are lucky that we are one of the windiest places in the world, especially in Bass Strait. But off Gippsland the Star of the South wind farm, I am really excited to see that chugging along really nicely. There is nothing to be gloomy and doomy about.

I might point out that those opposite privatised our electricity market, so the retailers now that we have in the market generate all of these profits and take them offshore, overseas to other incorporated entities that do not reinvest back into Australia or in Victoria. So to say that Victorians are somehow losing – let me tell you, Victorians are losing under this system right now. They talk about pensioners. There are so many people, not only pensioners, in Victoria who have taken full advantage of the power saving or energy saving bonus, however you want to call it, because they know they can apply that off their power bills and it means that they will have more money in their pocket to spend on things that they might enjoy. We are directly bringing down the cost of electricity by doing that for those people. It has been a great success; there are thousands and thousands and thousands of Victorians that have taken up the opportunity to take advantage of the power saving bonus.

Honestly, it is like we are in an alternative universe over here. I was sitting here with my colleagues Mr Batchelor and Mr McIntosh and we were talking about Smithers and all these sorts of things, and the *Simpsons*. Honestly, I often wonder if those opposite ever got into government what they would in fact do. Well, what we know they do –

Tom McIntosh: They don't know.

Sonja TERPSTRA: That is right, they do not know, but they like to occupy the office and do absolutely nothing with it – because I can go on and talk about, like I said, the Kennett privatisation years, because over there what they like to do is go 'It's all about small government' and do absolutely nothing. But they will occupy the office and smash government assistance to any Victorians and just make sure that the private market can let it rip and go writ large and their rich mates can make profits at the expense of Victorians. What we saw under them was Kennett selling off 300-plus public schools and impacting students' education and learning, and then they sold off our electricity market.

Tom McIntosh: That's why people voted for the SEC.

Sonja TERPSTRA: That is why people voted for the SEC. Those opposite forget that at the last election we actually increased our majority. So I do not know what they are talking about when they say what a terrible government we are, because obviously the electors decided to return us and increase our majority – like, wow, we must be so bad over here on this side of the chamber, we must be absolutely terrible. Shame on us for actually winning another term and increasing our majority.

So again, I think Victorians have spoken and have said that they have confidence in this government to continue to run the state and continue to take strong action on climate change, to continue to drive our renewable energy targets through clean energy, creating tens of thousands of jobs, and not to mention – I need to mention it again – to bring back the SEC. Bringing back the SEC – we cannot mention that often enough, because we know those opposite hate anything with the word 'public' in it. You hate the public. You hate public education, you hate public health and you hate anything to do with the public. And as we know, utilities like electricity need to be in the public's hands. So those opposite have no credibility, and again, all they can really do is sit in this chamber and yell out things that no-one is listening to.

Tom McIntosh: And how many years did the coalition have federally to do something?

Sonja TERPSTRA: Well, a lot of time, but this is the point: they did nothing, because all they like to do is occupy the office and do absolutely nothing with it when they get there.

Let me return to the details of this bill, because I want to just talk a bit about our ambitious renewable energy targets –

Wendy Lovell: Tell us how it generates more electricity.

Sonja TERPSTRA: because Ms Lovell thinks we are going to run out of electricity – wow. Our ambitious renewable energy targets are the foundation of that agenda, setting clear direction for investors to follow. There are investment opportunities – wow, who woulda thunk it? We have set a target of 65 per cent renewable electricity generation for Victoria by 2030 and 95 per cent by 2035 – but remember: we are going to run out of electricity, right? And when we set a target, we will hit it. We smashed our 2020 renewable energy target of 25 per cent and we have increased our 2030 target from 50 per cent to 65 per cent, so we are smashing it. We have supported the targets with policies that promote the development of new renewable energy capacity. So when Ms Lovell thinks that we are going to run out of electricity – again, flawed logic, because we have just talked about our targets and how we are going to increase capacity, because we know how to do that. Our first Victorian renewable energy target auction was the largest of its type in Australia when it launched, and it supported five projects, totalling 800 megawatts of new capacity – there you go, Mr McIntosh. Do you think we are going to run out of electricity? Of course we are not. We are going to keep going.

Our second Victorian renewable energy target auction, the VRET 2, will bring forward 623 megawatts of new renewable generation capacity and deliver up to 365 megawatts of new battery energy storage – there you go. So if you do not have enough to generate, it is going to be in a battery, ready for you to use. So again, our $1.3 billion – let me say that again; $1.3 billion – Solar Homes program is delivering renewables at the household level. We have already helped over 200,000 households access rooftop

solar. Like I said before, Victorians are taking up the opportunity to put solar panels on their rooftops at a rate of knots. This year rooftop solar has generated nearly five times the power generated by gas in Victoria, and it will only grow as the 10-year Solar Homes program continues to roll out. And we have invested $540 million from the Renewable Energy Zone Fund to upgrade our grid and unlock new capacity.

As a result of policies such as these, Victoria has more than tripled renewable energy generation since 2014. But again, those opposite want to sit there and say we are going to run out of electricity. I have just explained to the chamber and for those who are playing along at home how that is not going to happen, because those opposite have got no plan, they have got no action – they cannot do anything. If we say something, they will say the opposite. I think our esteemed colleague the Prime Minister likes to refer to those opposite in his realm as the 'noalition', meaning they just say no to everything. That is exactly what they do over there – the noalition. If Labor says something or government says something, it is, 'No, no.' They do not consider anything, because they do not have any plan. All they know how to do is say no and oppose everything always. That is what they do over there.

This record that I have just detailed for the chamber and for those playing along at home stands in stark contrast to the previous Liberal government, which strangled renewable energy investment. They were last in government some 19 years ago, right? So it just goes to show you the damage they did with their inactivity. Like I said, they like to occupy the office and do absolutely nothing with it or strangle the opportunity for anybody to do anything unless it involves them generating riches for their rich mates and it coming back to them.

As the share of renewables increases, there are new opportunities for energy storage solutions, and that is why our renewable energy targets are supported by Australia's biggest energy storage targets: at least 2.6 gigawatts of energy storage capacity in Victoria by 2030 and 6.3 gigawatts by 2035. So you can see there is loads and loads of information and detail in our plan about how we are generating solar electricity but also increasing capacity and increasing storage capacity.

Tom McIntosh: They have no plan.

Sonja TERPSTRA: Exactly, Mr McIntosh. Those opposite have absolutely zero plan and no ideas about anything – no new ideas other than to say no and oppose everything always.

Tom McIntosh: His Majesty's opposition.

Sonja TERPSTRA: That is right. They just like to talk to themselves. Let me just talk about the three broad categories of battery technology, because this is exciting. It goes to show how we are going to increase our battery storage technology. Again, those opposite have no idea about anything.

There are three broad categories of battery technology that are currently a focus for investment in Victoria. Our state is a leader in all of them because we know we are leading the way with this stuff and we want people to get on board with us. Some of the biggest big batteries we have in the pipeline are a 125-megawatt big battery with grid-forming inverters, which will be funded by $119 million from our Renewable Energy Zone Fund; a 100-megawatt battery with grid-forming inverters in Terang, supported through our Energy Innovation Fund; and four batteries totalling 365 megawatts as part of projects that were successful in the second Victorian renewable energy target, or VRET 2, auction.

There are also a growing number of big batteries being developed and operated by private sector market participants, because what we like to do is encourage private sector involvement and investment, including the 150-megawatt Hazelwood battery energy storage system which opened in June, which is very exciting – and I think, Mr McIntosh, you would know all about that – and the 350-megawatt big battery being developed by EnergyAustralia to support an orderly transition for the closure of the Yallourn coal-fired power station. The growing number of utility-scale batteries being developed and operated, with and without government funding, shows this technology is becoming

increasingly attractive as an investment prospect, a trend that has been supported by our strong policy framework.

This is the point: if you have inactivity or uncertainty in the market, it will not attract investors. Victoria enacting all of these policy frameworks signals to the market and to investors that there is policy certainty and that investors can have certainty and feel secure and safe in the knowledge that if they want to invest in these sorts of things, they are going to be around for the longer term and the government is not going to change its policy or take a different track in where it is going with these sorts of things. Because the government has provided that certainty to the marketplace we do see additional interest from investors. They are all good things, and it goes to show that again there is more certainty being provided to the market, and that is what we want.

Victoria is a leader in neighbourhood-scale batteries, providing nearly $11 million via the neighbourhood battery initiative to explore the potential of this technology and to implement projects that benefit Victorian energy users. In stark contrast to Ms Lovell's contribution, where she was saying we are going to make it harder for Victorians and it is going to be terrible and we are going to run out of electricity, I have just outlined the how of the plan, which is going to make it more beneficial to Victorian energy users.

And by bringing back the SEC – have I mentioned that before? Have I mentioned we are going to bring back the SEC before? I do not think I have mentioned it enough.

Ryan Batchelor: Mention it again, please.

Sonja TERPSTRA: We need to mention it again because that is how we are going to bring down energy prices, because it will be run by the government, and it means that Victorians will benefit from cheaper electricity prices. Under those opposite, when Kennett privatised everything, the private market got in, took all the money out and shipped it off overseas to their rich mates, so we know what happens if you lot ever get in government – you flog it off, and the profits go with it, mind you, overseas. And consumers pay. They have been paying ever since Kennett privatised electricity, and they have paid exorbitant electricity prices under those opposite.

I think I might leave my contribution there because I know Minister Stitt will be summing up momentarily and she will have loads of good things to say about this bill, which will also be of great interest to those who might be playing along at home this afternoon. I will conclude my contribution there and commend this bill to the house.

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (14:38): Thank you to all members for their very thoughtful contributions. In summary, I am going to try and just touch on a few key points and not repeat what others have already gone through. I can see that people are keen to get into the committee stage for this bill. It is a fairly simple bill and quite technical in nature. Despite some of the more colourful contributions, we really are dealing with a pretty simple and straightforward set of amendments.

The bill has three components, which are about increasing the reliability of our electricity network and improving customer protections. Of course as others have mentioned, the first adds decision-making criteria to Victorian legislation in the event that the minister for energy triggers the retailer reliability obligation; the second enables alignment between penalties applied in Victoria to the Victorian gas market participants with those in other jurisdictions; and the third change changes outdated references to the gas distribution system code, which is now known as the Gas Distribution System Code of Practice. So these amendments are very technical in nature, very specific, and they are about providing confidence to Victorians that energy markets are working in their favour.

If I can just touch briefly on the report that a number of speakers have gone to, the *Electricity Statement of Opportunities*, which was released today, the report tells us really what we already know: that climate change is driving more extreme heat and that will increase demand on our systems, and ageing

coal-fired generators are becoming increasingly unreliable and we have to get on and build new renewable and storage capacity, and that is exactly what Victoria is doing.

For this summer the Australian Energy Market Operator have advised us that they have more than sufficient reserves to maintain reliability if many things go wrong at once – and it is, I think, important to keep that in context – primarily the failure of a coal generator on a hot day. In the longer term we have the plans and we have the projects in place to ensure that reliability is maintained, and this is acknowledged by AEMO in its report. If those opposite took the time to understand the report properly, they would not be being quite so animated about this and catastrophising about things, but we are kind of used to that. We have a massive pipeline of renewable energy projects, well over 100 projects that have been registered with AEMO, and that will ensure that Victoria continues to produce more than enough power well into the future.

In relation to prices, our record investment in renewables is having a downward pressure on prices. Recent price increases are entirely due to the unreliability of fossil fuels. Victorian wholesale prices have been the lowest in the national electricity market over the past year because of our higher share of renewables, but you would not know that listening to some of those opposite. If we listened to those opposite, we would be locked into the coal and gas industries for decades – the very cause of the higher prices.

I think finally, if I can summarise this in two short points, the bill makes very minor and technical amendments to existing legislation and these amendments ensure the proper functioning of our energy system and further protection for consumers against large energy companies, and that is the very nub of the bill that we are debating today. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (14:44)

David DAVIS: I flagged with the minister earlier one set of concerns. I have got fundamentally two sets of concerns, but the first set of concerns relates to the matters that were raised by the Scrutiny of Acts and Regulations Committee, and I have alerted her ahead of time to this matter. There are two points to this. The first is: has the minister responded formally to SARC, and if not, why not? If so, can we see a copy of that response? The second point that I would make – the substantive point – is that SARC does make commentary about the nature of this bill. I understand that this bill is part of a national set of legislation, but SARC does point to issues that relate to the delegation of legislative power and the so-called Henry VIII clauses. I wonder whether the minister will explain to the house whether, as I say, there has been a response to SARC's set of points and, secondly, what the substantive response is to what is not ideal legislative practice.

Ingrid STITT: I can give you a little bit of information in response to the questions that you have kindly provided ahead of the committee stage. In relation to the questions around the Henry VIII clauses, the national gas regime is made up of the National Gas Law and the National Gas Rules (NGR) and provides the framework for economic regulation of gas distribution and supply in Australia. The NGL provides three tiers of civil penalty provisions, accompanied by civil penalty amounts for the purpose of the national gas regime. Tiers 1 and 2 – the higher penalties – only relate to provisions in regulations made under the NGL, and tier 3, which has the lowest penalties, applies to provisions not made under the NGL regulations.

The National Gas (Victoria) (Declared System Provisions) Regulations 2014 prescribed the Victorian-specific provisions of the NGR as civil penalties. Sorry, I am being a bit long winded about this, but I

thought I could just step it out for you. The maximum civil penalties can be issued by the Australian Energy Regulator (AER) for non-compliance with Victorian-specific rules related to the declared wholesale gas market (DWGM) under the NGR. They are lower than in the other east coast wholesale gas markets.

In Victoria the AER can only access a default of tier 3 civil penalties for breaches of any provisions in the DWGM. This outcome has occurred following amendments to the civil penalty framework at the national level for both the electricity and gas markets made in late 2020. Due to the drafting of those provisions, the civil penalty framework did not include Victorian-specific provisions related to conduct in the gas wholesale market, which are prescribed under Victorian law.

Under the updated national civil penalties framework the AER can access civil penalties for any breach of provisions in other jurisdictions such as, but not limited to, tier 1, which is no more than $10 million for companies, and tier 2, which is penalties of no more than $1.435 million for companies.

In terms of the question around SARC – that is, the position that you were seeking from me before we came to committee – just one sec.

Mr Davis, I am advised that the minister has not yet received the formal correspondence from SARC, but if and when she does, she will be responding forthwith.

David DAVIS: I will follow up on the SARC end of that, but I understand this was tabled in the house – the minister presumably sees these too – at the start of August, so some time ago, and I would have thought that there would have been an opportunity for the minister to respond. But I certainly think the committee and the Parliament should have those responses as a matter of course.

On my second point, and it comes from the material seen today that the Australian Energy Market Operator has produced, what I seek from you, Minister, is a guarantee that we are going to see electricity supply this summer.

Ingrid STITT: As I indicated when I was summing up, this summer Australian Energy Market Operator (AEMO) has advised us that they have more than sufficient reserves to maintain reliability if many things go wrong at once – primarily the failure of a coal generator on a hot day. They have a role to play in being quite conservative in their outlook as to reliability, but we are very confident that, with the massive pipeline of new renewable energy projects – as I already indicated, well over a hundred of those have already been registered with AEMO – we will ensure that Victoria continues to produce more than enough power well into the future.

As you would be very well aware, you cannot predict every single scenario, and there have been, somewhat driven by climate change, I would argue, some extraordinary storm events in other parts of the country that have knocked out supply. Giving a blanket commitment in the terms you have sought is very difficult, but what I can indicate is that AEMO have been given that advice from the Victorian government about all of the projects that are in the pipeline and they have advised us that they have more than sufficient reserves to maintain reliability, and that is the key point to be made.

David DAVIS: The point I would make here is that we all understand the issues around climate change. That is a slow-moving point, and the government has had a long time to respond to that. The truth of the matter is that AEMO has downgraded the outlook and indicated that there is a greater risk than was there just six months ago.

Ingrid STITT: There are a number of reasons for that, though.

David DAVIS: They have outlined those reasons, but what I am asking you to do is to concede that there is a significant risk that there could be outages this summer.

Ingrid STITT: I am not going to be verballed on it. I have been pretty clear. What I will say is that today's report does indicate that this is not an issue that is extraordinary to Victoria. The reliability outlook in Victoria is in fact consistent with the reliability outlook for the national energy market

(NEM) for all jurisdictions. The change in the reliability forecast is driven by a number of factors, including higher forecast temperatures due to El Niño and climate change, which we know will drive up demand, no question about that, and less reliability of our ageing coal-fired generators. However, notwithstanding those facts, AEMO have advised that they think that there is sufficient reserve capacity available to ensure power supply. Our reserve capacity is five times what the potential gap will be this summer.

David DAVIS: The truth, again, is that AEMO has downgraded the position for Victoria and Victoria has the weakest position of all the jurisdictions. The minister has pointed to a number of factors: climate change and so forth. All of those are accepted as factors, but they were all predictable. The question I would ask is: does the minister and the government accept some responsibility for their failure to have us in a secure position and for the fact that our safety and security of supply has been downgraded?

Ingrid STITT: I think that is your take on the report, Mr Davis. I am not trying to be combative about this at all; I am trying to be helpful. What might be helpful is if I outline a few of the issues in terms of the long-term outlook that would not necessarily have been fully incorporated into the report that we are debating right now.

David Davis: On a point of order, Deputy President, I am very happy to talk about the long-term outlook, but my question was about the short-term outlook – immediately this summer. I will come to the other one in a moment.

The DEPUTY PRESIDENT: I am sorry, Mr Davis. I cannot direct the minister to answer the question that you asked. It is up to the minister to answer the way she sees fit.

Ingrid STITT: I will just take a minute to outline a few of the points in terms of the longer term outlook. As you would expect, the *Electricity Statement of Opportunities* is inherently conservative in its forecasts, and that is not unsurprising given the nature of their role. It only incorporates renewable energy in storage projects that are either under construction or have reached financial close. It does not include other projects that are in the pipeline, including the six projects under the second Victorian renewable energy target auction, which do total 623 megawatts of new renewable generation capacity and 365 megawatts of battery storage and more than 3500 megawatts of additional storage projects that have already been given planning approval are also not included in their outlook. There are, for example: Terang, with 100 megawatts; 225 megawatts which the government has funded through the Energy Innovation Fund; the Victorian Big Battery too, which is 600 megawatts; Golden Plains, which is 300 megawatts to 1200 megawatts; Mornington, which is 240 megawatts; and Melbourne renewable energy hub, which is 1200 megawatts. There is also the SEC's pioneer investment, which is also expected to contribute to meeting Victoria's reliability requirements in this period. And the *Electricity Statement of Opportunities* does not include the first Victorian capacity investment scheme auction, which was announced with the Commonwealth yesterday and will launch in October. There will be a further CIS auction, expected to be held in 2024. So in fact, Mr Davis, Victoria is a net exporter of energy, our exports have increased each year over the past four years, and we have built new capacity and we are exporting this excess capacity.

David DAVIS: I thank the minister for her commentary, but I would make the point that in the AEMO report it is clear that Victoria is in the weakest position both in the short term – the immediate term – and in the long term. That is quite clear from the graphs and charts that are presented in the AEMO report. But the point I would make about the immediate term, and that is this summer that I am talking about in the first instance, is that of all of those items that you have mentioned – the projects under construction, the approvals and so forth – the truth is, Minister, projects that are under construction or approvals that have been granted will not deliver energy in a blackout this summer, will they?

Ingrid STITT: I think we have kind of gone over this territory a couple of times already. The reality is that that is really outside the scope of what we are dealing with in this bill. You are making a number of assertions and political points, I would argue, about reliability. I am responding to that based on the information I have been provided about the pipeline of projects which will add to the reliability of Victoria's supply. And indeed part of the bill that we are dealing with today is all about the retailer reliability obligation, which I would argue is an important step to take to give confidence to the Victorian community that these companies are on the ball and fully focused on making sure that electricity reliability is at the heart of everything they do.

David DAVIS: Just for the record, we are not opposing this bill. We are not against the provisions in this bill. Some of them have some merit, and I made that point earlier in the debate. But the truth of the matter is that these things will operate in the longer term and will not resolve the problem that Victoria may face this summer. You just seem to be resistant about giving a clear commitment about security of supply this summer. You might want to be quite clear about that. Will we be secure? Victorians, Victorian businesses and Victorian households – will they have secure electricity supplies this summer, or is there a significant risk that we could have outages?

Ingrid STITT: I believe this has been asked and answered. I have given the view of the government about the summer 2023–24 outlook, and I have also gone into some details about longer term outlooks for supply and reliability. So I have gone through that in quite some detail.

David DAVIS: Deputy President, I just want to reiterate that the minister has not been prepared to accept responsibility, or the government has not been prepared to accept responsibility, for any outages that occur this summer. I am just going to put that very clearly.

Ingrid Stitt: On a point of order, Deputy President, I am being verballed by Mr Davis, and I do not accept the assertion in his statement. I have been attempting to provide as much detail as I can about the government's view in relation to a report that was tabled today, which, I might add, is not within the scope of the bill that we are debating and the subject of this committee process.

The DEPUTY PRESIDENT: I think you have clarified your point, Minister.

David DAVIS: Deputy President, the report today is squarely within the scope of this bill. It is precisely the matters that the report talks about that are being addressed by this bill. The bill is in part an attempt to provide greater security of supply and to provide additional energy supply into the future, as is the AEMO report, which lays out many of the points. I will just be very clear about that. This is precisely the terrain that this bill covers. I just want to repeat: the minister might step back and say, 'No, no, this is not in the thing', but just let the record record that the minister does not, on behalf of the government, accept responsibility for any blackouts or any problems that occur this summer.

Ingrid STITT: Well, I think, Mr Davis, you are being very disingenuous about what it is I have said and what I will repeat. For this summer AEMO has advised us that they have more than sufficient reserves to maintain reliability if many things go wrong all at once – so in a worst-case scenario sense, primarily the failure of a coal generator on a hot day. I have said that, I think, three or four times now. I understand what you are up to, but I have been very clear in my response in relation to those assertions.

The DEPUTY PRESIDENT: I think you have both made your positions quite clear, and we are actually getting into debate now, so Mr Davis, I draw you back to questions on the clause, please.

David DAVIS: I do think, Deputy President, that the position is quite clear and we have made the point, so we will move on. Returning very briefly with one further question on the SARC matters, I want to understand whether the government did look at any alternative ways of achieving its objectives beyond the way that it decided on in the end.

Ingrid STITT: Well, I will not attempt to repeat the very complex challenges that we were trying to deal with in the bill, but just let me go to the box for some advice about this specific question.

Mr Davis, one way that might have been pursued but was considered to be probably not the most efficient was through a national amendment, but that would have required all jurisdictions to be on board with that, and of course it would mean that we would be beholden to other people's legislative programs. So that is why we have arrived at the mechanisms that we have, to be able to expedite making sure that our penalty arrangements line up with other jurisdictions in this way.

David DAVIS: I thank the minister for her response on this, and I understand the balance that has to be struck on some of these matters. I should just, perhaps for the record and without, necessarily, strong criticism of the government on this, make the point that there is a longer term debate I think that this chamber and this Parliament will need to have on some of these matters that interact with national arrangements. I am keen to see that our authority and control and ability to respond and to manage our own destiny is not diminished. I make the point it is not just in this jurisdiction that these issues are occurring, and it is not only in the context of national arrangements; it is actually some of these distant bodies that have got complex and hard-to-control administrative structures. Who is in charge of AEMO, the Australian Energy Market Operator, is a question. Increasingly my point would be that with bodies of this nature it is very hard for anyone to control them. Again, I am not making a specific point about the government here, I am making a more general point, and I will leave it at that.

Ingrid STITT: I think, given that we were keen to ensure that we were not hindering the AER's enforcement role in Victoria, it was really about making sure that we could do it in a timely manner, given that we are talking about mitigating any consumer harm.

Clause agreed to; clauses 2 to 11 agreed to.

Reported to house without amendment.

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (15:10): I move:

> That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (15:10): I move:

> That the bill be now read a third time.

Motion agreed to.

Read third time.

The PRESIDENT: Pursuant to standing order 14.28, a message will be sent to the Assembly informing them that the Council have agreed to the bill without amendment.

Business of the house

Orders of the day

Lee TARLAMIS (South-Eastern Metropolitan) (15:11): I move:

> That the consideration of order of the day, government business, 2, motion to take note of the budget papers 2023–24, be postponed until later this day.

Motion agreed to.

Sitting suspended 3:15 pm until 3:27 pm.

Motions

Voice to Parliament

Sheena WATT (Northern Metropolitan) (15:27): I move:

That this house:

(1) acknowledges that the recognition of Aboriginal and Torres Strait Islanders as the First Peoples of Australia in the Australian constitution is long overdue;

(2) recognises that the Aboriginal and Torres Strait Islander Voice is fundamentally about achieving better outcomes for First Peoples by giving them a say in the decisions that affect their lives;

(3) notes the date for the Voice referendum is 14 October 2023;

(4) further notes:

(a) the transformative and nation-leading work of the Andrews Labor government as the only jurisdiction in Australia that has taken action on all three elements of the *Uluru Statement from the Heart*: voice, treaty and truth; and

(b) the vital work of the First Peoples' Assembly of Victoria as the voice of First Nations people in Victoria on treaty.

I begin my remarks today by paying respects to the traditional owners of the land, the Wurundjeri Woi Wurrung people of the Kulin nation, and I pay my respects to their elders past and present. This always was and always will be Aboriginal land.

Voice, treaty and truth – that is what our elders called for in 2017 when they gathered on sacred land in Uluru to write a new chapter in our national story. Standing there in the footsteps of generations of our ancestors and strengthened by an ancient and powerful connection to country, our elders made a call for a better, fairer future for our children. They humbly asked us to write a new chapter in our national story, one based on a just, truthful and mutual relationship between Indigenous and non-Indigenous people. This year their calls have finally been answered as we embark on that long-overdue step of recognising Aboriginal and Torres Strait Islander people in the constitution through a Voice to Parliament by referendum. As a proud Aboriginal woman, I know just how important it is that we do not let this moment slip through our fingers. And now the date is set: 14 October. This date will be the most significant and meaningful moment in the relationship between First Nations people and non-Aboriginal people since 1967 – many years before I and some of my peers in this place were born.

I have taken the time to reflect on my life and the many opportunities that got me to where I am today. I am thankful for the guidance of many powerful First Nations leaders like Jill Gallagher, or Aunty Jill, as I call her. I have had the opportunity to find and develop my voice, but not all of us feel empowered and strong enough to have our say. I am thankful to be able to give my mob a voice in a place like this. I am proud to represent a government that was the first in this country to embark on the journey to implementing the *Uluru Statement from the Heart* in full.

However, I cannot but stop and think of the thousands of First Nations people across the country who do not have this opportunity, who cannot and do not have their voices heard. Voices like those of the health professionals, most valued by everyone in the community but not heard when decisions are being made about the future of Aboriginal health and wellbeing. I have shared a room with some of the brightest minds: our nurses, researchers, Aboriginal health workers and doctors, and even the folks in our hospitals. When they come together, you cannot help but feel the passion for change. They want the statistics to stop and the human story to be heard, because for them, and for us, they represent our families and our loved ones. They know that there is a brighter tomorrow for our communities. They ask advocacy bodies like the Victorian Aboriginal Community Controlled Health Organisation and National Aboriginal Community Controlled Health Organisation to speak up, be heard and have government listen, and, wow, did they try.

I know because I was the one trying to ensure that those stories were heard. I endured the endless emails and calls saying, 'No, we don't have time to meet you', the last-minute cancellations and

sometimes the 'We know better than you' attitude. I saw the pain in the doctors' eyes when I said with sadness that no-one heard our calls for that nurse to help address juvenile diabetes, or for that extra worker at the hospital to help make sure that Aboriginal people that came to emergency are believed, so that the next aunty that presents with all the signs of a stroke is not dismissed and told to just sleep it off, or even to have a simple sticker on the meds to make it easier for people to understand when and how they need to take them. And then, like clockwork the Closing the Gap report comes around full of terrible statistics about us going backwards.

Our elders have recognised this and have extended to this country a once-in-a-lifetime chance in the Voice to Parliament. This referendum is a chance for all of us to come together, in the spirit of healing and reconciliation, to right the wrongs of the past. It is a chance to acknowledge that governments have tried and failed time and time again and that we are, as a nation, mature enough to acknowledge that and to try something new. We need to break the cycles of disadvantage that have perpetuated racism towards and discrimination against Australia's First Peoples for generations. We need to ask ourselves: why is it that Indigenous Australians have lower life expectancy? We need to ask ourselves: why do Indigenous people have higher incarceration rates than any other community in the world? And why do Indigenous people on average retire with less super and less dignity in our older years?

That is why a Voice to Parliament is needed: because governments have tried and failed. They have funded and defunded advisory bodies, and they have treated my people like political footballs, all without success. This time around we need a permanent voice. We need something that will not be taken away by the government of the day. It is a chance to realise the dreams of our elders who have fought for recognition and self-determination for decades. Those of us in the Labor Party know that we have a strong history of walking with First Peoples, from the national apology and even thinking back all those years ago to Prime Minister Gough Whitlam dropping the red dirt of Daguragu through the hands of Vincent Lingiari to signify the handing of that Gurindji land back to the Gurindji people.

I was fortunate enough to be in Brisbane for the recent ALP national conference. It was a powerful display of our party's unequivocal commitment to a yes vote in the referendum. We unanimously resolved to throw everything we could into walking alongside our First Nations brothers and sisters, to not just endorse but to wholeheartedly campaign for a yes vote. I was proud to move that motion, just as I am proud to be here moving this motion in this chamber today.

I know that our Prime Minister Anthony Albanese has a long, long commitment to First Nations justice. I know this because 15 years ago I saw it. I saw it with the national apology that was delivered to the stolen generations. I saw it when the then Leader of the House was in the chamber as the Prime Minister delivered that apology. He did not leave, like the federal opposition leader – he stayed. He met with the survivors and their families, he heard their stories and he hugged them through their tears. I know because I was one of them. I was in that building that day because Prime Minister Anthony Albanese – well, he was not the Prime Minister at the time – gave me his ticket. He asked that I join his friend and now colleague Linda Burney in the gallery, and whilst those words were delivered by the Prime Minister Kevin Rudd, Aunty Linda looked on. We cried as those words rang out:

> To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry.

We howled across the chamber as we heard:

> For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry.

He understood what the apology meant to our elders, the survivors of the stolen generations and their descendants like me and that for years the government had been called upon to say sorry for the atrocities that came with removing Aboriginal people from their country, their kin and their culture. He understood and felt in that moment that we sought to write a new page in the history of our great continent. But what he did not understand or see in that moment was the torment of our powerlessness,

the pain of our hope unrealised and the power we seek over the destination of our children. That came years later with the crafting of the *Uluru Statement from the Heart*.

Here in Victoria we heard that statement, and the Andrews Labor government has been leading across our nation in answering those calls for First Nations justice. I am really proud that I live in the only jurisdiction in Australia to have meaningfully started on the path to voice, treaty and truth. It is the government that I am now a member of that has stepped up when called upon by First Nations communities. We have fought for and implemented real change for Indigenous Australians by realising the hopes of the Uluru statement with our First Peoples' Assembly, which met here in this chamber. What a remarkably special moment that was. It puts First Nations people in the driver's seat to achieve change on issues that affect them. We are on that journey each and every day, and our journey towards treaty as a state is guided by First Nations voices.

Treaty is the embodiment of Aboriginal self-determination. For us, treaty is the power to have First Peoples control matters which impact their lives. Treaty is an opportunity to recognise and celebrate our unique status, rights and cultures and of course our profound 65,000 years of history as First Peoples. There are countries all over the world with treaties with their First Peoples, and achieving a treaty will mean that Victoria is ahead – ahead of all the other states in its efforts to ensure First Nations self-determination. I again know that we should be proud to be the state that leads Australia in our efforts to establish treaty. So we stop, we take a moment and we think about what the rest of the nation needs to do. Treaty will see an honest reflection of our history. It will see the 60,000 years of continuous culture on country is respected and is listened to and the wants and needs of those who have cared for country for thousands of years are put to the forefront.

But whilst I could talk about what we are doing here in our state, as a country we need to move forward towards a model of self-determination. Indigenous people have been fighting to be heard for decades, and we know that when we are listened to we achieve more effective outcomes. By giving Aboriginal and Torres Strait Islander people the ability to be heard, to choose our own way forward, to take the first step towards a system that acknowledges the barriers and the challenges that we face, we will be a better nation for it. We know that as Indigenous people we are best placed to make decisions for ourselves. We have the cultural knowledge and the lived experiences to make the choices that will enable our communities to thrive. We have the knowledge, and we are the very best placed to know what will work for us, and that is what the Voice to Parliament will give us – a route to inform policy and legal decisions that impact our lives.

It could not be that we are facing this moment without Linda Burney, so I just need to take a moment and acknowledge Aunty Linda, as she is known to me and probably should be known to just about everyone. In Aboriginal communities we often say that we stand on the shoulders of giants, and whilst Linda Burney may not be a giant in stature, she is a giant in the role that she plays in our community and to me for helping me get to where I am today. For the leadership that she shows us and the path that she paves she should be recognised, celebrated and honoured and listened to when she says that this truly is the very best path forward. I strive every day to honour her work by showing up, and I will work every day I can over the next six weeks to achieve this yes vote.

I invite all Victorians to walk with me and my brothers and sisters as we build an Australia that values, listens to and respects the cultures, knowledges and unbroken connection to country of its First People. I really invite all of you in this chamber to walk with me as we realise the Voice to Parliament. Some things are bigger than politics. People on all sides of the aisle have been moved to support a yes vote, and I encourage everyone here today to do so as well. It is such a year of incredible importance and we just must band together, standing shoulder to shoulder with First Nations communities, to get this vote across the line.

I am going to take a moment to reflect on my own community and thank them for all that they have done to already put their hand up to join the community campaign for the Voice. Having these conversations is not easy. It is an uncomfortable space for so many people to talk about injustice and

talk about what has gone wrong, to recognise that maybe you in yourself, your family and your history were a part of it. But people have done that, and I thank them. These conversations not only with each other but with ourselves are what will win this referendum – conversations that cut through misinformation that is being spread by really, really hurtful things that are cutting deep in my community right now, and particularly those that just do not feel that we are worthy of having a say.

So whether it is at work, at the dinner table or at the shops, I implore every Victorian who cares about the future of Australia's First Peoples to be loud and be proud in their support, and I have seen so many folks getting out and about all over the state and in fact in other places around the country doing just about everything to make this possible, from knocking on doors to putting up posters, making calls and having some hard, hard conversations. I celebrate them.

So be like Judith, be like Michael, be like Jan, be like Jenne, be like Tom, be like Lucy and Simon, and be like the union movement. Be like the Unions for Yes campaign and be unequivocally, proudly standing beside First Nations people in this campaign for yes, because solidarity extends beyond having an Aboriginal friend. It extends beyond liking something on Facebook. The solidarity that I am calling for now is convincing conversations, and to those that want to say that they will do everything they can: I ask you to think very deeply about what your diary looks like between now and 14 October, because it is an important day in the fabric of our nation.

I have had some folks already walking with me in the 15 years that I have been campaigning for constitutional recognition – 15 years; my gosh, that is a long time – and I want to say thank you. First and foremost, I want to thank the mighty trade union movement, who taught me what it is to campaign and taught me what it is to achieve justice for First Peoples and who now, today and every day for the next six weeks, will be talking to the Victorian people.

And thanks to those folks that just have never campaigned on anything ever before but feel like this is something that means something to them and feel like, when they reflect on 15 October about what they did to bring about this moment, they want to be part of the national story. So to all those folks that have stepped up for the very first time to campaign on an issue that is a little bit new to them – it is a little bit scary and it is a little bit challenging – I send to you my deepest, deepest of thanks.

What we are asking for later this year is a very simple question, which is about just two things. It is about recognition, and it is about listening. We need recognition to connect with the past and acknowledge that Australia is home to the longest continuing culture in the world; that is something that we as a nation should be enormously proud of. That pride should be expressed in our founding document, and that is right because not only is that document an expression of the powers of our nation and who does what but also it should be an expression of our values. And we need to be listened to – we as First Nations people – through a Voice to Parliament. This is a meaningful step in the right direction. It is a once-in-a-lifetime opportunity, and I say to each and everyone of you here, to my Victorian friends and family and to everyone that I know: please let us get this done by voting yes on 14 October.

David DAVIS (Southern Metropolitan) (15:49): I am pleased to join this debate and to make a number of clear points. I start by saying that this is a matter that I have thought about deeply and have researched deeply, and I have spoken about it widely with a considerable number of people. I have hosted two recent forums in my electorate, most recently on Monday night this week with Senator Price from the Northern Territory; Louise Clegg, a barrister from Sydney; and John Roskam from the Institute of Public Affairs. Hundreds of people have attended those forums, and there are some very clear messages that have come back to me.

One of the problems with these referendums is they can be divisive, and they are divisive in another sense that is perhaps unavoidable. They do seek to change the constitution and, in my view, to weaken our position as a nation. I make it clear that I have the highest regard for many people of Indigenous background and have worked with them over the years, including as Minister for Health between 2010

and 2014 and at other times in my parliamentary career. I have sought to support them in every way with financial support through budget initiatives and health and other steps. But on this occasion the federal government has brought forward this Voice referendum, and I have looked at the constitutional implications of that referendum. I am deeply disturbed about what it will do, and I am going to lay that out in some detail.

It is clear to me that the Voice is wrong in principle. I will use Ms Watt's words. She said that it is about two things: recognition and listening. It is certainly about those things, but it is about much more. It will have a major effect on our constitution. It will shift the balance in our constitution and lead to bad outcomes for not just Indigenous persons but also potentially much more broadly than that. I do not agree with this high-level discussion that some want or that this is all just about doing the right thing, as it were, and some sort of positive vibe. In fact it is a deep change to our constitution. What I would say is the introduction of a fourth chapter in the constitution in this way – a fourth chapter that would in fact alter the balance in our constitution very significantly – is something that I am personally very concerned about. Could some good come of it? Of course it could. But at the same time quite a deal of negative will come, in my view, as well. Not only will it divide one Australian from another – that is the important principle – but, as I say, the outcomes will be unfortunate and negative in practice.

I think most of us see a role for recognition of the nation's history and see a role for recognition of Indigenous communities and their longevity in this nation, or on this landmass – there was no nation of Australia before British settlement. There was none, and there was actually no nation of Australia until 1788. There were individual Indigenous groups and individual nations, if you will, but they were not one and they were not the same in each part of the landmass. I think it is important to state that. Just like Victoria is a creation of the imperial Parliament, Australia is a creation of the largely settler community. I make the point very strongly that Australia is a nation comprised of three parts. There is certainly a very strong Indigenous community. There is the British heritage, which gives us this chamber and our law and language and so forth. But there is also a very strong migrant community and immigrant community, and when I talk to the recent migrant community, many of them have quite a different view to those who would call for the Voice. Many of them say, 'Actually, we've come here in good faith. We've come here to build our lives and we've come here to build as Australians.' I understand that point very strongly indeed.

I think Bob Hawke summed it up quite well. The constitution belongs to us all, not just some of us, and any constitutional change should have something for everyone. We are a country with no hierarchy of descent and no privilege of origin, to use Bob Hawke's words, which he spoke at our bicentennial in 1988. It was obviously 200 years of European – British – settlement that that was celebrating. I understand that there was a much earlier heritage, and I in no way diminish that or reduce the significance of that. 'No hierarchy of descent … no privilege of origin' I think are very, very important words that we need to stick to. So let there be recognition, by all means, of our heritage, recognition of our antecedents and recognition of an attempt to go forward with great support and enthusiasm as one group of people committed to the future of our country. I think there is a real concern with the Voice entrenching an outcome that will not easily be unwound. We have seen with a number of the previous bodies that were legislated that they did not work. If that experiment had been repeated in a constitutional way, we would not have been easily able to unwind it. There is no question when you read the documents behind the one-pager, the *Uluru Statement from the Heart*, that there are close to 20 or maybe more pages behind that. I am persuaded. I have looked at this, and I am persuaded strongly by the point that Peta Credlin has made that there is in fact a set of documents there –

Members interjecting.

David DAVIS: No, I am actually very clear. There are actually a number –

Members interjecting.

David DAVIS: This is actually a very serious matter, and I think we should treat it that way. I think people should be treated with dignity and respect on this matter. I will certainly do that, and any others who speak I will certainly listen to with care and consideration. I am being very clear here. I am stepping through this step by step rather than in any way that should elicit the sort of response we just saw.

The call of voice, treaty and truth I think is something that concerns people. This is not just about the Voice, it is about entrenching a constitutional change. It is about entrenching a position where a small group – 24 people – is what is proposed. We do not have formal legislation on that, but we have the words in the constitutional change and we have proposals to the side that are not fully formed. I think they should have been fully formed. I think the federal government should have put forward a proposed bill, which might not have been the absolute final word, but there should have been a proposed bill that would have enabled people to look at this in a clearer way. Either way, the fact that you are entrenching a body of this nature in the constitution – it will have the power to look at all manner of things, not just related to Indigenous matters. It will be able to look widely, and it will be able to intervene widely as well. As a Victorian, I am very concerned, for example, that an Indigenous Voice based in Canberra – a Canberra-based Indigenous Voice – could be looking at all of the intergovernmental agreements. I am actually worried that Victoria, as always when these things occur, will actually end up much worse off. They will, in my view, early on start to look at funding formulas. They will look at funding for Victoria, and we will be the poorer in this state under these arrangements. That is my point. I make some very specific points that I think will be concerning.

I should say I was deeply impressed with Jacinta Price and her communication to the people that I was with on Monday night. She was responded to very warmly. Her points were very clear, and people understood that she is an Australian, she is a person of Indigenous background, she is a person of great integrity and she is a person who actually very much wants for our country to do better and wants for Indigenous people to do much better in her community. Obviously she understands her community in a way that none of us here – or few of us here – do. I understand that role that she is playing and that she is actually prepared to speak out. And I say those who disagree with her should listen closely to her. They may not agree with every word she says, but they should listen to the intent and they should listen to the honesty and they should listen to the preparedness that she has to engage broadly.

I think there are quite a lot of points that we need to get across. The key point that I think we want to see is the issue of how this Voice would actually operate. We have not been told how its so-called 24 members would be chosen, and that is a concern for me. Would they be appointed, and by whom? By the federal government – by a federal Labor government – appointing 24 Indigenous people from around the country? I would be concerned with that. I do not think that that would give a balanced outcome. These are not elected positions, these are actually positions that people – indeed the federal Parliament – would have some say in how that is done. But the government, as best as you can see from the intentions, a federal Labor government, would indeed seek to appoint those 24 people.

That does concern me; it really does. They would then be in a position to intervene on all manner of things. The health agreements, the large health agreements that actually fund big parts of Medicare and our health system, would become open areas for debate and contestability by the Voice. The large education agreements would become areas of open contestability by the Voice. People may shake their heads, but I can tell you this is exactly how it would work. And make no mistake, the GST and the grants commission will be an early point for a newly elected Voice to start. They will start to look closely at the funding formulas and they will seek to rejig them. They will seek to tweak them in a whole range of different ways. Of course that is what will happen. People will understand that in a federation like ours you need to follow the money, you need to understand how the federation works and members of the Voice will take a special interest, in my humble view, in ensuring that a series of examinations are made.

At the moment, Mr Limbrick, for example, there is a review of infrastructure across the country going on, including many of our projects – not the Suburban Rail Loop, strangely, but the airport rail, a

number of other road and other projects, and the Geelong rail. All of these have become matters of review. The Voice, under the model that the government has proposed, would be entitled to ask questions, would be entitled to seek information and would be entitled to make input. There is no question that the High Court at some future point could give the Voice a very expansionist role. I do not trust the High Court to decide on the role of the Voice in the long run. Whatever you think about this High Court, it is what the High Court may do in five, 10, 20 years time. We have seen High Court decisions over the recent period that have been quite expansionist, that have actually given greater powers than anyone understood in certain areas, and this is exactly what I think would occur with the Voice. I think the Voice would be given more and more power than is intended. I think the truth of the matter is that there would be really significant concerns over the long term about the powers of the Voice to intervene, about the powers of the Voice to demand information and about the powers of the Voice to look for documents, to subpoena people and to subpoena a whole range of information about particular topics that become of interest. Make no mistake, a long-haul view of how the Voice would operate is it would become a major fixture inside the federation. It would become a major fixture that from a central perspective would actually weaken the position of the states and in particular of Victoria.

Every time things are managed from Canberra, every time decisions are made by Canberra and every time the control shifts to Canberra, Victoria loses – every time. We become a bigger donor state and we pay more; our taxpayers pay more and get less and less. As I said to a couple people in the chamber here the other day, we are the only state that has been a donor state every year of the federation, 123 years – long before the GST, this is true. But the GST exemplifies how over time we have actually been a donor state, supporting and propping up other jurisdictions around the country. I think the same will be true when it comes to Indigenous matters or the matters on which the Voice seeks to exercise its concern.

I heard Nicholas Aroney speaking at the Samuel Griffith Society conference on the weekend, and I must say I was very much convinced by his points about the expansionist nature of the Voice and the outcomes that would occur there. It will become a fourth arm of government. It will have that very significant role. Future High Courts will look at this and they will say there are three chapters – the main institutions, the Parliament the court and so forth – and now a fourth one, the Voice, equal. And it concerns me that it will disturb the balance in our federation. Our federation has been by and large successful. Nobody would suggest it is perfect, but it has been by and large successful. The issues that I think so many Indigenous people have faced deserve very serious attention. I think there are criticisms of how the Closing the Gap matters are working, because there are some areas where the Closing the Gap approach is clearly not working. I think all of us are worried about that and see that more needs to be done there.

But it is interesting to look back to 1967. There were promises made about the changes then. Everyone here in this chamber would support the changes that were made in 1967, I would imagine. But promises were made then about how those changes would deal with many of the issues that were faced. You could almost transpose those words. I have seen a list that lays down what is being said this time about how the Voice will fix things and how the 1967 change would fix things. It did not.

Jacinta Price's view of course – and I will let her writings and statements stand by themselves – sees a greater ability of Indigenous people to chart their own course as a very big part of what is needed. It is not a solution to divide. It is not a solution to step into a position where people of one race are able to have additional control, additional input and additional impact on our constitution and all of our constitutional processes. People think that this Voice will only talk to Parliament. That is not true. It is the executive as well. And there is no doubt that the High Court will read the ability to make proper input as requiring adequate budgets. There is no doubt that the High Court will read the ability of the Voice to put various representations as requiring a bureaucracy. And there is no doubt that the High Court will also see that it requires information, and early information, across the whole front of government activity.

So there will be a Voice that is actually, in my humble view, intervening quite early in the legislative process, intervening quite early and widely in administrative processes, intervening quite early and quite significantly into the processes and balance of the federation. I think it will disturb the balance of the federation, it will weaken the states, it will weaken Victoria in particular and we will lose financially as the Voice presses on a whole range of fronts to shift resources out of our state. That is what would worry me. That is one of the things that deeply worries me.

I want to say something here about how the Voice should be chosen. It is not clear from the current documents exactly how it would be, and I think that that is a mistake in itself. Yes, I understand that it is up to the Commonwealth Parliament, but we do not know precisely how that will occur. The government could have brought forward a piece of draft legislation, where we could have seen their proposals. I accept that there could be changes from that, but they have not done that, and I think that that is a mistake. I also think that Anthony Albanese has been disingenuous with his decision not to provide some of the detail. I think he has been disingenuous with his decision to not admit that the Uluru statement is more than a single page. It is impossible to read that FOI – it is impossible to read those documents – without concluding that there is a totality there, that there is a cohesion in what is there, and many of the points that are outlined there are points that should concern Victorians.

I am concerned about proposals for reparations. I am concerned about a whole series of other matters that are laid out in those other documents, and I think people do need to focus on that. I do think we have got to be quite clear about the points on those issues. I think the truth is that the government has chosen not to come forward with some of this information. The truth is that the government has chosen not to be clear about some of its proposals. And by doing that they are trying to immunise themselves in some way from critique about the detail. I understand why they may want to do that, but I also think it is unwise, because it does lead to the conclusion that their proposals are not well founded and are not satisfactory and do not stand up to the scrutiny that is part of this.

I should say something here about the work of Louise Clegg, who I deeply respect and whose views and points on the legal aspects of the Voice have been some of the best expositions about what is actually going on. She and others have looked at the sequence of the earlier gatherings and decisions by some of those who have been important in the genesis of this document, and it is hard not to conclude that with the way the Voice is framed – with a whole new chapter, a whole set of frameworks that lay out the ability of the Voice to intervene on a wide front – this is deliberately and carefully designed to shift the balance in the constitution in quite a radical way. I say she has done very good work in actually making these points. I also make some commentary about my friend John Roskam and his preparedness to engage on this issue and the work that he has done. I have read closely some of his work and had a number of serious conversations with him. He has made I think very clear and sensible points.

This is wrong in principle. It does divide Australians. It is intended to divide Australians. That is the whole purpose of it: to set up an arrangement that actually splits one Australian from the other, and that concerns me. We heard Mrs McArthur. There are many things I disagree with her on, but actually I think some of the points she made this morning were right: that the decision to –

Michael Galea interjected.

David DAVIS: I heard what you said, but I think that kind of muttering is not becoming.

The point I would make is that it is a very, very good example of how heading in the wrong direction will do damage to our Federation, will do damage to our polity and will actually lead to outcomes that should concern us. Many multicultural communities have spoken to me, and many of them are concerned. Even while their peak bodies have been out speaking publicly in a number of ways in favour of the Voice, people from some key multicultural communities are talking quietly at a lower level and saying that they are concerned. They do not agree with this division. They have come to this

country to be Australians – all Australians – where there is no division on background, race, religion or other matters, and that is actually critical.

When it comes to disadvantage, I accept that Indigenous people have suffered. I in no way resile from that. People who have known me for a long time will understand that when sensible proposals come forward I will generally support them.

Harriet Shing: What, like treaty, which you opposed? You opposed treaty.

David DAVIS: I think there are issues with treaty.

Harriet Shing: You opposed the treaty process here.

David DAVIS: Yes, I think there are a series of issues with treaty.

Harriet Shing: You literally voted against it.

David DAVIS: Again, I think we need to actually be quite clear that that is also potentially quite a divisive process.

Harriet Shing: So you don't agree with treaty or the Voice?

David DAVIS: Well, we need to work through that very, very carefully. There are a series of issues here. We need to make it quite clear that a number of the steps that are required have not been followed here. There was no constitutional convention in this case. These sorts of changes to a constitution should have been preceded by a broad constitutional convention that actually involved jurisdiction –

Members interjecting.

David DAVIS: That was not a constitutional convention; that is exactly right. It was a very important event, but it was not a formal constitutional convention. I will be making it very clear to many in my community that I think it is not in the interests of Victoria and not in the interests of Australia that the Voice referendum passes. I will be making it very clear that this is a grab for power at a central level and that it will alter the balance in the constitution. I am going to make it very clear that Victoria will be the loser if the Voice is carried on 14 October.

Samantha RATNAM (Northern Metropolitan) (16:18): Thank you firstly to Ms Watt for bringing this motion to the house and for her very moving and passionate contribution. As a First Nations MP in this Parliament, we are all better for your contribution and your voice in this place. On behalf of the Greens, I am proud to lend our support for this motion. We encourage Victorians to vote yes in the upcoming referendum on the Voice to Parliament and the long overdue recognition of First Peoples in our constitution.

As one of the first parties to endorse the *Uluru Statement from the Heart* in full, the Greens believe that this is the first step on that journey. We need voice, truth and treaty in this country. It is what the Uluru statement called for and what we fundamentally believe is at the heart of justice for First Nations. The First Peoples of this land were colonised and dispossessed of their country, their culture and their future. We now have an opportunity to start righting that wrong.

I am a migrant to this country; this is not my land. My family and I arrived here on Wurundjeri country after having to escape the war descending upon our own lands. It was a war that had its roots in colonisation. As Tamils, we were part of the first peoples of our own land, colonised by the Dutch, the Portuguese and the British. Over hundreds of years they attempted to colonise our culture, our lives and our minds. They pitted us against each other, and when they finally left, they left deep wounds and fractures that ultimately erupted into a 30-year-long civil war. Such is the aftermath of colonisation.

First Nations of this land fought the Frontier Wars, and that war never ended. It continues to this day in the systemic injustice and racism that means First Peoples are fundamentally disadvantaged by the

colonised system that was built around them and on top of them. And like the colonisers of old, the colonisers of now still try to pit us against each other.

When we arrived here nearly 35 years ago, this country was alight with a national conversation that was sparked by the historic Mabo land rights decision. In that moment, after decades of battle, the High Court overturned the assertion of terra nullius and recognised that First Peoples have native title rights – that this is their land. That Australia that we arrived to felt like a very different one to the one that we experience today. It almost feels further away from the promise that the Mabo decision allowed us to believe in, and that is why I will be voting yes.

Momentum for change has to start somewhere, and this referendum is one such opportunity. We understand and respect that some fear that this change does not go far enough or that it could undermine momentum towards truth and treaty, and we respect that it is legitimate for people to hold other opinions. Indeed this is a part of what makes the Voice so important – that we hear a plurality of voices, experiences and opinions in the political discourse to help shape better outcomes.

Over the next six weeks we are going to hear many different views, and there will be lots of questions. There is also going to be a lot of misinformation circulating. I urge people to keep talking to each other, bringing the topic of conversation up and not being afraid of engaging with the question we are being asked to answer as a country. We might not agree with each other, but we will gain a lot from taking the time to listen and learn from each other. There will also be attempts to exploit and manipulate fears.

We will hear arguments like some that we have already heard canvassed in this chamber today from those opposite – that constitutional recognition and an advisory body to Parliament will not fix the socio-economic disadvantage First Nations people are subjected to. But many of them are the very same people who do nothing proactive to fix those issues or provide any alternative way forward in other times. They seem to be the ones saying 'No, don't take this path that could improve things, because it won't work' when they have no plans of their own. The only plans they put forward are more of the same, more of the same colonial and oppressive ways that have led to the gap in health and mortality between First Peoples and the rest of the nation. Their arguments are hollow and self-serving and should be seen for what they are: ignorant and racist. Whether those arguments are conscious or not, they have the same effect, and that effect is to keep things the same and stifle any change that threatens their power and their positions.

As a member of Victoria's migrant multicultural community, who are too often subjected to similar forms of ignorance and racism ourselves, I appeal especially to all our culturally diverse communities to stand in solidarity with so many First Nations communities who are urging us to support them. Change begins with listening. It begins with understanding and acknowledging the problems and then working together to fix them. This referendum gives us a chance to start listening properly. Let us take it.

David ETTERSHANK (Western Metropolitan) (16:24): May I firstly join Dr Ratnam in expressing my thanks to Ms Watt for her heartfelt and eloquent presentation in opening this discussion. On behalf of my colleague Ms Payne, we pay our respects to the traditional owners of these lands and waters, which have never been ceded. We are an ancient country. We are a home to an ancient sovereignty – the oldest continuous civilisation in the world. For over 60,000 years this nation's First Peoples cared for this country, living harmoniously with nature in one of the harshest environments in the world. The *Uluru Statement from the Heart* speaks eloquently of this legacy. It states:

> This sovereignty is *a spiritual notion* … It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown.
>
> How could it be otherwise? That peoples possessed a land for sixty millennia and this sacred link disappears from world history in merely the last two hundred years?

Australia is also a new country. My family migrated to this new country, this new Australia, to make a better life for themselves and for their families, like so many others have done and continue to do. Indeed the areas that Ms Payne and I represent, the Western Metro Region and the South-Eastern Metro Region, with so many residents born overseas, epitomise this new Australia. Over the last 200 years this new Australia has given much to those who have come here and achieved some extraordinary things that we can rightly be proud of. At the same time, this new Australia has done some terrible things, none more so than to our First Nations people. We need to be clear eyed and honest about the consequences of what our 200-year-old project has inflicted and continues to do to these people, these Australians, these first Australians. There is no greater moral challenge than to reconcile the first people of this ancient country with those of the new. I believe this country we all love will not be whole, will not be right, until the old and the new are one.

The *Uluru Statement from the Heart* succinctly and powerfully articulates both the need for and the path to reconciliation of the old Australia with the new Australia: constitutional recognition, the enshrinement of a Voice, the telling of truths, and treaty. As a Victorian I am genuinely proud of our state government and of this Parliament for commencing this process. It has been done with integrity and inclusion and without great fanfare. May it continue to be fruitful in achieving its stated aims. On 14 October we have the opportunity to commence this process nationally through recognition and Voice.

I would like to note, however, in the context of the activities that have been undertaken here in Victoria, that contrary to Mr Davis's doomsday scenario, the fabric of our society here in Victoria is in fact not unravelling as a result of this process. Mr Davis's contribution wallowed in a swamp of paranoia and untruth. It was shameful fearmongering. It is a conspiracy theory that makes the *X-Files* pale into insignificance. I do not intend, however, to wallow in this disgusting swamp of disinformation and fearmongering. The Uluru statement ends with the words:

> We invite you to walk with us in a movement of the Australian people for a better future.

That is the spirit we should embrace – not a spirit of paranoia, not a spirit of fearmongering. I hope and pray that the members of this chamber will take up this generous invitation to walk this path to a better future, a first step towards truly reconciling our past with our future.

David LIMBRICK (South-Eastern Metropolitan) (16:29): I also rise to speak on motion 66 moved by Ms Watt about the Voice. The issue of the Voice and the constitutional amendment – the referendum – has been a source of much debate both within the Libertarian Party and within the wider libertarian movement. I note there are two separate things happening here with regard to the Voice. The first is the Voice itself, of which we do not know the exact details yet, but there has been some information about how it might look – that sort of thing. And the second part of that is around entrenching it in the constitution.

We have a few principles here which would lead me and indeed the Libertarian Party to oppose the Voice. Firstly, back in May during our AGM we passed a resolution that the party will not support governments creating laws that discriminate against people on the basis of race. This Voice is about creating an advisory body based on race, and we do not want to start going down that path. That is the first principle: it violates the principle of equality under law.

The second issue is, as has been pointed out by many both in media discussion and in here, there have been many, many attempts by various governments to help fix some of the very bad issues around Aboriginal welfare and health, education and many other issues, and many of those have failed. The idea that this time we are going to get it right and in fact are so sure we are going to get it right that we are going to entrench it in the constitution to make sure that no future government can unwind it easily is a bit alarming. In fact there is no need to put it in the constitution, and as is pointed out by this very motion, Victoria has gone ahead and done this with no constitutional amendment. There has not been a constitutional amendment in Victoria to have a First Peoples assembly. None of that was actually necessary.

In fact Victoria is living proof that a constitutional entrenchment is not necessary to move forward on this, so I am at a bit of a loss as to why the federal government is insisting on a constitutional entrenchment before they have even put forward the details and the legislation of how the Voice is going to operate. Victoria to its credit at least did that first; it has legislated and it has done all of its things without trying to constitutionally entrench it. They have tried to constitutionally entrench all sorts of other things that I would consider strange in Victoria, such as the fracking ban and apparently the SEC, but they have not as yet attempted to entrench anything to do with the First Peoples' Assembly.

So that is my position. That is also the position of our party, in that we do not support violating the principle of equality under law, and I urge people to consider very carefully on the referendum whether they think that this time maybe we have got it right. I am not confident of that.

Lee TARLAMIS (South-Eastern Metropolitan) (16:33): I move:

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

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

Budget papers 2023–24

Debate resumed on motion of Jaclyn Symes:

That the Council take note of the budget papers 2023–24.

Trung LUU (Western Metropolitan) (16:33): I rise to speak today on the budget put forward by the Labor government. The budget itself simply highlights how Victorians' lives are getting harder by the day and how Victorians are actually paying more and getting less as the cost of living rises, as we all have endured in the recent months. I will speak on parts of the budget which will affect mainly my constituents in the Western Metro Region. The budget will have tremendous effects on various areas, but I will narrow it down. With the time I have I will try to focus on certain things which have been raised by constituents.

An area which is of great concern in my constituency is education, the schooling. Being one of the most disadvantaged and fastest growing metropolitan regions in the state, with the budget I want to express some concern how the tax itself in many ways is unfair towards my constituents in this area around schooling and education, which I would like to focus on.

The tax itself is more focusing on average, ordinary working Victorians. Numerous commitments by the government to infrastructure projects have been omitted from the budget. The budget was tabled, and some may try to frame it as taxing those who are well off. However, in my electorate that is not the case. In my electorate the budget will make life harder for those who are just trying to get on with everyday living. It has cut off various crucial infrastructure projects which are desperately needed in my electorate, which is expanding, which we have been advocating for for a long period of time. I would like to name some of them. One is the Melbourne Airport rail link. I will go into why it is so crucial in the electorate and in the western suburbs. The Sunshine super-hub was promised by both the Premier and the Prime Minister of the time. The Airport West and Keilor East railway stations are desperately needed in the area. The Calder Freeway has a desperate need for an upgrade and safety work to improve that area. The fast rail to Geelong is another issue which this budget has omitted. And now we have seen the axing of a rail line to another area with a growing population, Melton, and the fastest growing area in my region, Wyndham Vale.

At the same time, the government seems to be favouring – I hate to say this, to compare the east and the west again – the east with the SRL, the Suburban Rail Loop. I would like to go a little bit further in relation to why that side is continuously getting funding in the billions of dollars and yet on our side major, crucial infrastructure has been overlooked again and again and again.

This budget simply highlights how the west is constantly losing out compared to the east side of town. There have been vital cuts in infrastructure. The fact is that major infrastructure has been cut. The budget will only hinder the west's ability to keep up with the staggering growth that it is experiencing, noting that the cost blowouts on various current projects indicate that Labor is unable to manage, or cannot manage, its major projects. It is mind-boggling how various projects can continue and continue to run over budget. There may be some factors, but these are not small amounts. They go into the billions.

The extra costs caused by the disastrous outcome of the cancellation of the Commonwealth Games were another thing. Cancelling these games was a major breach of trust on the international stage. It is hard to understand why billions of dollars for the rail link in the east continue to appear to the government as more essential than connectivity in Victoria's west. The budget in many ways fails to provide crucial infrastructure for the west. There is also Sunshine station – the Premier along with the former Prime Minister, Mr Morrison, promised our western constituents this infrastructure.

That is some of the infrastructure that is obviously needed in the west. I will move on to another thing that some of my constituents are really concerned about: the tax on their non-government schools, which affects the aspirations of their students to get a better education. To many migrants in those developing suburbs out there, education is crucial. As we know in Australia, it is crucial to a growing country, and education is part of this state's future development and growth.

We are a lucky state; we have some of the world's leading schooling and learning for our children. So why my constituents choose to send their children to school and pay a little extra at a non-government-funded school is because they want a better education for their kids. The action of these parents is from a caring nature, and they want to provide the best for their family and children. So again, if they decide to pay a little bit more for their education, why are they being punished with all this extra tax? They are not wealthy, as many might try to say; they are middle-class Victorians who are working very hard – some are working two jobs to earn extra money so they can put investment into their children. They may have to go without holidays, they may have to go without actually spending extra leisure time with their family so their kids can have a little better education. They are not wealthy, as many have claimed. The reason so many of these migrants have sent their children to these schools is the idea of coming to Australia so it is a free choice; without any government coercion, they want their kids to have a better education. The extra cost, whether $100 or $1000 per kid, to these families is quite a lot of money year in, year out. These taxes create a financial burden that is significant for these parents. The school should be paid for. The government are unable to manage their budget or are financially incompetent in many ways. The hardworking parents should not be paying for the government's lack of action in relation to how they have managed their finances.

Following the budget, Victorians now are paying the highest tax in Australia – we are looking at $5074 per person. This has to be one of the highest in our country. For property tax we are looking at over $2000 per person in the nation. With the cost of living, it is a struggle for people in my constituency. It is a great concern in relation to the tax on their schools. In addition, there is a lack of crucial infrastructure out in the west. Figures released by the Parliamentary Budget Office show that Victorian businesses are also heavily slugged, facing the largest increase in the workers compensation premium, and they are paying some of the highest levels of payroll tax in Australia.

Out west we are struggling. We are being hit on all fronts: tax on the kids, tax on infrastructure, tax on business. It is pretty much an unfair tax and an unfair burden to Victorians, but mostly so to those areas out in the west where we are struggling with the cost of living as the days go by through the various months.

I just want to really focus on some crucial infrastructure that the governments promised over and over again prior to the elections, both state and federal – and the money is there. For the airport rail link these dollars were promised by the federal government, these dollars were promised by the Premier, and rightly so. He was actually out there when I was there as a councillor, and he promised, and we

were grateful for his promise. But then he turned around and with the stroke of a pen, no, we cannot have this. With the Sunshine master plan for the station, it is a connection of three different lines there. It is crucial infrastructure for the growing population out west. It is something we really need, connectivity in the outer west. It is a growing suburb, it is a growing region, and the Premier just wiped it off and then had no business case study for the suburban rail link and did not continue with that with hundreds of millions of dollars. From the western side of town it is very hard to understand. How can it be fair? How can it be just?

They say tax is fair for all Victorians. I understand the situation and the economics. There are situations where we have to pull back, but all we ask is: be fair, be just for all Victorians, whether in the east or the west. When you are cancelling major infrastructure, look at the effects that will flow out to the rest of the region and how that will contribute for us and for those people living in those areas. Again and again the west seems to get the short end of the stick. I ask the government, with this budget, to just consider looking again at that major infrastructure for the western suburbs, the area I represent.

In closing, I would just like to say that it is time for the government to prioritise the welfare of its citizens and ensure that all regions in Victoria receive the attention and resources they reserve, whether they are in the west, the east or the north. Regarding this budget, the western suburbs and my constituents have been getting the short end of the stick, as I said, with these taxes and all the cancellations of critical major infrastructure. I do ask the Premier and/or the ministers: please consider, for my constituents, the connectivity of Victoria not just in the west but for all Victorians. There is the airport rail link; the rail to Melton and to Wyndham Vale, which have the fastest growing populations in the state; the desperately needed Sunshine super-hub, which will connect all the train lines from the west to our CBD; and in Airport West, Keilor East railway station and the Calder Freeway, which is one of only a couple of routes going out to the west. It needs upgrading. Lives are being lost there. The federal government has committed money to that. The state government had committed to it, and yet in this budget it was slashed with the stroke of a pen. I just urge the Premier to please reconsider for the west and for Victoria. Revisit those projects that you have put aside. I know you can do it for all Victorians, not just for the one side of town, to make sure that all Victorians get their fair share. I am sure Minister Stitt across there will agree that the west does need a helping hand.

Ingrid STITT (Western Metropolitan – Minister for Early Childhood and Pre-Prep, Minister for Environment) (16:47): I might take up that invitation actually, as a proud westie. Having lived there the majority of my life, I can say hand on heart that I have been really proud of the investment that our government has made in the west, whether you are talking about the record investment in health infrastructure with the delivery of the Joan Kirner Women's and Children's Hospital at Sunshine or the upgrade of the emergency department at Sunshine or the commitment to build the Melton hospital and start the planning for that so that construction can commence. And of course who could go past the complete rebuild of Footscray Hospital, which is going to be an amazing health infrastructure asset for our community. This will take pressure off all the hospitals and health infrastructure and services right across the west, but not just the west, because we know that that pressure is brought to bear on other hospitals outside of our region just because of the amount of growth that is going on in the population. I am really proud, and I have seen an absolute transformation of health services in the west since our government came to power. We have also, as you would be aware, upgraded the Werribee hospital a couple of times now, because we understand that that is a growing part of our state.

We have also seen transformational transport infrastructure projects that, once they are up and running, are going to really change the way in which people move around not just the western suburbs but the state. Anybody who has spent any time in the west knows that we have needed a second river crossing for such a long time. The West Gate Tunnel Project will deliver that, and it will also take thousands and thousands of trucks off roads in the inner and middle suburbs of the west. I know that that is something that the community has been calling out for for many, many years, including when there was a Liberal government in power. So I think that there are some transformational projects that are not that far off.

There are really important projects that our government has funded not just in this budget that we are debating with this take-note motion but in previous governments since coming to office in 2014. The Metro Tunnel project is going to be an absolute game changer for anybody living on those train lines that go through the Western Metropolitan Region, including the Sunbury line. We have upgraded every station along that line and made a commitment to upgrade one of the last ones that has not been done yet, Albion station. We have got $143 million on the table to transform Sunshine, that whole precinct, to make that a hub in the western suburbs – not only for the metropolitan train system but also to make that a regional hub. I could go on. We have got a number of projects, including the Point Cook community hospital project, which I have had some involvement with and which is something I know the community are very excited about.

But in the time that I have got to talk about this budget I did want to take the opportunity to talk about the Best Start, Best Life reforms that our government is driving. I am very proud that the 2023–24 budget contained $1.8 billion to continue to deliver those nation-leading reforms in early childhood – the largest ever early childhood reform agenda by any government. Of course, just to refresh everyone's memory: we will be continuing to deliver free kinder; we will continue to deliver new, expanded and upgraded facilities; and we will continue the rollout of three-year-old kindergarten. Many, many parts of our state are already enjoying the full 15 hours a week of three-year-old kinder, but we will be at full rollout by 2029. We are so proud of this policy, our government. This is nation leading.

I am so pleased to see that former Prime Minister Gillard has recently handed down a royal commission in South Australia which has recommended three-year-old kinder be rolled out in that state, so they will join with Victoria in having funded universal three-year-old kinder available to South Australian children as well. We really welcome that. I think it is a really important time for early childhood education and reform right across the country. We have a federal government who is actually interested in pursuing investment in this area, which is very welcomed by our government.

Of course our $1.8 billion budget commitment will also deliver 50 government owned and operated early learning centres. We know that there are many parts of our state where the childcare market has failed communities. There are childcare deserts where there are not enough places available for parents, and that is locking people out of employment, particularly women. They are not able to participate fully in the economic benefits of the state because they cannot get access to reliable and affordable child care. So whilst child care is absolutely a federal government responsibility under our federation, our government is not about sitting around and admiring the problem. We are getting involved, and we are delivering 50 government owned and operated early learning centres in those parts of the state where there are not enough places available and where there is significant disadvantage. So I am really thrilled that the budget also includes investment for that. We also want to expand our inclusion supports, and I will touch on that shortly, and of course we will be expanding our early learning language program through our budget commitments.

I am actually really proud of the fact that Victoria now provides the most funding per child of any state in the country when it comes to early childhood education, and, as I have said, we are leading the way on three-year-old kinder and we are leading the way through the Best Start, Best Life reforms for access to universal kindergarten of 30 hours for four-year-olds and 15 hours for three-year-olds, which is essentially a doubling of the dose that children will receive before they go to primary school.

We know that 90 per cent of a child's brain develops before they are five, so there is just nothing more important than a profound investment in early childhood education, and that is what this budget does. $546.4 million will continue the rollout of three-year-old kinder; continue free kinder for all three- and four-year-olds; see the transition to pre-prep by 2032, commencing in 2025; provide funding for Aboriginal community organisations and traditional owners to help services improve their cultural safety for Aboriginal children and families; and provide funding initiatives to attract and retain our highly skilled early childhood workforce. I am very committed to making sure that whenever I can I am talking about elevating the status of teachers and educators in early childhood education across the

community. It is one of the most important jobs in the workforce, in my opinion, and our government is backing in our teachers and educators to the tune of $370 million in attraction and retention initiatives – and it is paying dividends.

I just want to touch briefly on infrastructure. It has been a bit of a topic this week. We will be investing through this budget $1.2 billion to build, expand and improve our kindergarten infrastructure right across the state. That is on top of the commitment already on the table of $1.5 billion through the three-year-old kinder infrastructure program. We are very serious about working closely with both the sector and our local government partners to make sure that we have the infrastructure in place that is going to be needed. That includes a large number of services, which might be one-room kinder buildings. We know that with three- and four-year-old kinder it is possible to deliver the programs from one-room services, but it is not going to work everywhere. So the infrastructure grants are obviously also available for those services to be able to be fit for purpose.

We will be building and upgrading around 145 kinders on or near school sites. This is a no-brainer. This is to make families' busy lives easier and to ditch that double drop-off. Say that fast – 'ditch the double drop-off'. As important as that is for busy parents, it is also incredibly beneficial for children because it means that their transition from kindergarten to primary school is that much smoother because they are very familiar with the primary school and they are familiar with the teachers. There are also great professional links, very strong links, built between kinder teachers and primary school teachers, and it is also about building communities where parents and families can feel that they understand the system and can navigate the system a lot easier. We are very proud of that.

There will be obviously the Building Blocks improvement grants streams for various purposes included in our offering. We have delivered since 2019–20 grant across 878 projects, and that has included over 240 Building Blocks capacity grants, which is about increasing the number of kinder places that are available in communities. Make no mistake, those opposite might like to heckle me every time I get up and talk about kindergarten infrastructure, but this is making a real difference to supply and quality programs being able to be delivered to families no matter where they live and no matter what their circumstances. The fact that families can, in the cost-of-living crisis we are in at the moment in Australia, access early childhood education for free and get a quality program delivered to their children is something I would have thought would attract bipartisan support.

In the brief time I have got left, I just want to touch on a couple of issues that are important that have been committed to in the 2023–24 budget. We have $20.2 million to provide every kindergarten service in the state access to $5000 grants to purchase toys and equipment. I know that sounds like it is not a big deal, but $5000 for every kinder in the state is amazing. It has been very warmly welcomed by the sector, and I know children will benefit enormously. We are also supporting eight new toy libraries and 150 bush kinder programs per year. We are also committing $23.9 million to continue our hugely successful early learning childhood language program, and we are establishing 10 additional bilingual kindergartens. I know that those will be very welcomed by the sector and taken up right across the state.

One thing that I think is really important – it might not be the headline figure in the budget, but it is incredibly important – is our $18.1 million commitment to supporting children with disabilities and developmental delays to access kinder. They may have complex medical needs or may need particular specialist equipment to be able to participate in kinder, but we are serious about making sure there are no barriers. I know that this will include funding to pilot new ways to support these children and their families to best engage with and benefit from kinder. That is something that is incredibly important, and we have got more work that we want to do in that area. Can I finish by saying that this is a real commitment by our government. It is a profound investment in the children of Victoria, and only a Labor government could deliver it.

Ann-Marie HERMANS (South-Eastern Metropolitan) (17:02): I rise today to speak on the 2023–24 state budget take-note motion. This budget is a horror budget. It is going to hurt all Victorians

for many, many years to come. It is going to hurt all aspiring Victorians. It is going to punish them. It is going to be more punitive on their efforts as they struggle to get ahead. The 2023–24 Victorian budget that has been handed down by Labor is going to inflict further economic damage on Victorians.

It is typical of this government – typical to have this desperate recoup in its mismanagement. We have record levels of taxation and record levels of spending, and we now have every Victorian burdened with an insurmountable debt burden for generations to come. Since 2014 Daniel Andrews has introduced 50 new or increased taxes, and of those more than 20 are new or increased property taxes. In fact we have taxes now on not-for-profit properties. Not-for-profit organisations are having backdated taxes placed on them for five years. This is an absolute disgrace, when you think about what not-for-profit organisations do for this community.

This government has also recently brought in a health tax. Fancy taxing patients who need to have bulk-billed health care. What a disgrace. A schools tax – because we are now going to have payroll tax for schools. WorkCover premiums have increased. These are just a few. This government has forced on each and every one of us an appalling situation where we have roads with potholes, which can only have an impact on our escalating road toll. Overcrowded hospital emergency departments now have tent-like annexes at major hospitals, with ambulances ramping, meaning that some people have had to wait in pain for an ambulance that never came. Sadly, this has cost lives and meant heartache for many Victorians. There are major waits still on elective surgery, not to mention the youth crime problem that is currently escalating in this state where people feel unsafe in their homes.

It is imperative for me to call out this Premier for his decided disrespect and unprofessional handling of the cancellation of the Commonwealth Games. Again he has held up Victoria to ridicule on the world stage. First, we in Victoria suffered the most restrictive lockdowns during COVID – in fact, in the world. We are Melbourne, the most locked down city during the period of COVID – what a disgrace. Is that something we want to be able to listen to and for the whole world to know about us? And now we have cancelled the Commonwealth Games because we cannot afford them. We have all these things to remember. Weren't these the games to remember? What a disgraceful legacy, to leave Victorians with the embarrassment of cancelling the Commonwealth Games. The forecast blowout of hosting the games was up to $7 billion from the original projected cost of $2.6 billion. What was even more worrying was the Premier's comment at the time, which was:

> I've made a lot of difficult calls, a lot of very difficult decisions in this job. This is not one of them.

Well, tell that to our athletes. Tell that to our sporting people and tell that to the people of regional Victoria who were waiting for facilities and opportunities and business opportunities that have now gone by the wayside. The legal bill that will eventuate from this cancellation has been quoted to be more than a billion dollars in compensation.

The budget sets up the 555,544 people in the South-Eastern Metropolitan Region, which I represent, with taxes – taxes, taxes, taxes – that are going to make their lives much worse. Locally, I am really angry. I am really angry that the promised $295 million for an upgrade to Dandenong Hospital, which was announced in October last year, has been significantly underfunded. This is a hospital that reaches out to many sectors of the community in the south-east. They come from Cranbourne. They come from Narre Warren North. They come from all over the South-East to use the Dandenong Hospital, and it caters to people from many different multicultural groups. And yet what has happened in a safe Labor seat? It has been underfunded. Well, what a surprise. Labor's financial mismanagement of the health system means that Greater Dandenong patients are not getting the health services that they need or that they deserve, and they are suffering, as every hospital in Victoria is, from an overly long elective surgery waitlist and from frightening ambulance response times which can cost lives.

This is all before we look at the housing affordability and rental crisis as well as the WorkCover impacts on employers and our emergency services responders, who could be slugged a combined $100 million a year as part of the state's attempt to prop up its failing budget. This government has acknowledged that WorkSafe is fundamentally broken – not just broken but a fundamentally broken

scheme. They are so proud of that they put that out in a media release and they talked about it on the airways. It is a fundamentally broken WorkSafe under this government – fantastic – and it is costing the Victorian taxpayers money they cannot afford. It significantly, as a result, increased WorkCover premiums to help this government out of a mess that it created, and now many businesses are being forced to outsource their employment to other states and other countries because they cannot afford the WorkCover premiums in this state. You only have to drive through any electorate to see the empty shops, the downsizing in businesses and people leaving Victoria. They cannot sustain their businesses and have to pay these WorkCover premiums in August, this month – that is right, still August – and they have had to pay significant premiums.

Whilst the government announced that there was an average 42 per cent increase in WorkCover premiums, I would have to say that I have seen many, many businesses that have been forced to pay premiums that are in excess of 42 per cent – some 100 per cent, in fact some even more, and this is just inexcusable – because of a broken budget.

We now have other services, like first responders, that are going to be severely hampered. The bills that this government is creating include a 10-year levy on Victorian businesses with national payrolls above the $10 million mark and on owners of multiple properties to repay the $31.5 billion COVID-19 debt that this government created. The economics editor of the *Australian Financial Review* said on 23 May:

> Since Liberal premier Jeff Kennett's reign, Labor has been in power for 20 of the past 24 years. Premiers Steve Bracks and John Brumby ran responsible budgets, but since 2018 net debt under Daniel Andrews has exploded from $22 billion to a projected $171 billion.

And this is on top of the fact that Victoria's debt burden is higher than any other Australian state's or territory's. What a disgrace. It is even higher than economies in Germany and 10 states in Canada. Economists argue that those states are similar to Australia's, according to the *Age* on 25 May 2023. We know our debt in this state is bigger than the three states of New South Wales, Queensland and Tasmania.

How is this mess going to be fixed? Where is this money going to come from? Victoria's interest bill on this debt will be $22 million a day. Think about the services and the infrastructure that could pay for. Instead it will just be wasted – wasted due to Labor's complete financial incompetence and mismanagement. We only have to consider the $20 billion blowouts on infrastructure projects, and we only have to wonder why the government has just cancelled the Commonwealth Games. Who knows how much money will be wasted by not putting the games on here in Victoria? The fact that the Premier is refusing to hand out the reasons for his projected figure increase reeks of further –

Georgie Crozier interjected.

Ann-Marie HERMANS: Yes. We would like to know, wouldn't we? We have a government that does not care about the community and is only interested in staying in power. Will things be better for Victoria after this budget? No, they will not – not at all. There will be increased taxes, charges and costs on small and large businesses; no cost-of-living relief for most Victorians but in fact increased taxes, which result directly in cost-of-living increases across the board; and no plan to pay back Labor's record levels of debt – what an absolute mess. Yet this government has the arrogance to say it is managing our state well. Come on – give me a break.

The Liberal–Nationals have released a discussion paper *Making Victoria's Tax System Work: Reducing Cost Pressures for Families, Community Groups and Business* which addresses the problem we face as a state. Under the direction of the Victorian Liberal leader John Pesutto, the Shadow Treasurer Brad Rowswell and Shadow Minister for Finance Jess Wilson the paper intends to further our engagement with the community on ways to reform and improve our tax system. Victoria's system needs to encourage opportunity and promote a growth agenda for jobs, investment, competitive markets and digital transformation. You are able to make a submission to this review and address any

of the considerations raised in this discussion paper. The review will close on 31 October 2023. We welcome your consultation with your communities. You can actually have a look at that and get in touch with us.

Amongst other vocational engagements, I am a former teacher. I value education. There will be a cost to families and children because of Labor's new schools tax. I do not care that you have taken it off some schools; it is still there for others. Most of those students are from two-income families, with one income going directly to pay for those school fees. I am totally against payroll tax on schools. It is a tremendous concern, and I want that on record.

Payroll tax was never meant to be for not-for-profit organisations. The minute we start taxing our not-for-profit organisations we are limiting what they can provide to the community. There are a number of low fee paying independent schools which could be impacted, particularly at the VCE level – and if not now, then in the future – in the south-east. On behalf of those who are at the high fee paying schools, of which some are single sex, I am concerned, for instance, that girls might be taken out of school if parents have to choose one or the other. They may be more likely to choose the boys in some cases, which is going to be a backward step for those families. I want to be able to speak for them and say that this is a terrible tax. We are taking society in the wrong direction if parents have to choose which of their children they educate in the independent sector. I have to advocate for them and speak up for them, because you have brought in a payroll tax for schools. What a disgrace. Schools are going to suffer enormously under the increases in WorkCover premiums as well, with many independent schools which previously had been exempt from payroll tax floundering to meet the additional cost, which will have to be passed on to Victorian families in order for the schools to survive.

Schools in my electorate are in desperate need of infrastructure improvements or upgrades. Because of Labor's waste, they have again missed out. How many leaking roofs? I have seen leaking roofs in schools in my electorate, and it is a disgrace that people have to continually have these patched up. Rotting timber, holes in the roof – it is a disgrace. How many potholes could be fixed if we did not have the $20 billion blowout in infrastructure projects? How many more teachers and nurses could you employ or ambulances could you buy – even fire trucks and appliances for our hardworking, committed volunteers and firefighters? Mismanagement in this state has consequences. It means taxes have to rise to pay for blowouts.

There is so much I could say. I am running out of time. I could go on and on and on. I do want to mention, first of all, though, our CFA volunteers, who represent the largest fire service in Victoria. Its members dedicate thousands of hours of their time, and they are concerned. They are so concerned because they do not know whether they are going to be properly funded because of this budget and because Emergency Management Victoria has been expanded with so many extra people that they are paying in terms of wages we have money moving all over the place.

In conclusion, this budget is far from managing the state well. The Liberal–Nationals discussion paper provides a clear path for reforming and improving our tax system. It is time to hold this government accountable for its actions and demand a better future for all Victorians.

Lee TARLAMIS (South-Eastern Metropolitan) (17:18): I move:

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

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

Bills

Justice Legislation Amendment Bill 2023

Introduction and first reading

The PRESIDENT (17:18): I have received a message from the Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Open Courts Act 2013**, the **Court Security Act 1980**, the **Coroners Act 2008**, the **Spent Convictions Act 2021**, the **Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019**, the **Forests Act 1958**, the **Legal Profession Uniform Law Application Act 2014**, the **Criminal Procedure Act 2009**, the **Children, Youth and Families Act 2005**, the **Jury Directions Act 2015**, the **Victorian Civil and Administrative Tribunal Act 1998**, the **Wrongs Act 1958**, the **Limitation of Actions Act 1958**, the **Domestic Building Contracts Act 1995**, the **Crimes Act 1958** and the **Victoria Police Act 2013** and for other purposes'.

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:19): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Harriet SHING: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:20): 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 Justice Legislation Amendment Bill 2023 (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 seeks to improve the operation of the Victorian legal and justice systems by implementing the following reforms:
>
> - making certain temporary provisions in the *Court Security Act 1980* and the *Open Courts Act 2013* permanent, with appropriate modifications, to assist the courts and tribunals to operate safely and efficiently
> - legislatively recognising the role of police coronial investigators (to give effect to Recommendation 2 of the Tanya Day coronial inquest findings, Recommendation 29 of the Royal Commission into Aboriginal Deaths in Custody and Recommendation 42 of the Victorian Parliamentary Law Reform Committee Review of the *Coroners Act 1985*)
> - amending the *Spent Convictions Act 2021* to address unintended barriers to eligibility to have convictions spent, and data sharing and judgment publication
> - amending the *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* and the *Forests Act 1958* to expand presumptive rights legislation to three additional female specific cancers
> - amending the *Legal Profession Uniform Law Application Act 2014* to clarify the application of the Legal Profession Uniform Law in Victoria and to enhance protections for Victorian consumers of legal services by enabling the register of disciplinary action taken against lawyers to be updated immediately

- amending the *Children, Youth and Families Act 2005* to support the roll-out of the electronic Case Management System Portal in the Family Division of the Children's Court
- amending the *Jury Directions Act 2015* to clarify that certain jury directions are available in all sexual offence trials
- making minor and technical amendments to the *Criminal Procedure Act 2009* to allow specified employees under the *Dairy Act 2000* and *Meat Industry Act 1993* to witness statements that are provided in criminal prosecution briefs
- addressing various legal and procedural issues in respect of VCAT's jurisdiction, by amending the *Victorian Civil and Administrative Tribunal Act 1998*, *Wrongs Act 1958*, *Limitation of Actions Act 1958* and *Domestic Building Contracts Act 1995*
- acquitting a recommendation of the Parliamentary Inquiry into Victoria's Criminal Justice System to require mandatory notification of the Victorian Aboriginal Legal Service (VALS) where a person taken into custody self-identifies as Aboriginal, by amending the *Crimes Act 1958*
- amending the *Victoria Police Act 2013* to maintain the existing ability to prescribe fees for the provision of a broad range of police services.

Human Rights Issues

The following rights are relevant to the Bill:

- Equality (s 8)
- Right to life (s 9)
- Freedom of movement (s 12)
- Privacy and reputation (s 13)
- Freedom of expression (s 15)
- Protection of families and children (s 17)
- Cultural rights (s 19(2))
- Right not to be deprived of property (s 20)
- Right to liberty (s 21)
- Rights of children in the criminal process (s 23)
- Right to a fair hearing (s 24)
- Rights in criminal proceedings (s 25)
- Retrospective criminal laws (s 27)

Part 2 – Amendments to the Court Security Act 1980 and Open Courts Act 2013

Court Security Act 1980

Division 1, Part 2 of the Bill amends the *Court Security Act 1980* (CSA) to ensure courts and tribunals can effectively manage their premises in response to public health risks.

'Authorized officers' have existing powers under the CSA to ensure 'the security, good order or management' of court premises (such as giving reasonable directions, refusing access and seizing prohibited items). The Bill will clarify that these existing powers can be exercised for the health of persons on court premises in relation to pandemic declarations under the *Public Health and Wellbeing Act 2008* (PHWA), and to ensure that relevant pandemic and public health directions under the PHWA are followed at court premises.

The CSA amendments will replace temporary provisions introduced in 2020 to address the COVID-19 pandemic. These permanent provisions will confirm that courts may introduce measures to comply with health and safety obligations to court employees and court users generally, which may mitigate delays to the administration of justice caused by transmission of illness within the courts.

Right to life

Section 9 of the Charter provides that every person has the right to life. Division 1, Part 2 of the Bill promotes this right by ensuring authorized officers can exercise their powers to maintain public health at court premises, in connection with pandemic declarations and relevant pandemic orders and directions under the PHWA. These powers include restricting physical access to the court and giving reasonable directions. This will ensure that courts and tribunals can respond adequately and in-line with relevant public health advice and to comply with health and safety obligations. These measures protect the health of persons at the premises by minimising the impact of public health risks, and thereby promote the right to life.

Right to fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to a fair and public hearing. The right to a public hearing gives effect to the principle of open justice. The CSA reforms engage this right by clarifying that authorized officers may refuse a person access to, or remove a person from, court or tribunal premises. Refusing access may be seen as restricting access to a public hearing, thereby impinging on the right to a fair hearing and the principle of open justice. Further, refusing access may also prevent a person from attending their own hearing, thereby potentially restricting their right to a fair hearing.

However, the provisions also promote the right to a fair hearing by allowing authorized officers to prevent persons who may present a health risk from compromising the health of staff and other court users or impeding the administration of justice. Further, Division 2, Part 2 of the Bill clarifies that courts may provide remote methods of access in certain circumstances, which is likely to minimise the potential impact of a person being refused physical access to court premises. Accordingly, any impact on the right to a fair hearing is reasonable and justified.

Freedom of movement

Section 12 of the Charter provides that every person lawfully within Victoria has the right to move freely. This includes a right of access to places and services used by members of the public. Division 1, Part 2 of the Bill engages this right by clarifying that authorized officers may refuse a person access to, or to remove a person from, the court or tribunal premises. Refusing access may be seen as restricting access to a place used by members of the public.

However, any impact is reasonable and justified by the underlying intention to protect the right to life and minimise disruption to the administration of justice by courts and tribunals.

Freedom of expression

Section 15 of the Charter provides the right to freedom of expression, which includes the right to access free, independent and uncensored media and the right to seek, receive and impart information.

The CSA reforms engage section 15 by clarifying that authorized officers can exercise their existing powers to give reasonable directions for the purpose of maintaining or restoring 'the security, good order or management' of court premises. This would enable authorized officers, for example, to direct a person to follow a relevant pandemic order or direction under the PHWA, or take certain steps to protect the health of persons at court premises in relation to a pandemic declaration. Similarly, an authorized officer would be able to refuse a person entry to or remove them from court premises if they believe on reasonable grounds that the person is likely to adversely affect 'the security, good order or management' of the premises, because, for example, they are not following a relevant pandemic order or direction under the PHWA.

The exercise of these powers may be seen to impinge on a person's right to freedom of expression in some circumstances. For example, if remote access to proceedings is not available to the public because they are held in a physically open court room, a person's right to access information may be impacted.

However, the Charter provides that the right to freedom of expression can be subject to lawful restrictions that are reasonably necessary for certain reasons, which include the protection of public health. Pandemic orders and directions under the PHWA will have been assessed as necessary under the PHWA for the protection of public health. If a pandemic order does not extend to court premises but applying a requirement in a pandemic order to court users (for example mandating the wearing of masks) may mitigate delays to the administration of justice and/or comply with health and safety obligations, an authorized officer may need to exercise their powers to enforce such a requirement. Any impacts to freedom of expression are therefore reasonable and justified by the need to protect public health.

Further, the requirement for authorized officers, as 'public authorities' under the Charter, to exercise their powers in a way that is compatible with Charter rights, acts as a safeguard to ensure freedom of expression is not unduly limited.

Property rights

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right contains an internal limitation that if a person is deprived of property 'in accordance with law', the right will not be engaged. The CSA reforms are relevant to property rights because they confirm authorized officers will be able to use existing powers to seize or require the surrender of prohibited items and to retain the items for the new public health reasons.

Property rights are not engaged by the CSA reforms, because any removal of property by authorized officers would be done in accordance with their clearly defined and circumscribed powers within the CSA. An authorized officer must believe on reasonable grounds that the item is a prohibited item, and there are

protections to ensure surrendered or seized items are retained for a period before disposal. Further, seizure powers are only enlivened in relation to prohibited items. For the purpose of the CSA reforms, items are only prohibited if they are likely to adversely affect the health of persons on court premises in relation to pandemic declarations, or the following of relevant pandemic orders and directions under the PHWA.

Open Courts Act 2013

Division 2, Part 2 of the Bill amends the *Open Courts Act 2013* (OCA) to clarify permanently that providing remote public access to proceedings does not contravene any rule of law relating to open justice, if the court or tribunal is satisfied it is 'in the interests of justice' to provide public access to proceedings via one of three identified alternative means.

The amendments will support the effective and efficient functioning of the court system by providing certainty that remote hearings can be used as part of business-as-usual operations. They will also ensure that courts and tribunals can provide remote access to hearings conducted in a physical hearing room if it is in the interests of justice not to allow physical attendance by the public (for example, to mitigate health risks that may compromise the administration of justice).

The remote methods of access permitted by the amendments are contemporaneous audio or audio visual broadcast, to the public generally or a member of the public on request, audio or audio visual recording, again to the public generally or a member of the public on request, and, in the case of the Supreme Court, County Court or Coroners Court, a subsequent transcript.

Right to life

Section 9 of the Charter provides that every person has the right to life. Division 2, Part 2 may promote the right to life by ensuring that courts and tribunals can limit public health risks to judicial officers, staff and the community by providing non-physical public access to proceedings, if in the interests of justice. This ensures that the efficient and open administration of justice can continue when public health risks mean that it may not be safe, lawful or practicable to have physically open hearing rooms.

Right to a fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to a fair and public hearing. A fair hearing includes a reasonably expeditious hearing. The right to a public hearing is embraced by the principle of open justice, by ensuring that the work of courts and tribunals is done under public scrutiny, which safeguards against bias and abuse of power.

Division 2, Part 2 is relevant to this right because it permits alternatives to physical public access to hearings, which has been the traditional method of public access to hearings.

The amendments may promote the right to a fair hearing in some ways. Remote access may facilitate attendance and scrutiny of proceedings by a wider sector of the public, particularly where distance, cost, or the ability to travel to a physical court or tribunal is an issue. For example, remote access enables hearings to be observed from the home, office, or a public library, and from other parts of the country (or world).

Further, clarifying that remote access does not contravene rules relating to open justice may promote expeditious hearings and, in turn, assist courts and tribunals to efficiently manage caseloads by decreasing reliance on physical hearing rooms.

Remote public access may, however, limit the right to a fair hearing to some extent. Providing access other than via a physically open hearing room involves a departure from open justice. For example, some people may not have access to the technology necessary to access contemporaneous broadcasts or to download recordings or transcripts. However, the extent of the limitation on the right is not significant, in light of the alternative modes of access provided. Although there is some encroachment on open justice where proceedings are held other than before a judge or tribunal member in a physically open hearing room, the hearing would still be public in the sense it is accessible to the public through the remote method or methods. The court or tribunal would need to be satisfied that it is in the 'interests of justice' to provide access to a proceeding in this manner rather than via a physically open hearing room.

Access 'on request' will require members of the public to seek access from the court or tribunal. In some cases, this may reduce the number of people who observe a hearing. Such request is not needed to walk into a physical hearing room or access a broadcast available to the public generally via, for example, a link on the court or tribunal's website. Again, although this limits the right to a fair hearing, the extent of that limitation is not significant, as the court or tribunal would need to be satisfied that it is in the 'interests of justice' that access to a proceeding be given 'on request' rather than to the public generally. The option of doing so permits a court or tribunal greater flexibility to ensure the impact on open justice in a particular case is the least restrictive. There may be instances where the court or tribunal wishes to permit a contemporaneous broadcast of a proceeding, but there are concerns around confidentiality that requires the court or tribunal to be able to communicate with, or

identify, persons observing the proceeding. In those cases, it may be in the interests of justice to permit access to a contemporaneous broadcast to members of the public on request, rather than at large.

Access to a hearing by way of recording or transcript is not equivalent to an open court in the way that a contemporaneous broadcast or in-person access would be. However, these methods may be necessary in limited circumstances. For example, they represent effective back-up methods of access if technological issues interrupt a broadcast or if a court is unable to respond immediately to a request for access to a contemporaneous broadcast that is received after a hearing has commenced, and physical hearing room access is not available. Providing access solely by way of recording or transcript may be in the interests of justice in some cases if, for example, the need for an expeditious hearing is so great that it outweighs the disadvantages arising from more restricted public access to the proceeding (if, for example, technological constraints mean that a live broadcast cannot be accommodated by the time the proceeding is due to commence).

Again, although this limits the right to a fair hearing, the extent of the limitation is not significant, as the court or tribunal would need to be satisfied that it is in the 'interests of justice' to provide access in this manner.

In deciding the 'interests of justice' question, the court or tribunal would balance a range of competing factors. These factors would include: the presumptions in favour of open court proceedings in sections 4 and 28(1) of the OCA; the impact of the method of access on open justice and other rules relating to open justice (for example, the right to a fair hearing under the Charter); and how justice can best be achieved, taking into account the rights and needs of the parties and broader considerations such as the efficient management of the proceeding, the efficient use of judicial and administrative resources, and the interests of the media and community at large. Bearing in mind the factors to which the court or tribunal will have regard when exercising the discretion; the extent of the limitation on the right (which is not significant); and the purpose and competing rights at which the limitation is directed, including the right to life and the efficient administration of justice, the limitation on rights is justified under section 7(2) of the Charter.

Right to freedom of expression

Section 15 of the Charter provides the right to freedom of expression, which includes the right to access free, independent and uncensored media and the right to seek, receive and impart information. These aspects of the right have been considered to statutorily endorse the open justice principle and apply to information relating to the courts.

Division 2, Part 2 is relevant to these rights because it permits alternatives to physical public access to hearings, which has been the traditional method of public access. It also permits the Supreme Court, Coroners Court and County Court to, if satisfied it is in the interests of justice to do so, make an order restricting or prohibiting publication of any transcript, or part of a transcript, provided under section 8B(1). Existing prohibitions against recording proceedings (and publishing and transmitting recordings) under sections 4A–4C of the CSA will continue to apply to broadcasts and recordings provided under section 8B(1), as they do with proceedings to which physical access is provided.

The amendments may promote the right to freedom of expression because remote access may facilitate observance of a proceeding by a wider sector of the public, as outlined in relation to the right to a fair hearing.

In other circumstances, as outlined above in relation to the right to a fair hearing, remote public access may limit access to hearings for some members of the public. Although the departure from the principle of open justice constitutes a limitation on the right to freedom of expression encompassing the open justice principle, the extent of the limitation is not significant in those cases as the Supreme Court, Coroners Court or County Court would need to be satisfied that it is in the 'interests of justice' to provide access to a proceeding in this manner, having regard to the right to freedom of expression. For the same reasons as outlined above in relation to the right to a fair hearing, the limitation on the right is justified under section 7(2) of the Charter bearing in mind the extent of the limitation on the right (which is not significant) and the enhancement to the administration of justice which the reforms seek to achieve.

The power for the Supreme Court, Coroners Court and County Court to make orders restricting or prohibiting publication of transcripts or parts of transcripts provided under section 8B(1) may limit freedom of expression. This power provides the flexibility for the courts to control distribution of sensitive content in transcripts if appropriate in a particular case, in the event other powers (for example, powers to make closed court orders under the OCA) do not allow for that. This recognises that once a transcript of a hearing is in the public domain, the information it contains cannot be retracted.

Although this limits freedom of expression to some extent, the extent of the limitation is not significant. The power to make orders restricting publication of transcripts or parts of transcripts ensures the default position is that transcripts or parts of transcripts may be published (subject to existing restrictions that may be in place – for example, under copyright laws, or where a non-public or suppression order is already in place over information that may have been disclosed during a proceeding). In this way, the presumption in favour of

open justice is not disturbed. Before making such an order, the Supreme Court, Coroners Court and County Court would need to be satisfied that it is in the interests of justice to provide access to a proceeding by way of transcript instead of a physically open hearing room, and also be satisfied that it is in the interests of justice to place restrictions on the publication of the transcript, having regard to freedom of expression and the principle of open justice.

Freedom of movement

Section 12 of the Charter provides that every person lawfully within Victoria has the right to move freely. This includes a right of access to places and services used by members of the public. Division 2, Part 2 is therefore relevant to this right because it clarifies that a court or tribunal may decide that it is in the interests of justice not to allow the public to physically access a hearing room and to provide access in another way. This may occur, for example, if a hearing is conducted remotely or if a hearing is held in a physical hearing room and there is too great a risk of a serious illness being transmitted if public access is allowed.

While the reforms may restrict the ability to physically access hearing rooms, this will only be possible if a court or tribunal assesses that it is 'in the interests of justice'. Therefore, any impact on this right will be reasonable and justified to support the effective, efficient and speedy functioning of the court system.

Part 3 – Amendments to the Coroners Act 2008

Part 3 of the Bill amends the *Coroners Act 2008* (Coroners Act), and consequentially the *Victoria Police Act 2013*, to legislatively define and recognise the role of a police coronial investigator (CI) assisting a coroner with an investigation into a reportable death. This implements Recommendation 2 of the Tanya Day inquest findings.

Right to life

Section 9 of the Charter provides that every person has the right to life. The positive duty to protect life carries a 'procedural obligation to undertake effective coronial investigations where required', as found in international jurisprudence and outlined by the Explanatory Memorandum to the Charter.[1]

The Coroners Act amendments may promote the right to life as they will improve the effectiveness and independence of coronial investigations into reportable deaths, including deaths in custody and other police contact related deaths. The amendments will enhance the transparency of investigations by formalising the role of CIs, which has operated by way of convention to date. The amendments will provide coroners with an explicit power to direct CIs, who have a duty to comply (with appropriate exceptions), thereby enhancing the independence of coronial investigations.

Right to a fair hearing

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to a fair and public hearing. A fair hearing must be absent of influence, pressure, intimidation or intrusion. The currently undefined role of a CI may create a perceived conflict of interest in investigations involving a death in custody or other police contact deaths, given the CI's dual role in assisting a coroner whilst fulfilling their duties as a police officer. Without a clear power for a coroner to direct a CI in a coronial investigation, a CI investigating the actions of other police officers on behalf of the Coroners Court may be perceived to be subject to influence, pressure, intimidation or intrusion. The amendments will promote the right to a fair hearing by imposing a duty on the CI to comply with the directions of a coroner, with exceptions, to create a clear separation between the coronial investigation and the CIs role as a police officer and reduce any perception of a conflict of interest arising from police investigating the actions of other police.

Rights in criminal proceedings

These amendments engage, but do not limit, rights in criminal proceedings in circumstances where both a coronial investigation and criminal investigation are on foot simultaneously.

The Bill provides that a CI need not comply with a direction of a coroner where the Chief Commissioner considers that complying would likely compromise a criminal investigation. This exception avoids a potential conflict of interest arising from the competing duties of a CI and preserves police independence in criminal investigations.

Part 4 – Amendments to the Spent Convictions Act 2021

<u>Amendments to the definition of 'term of imprisonment' and eligibility to have convictions spent for children and young offenders</u>

Expanding eligibility for spent conviction order by narrowing definition of 'term of imprisonment' and amending provisions relating to children and young offenders upholds section 8, 13, 17, 19 and 23 rights

The Bill amends the *Spent Convictions Act 2021* (SCA) to include a narrow definition of 'custodial term' in place of the current, undefined reference to a 'term of imprisonment'. These amendments create a narrow

definition, including only periods where someone is physically imprisoned or detained, and excluding non-custodial sentences such as suspended sentences. As certain terms of imprisonment make a conviction ineligible to be spent, this narrow definition means that more convictions will be eligible to be spent.

The Bill also removes the requirement that children and young offenders must be sentenced under specified legislation in order to be eligible to have convictions spent under sections 9(1)(a) and 11(1)(a) of the SCA, ensuring all children and young offenders are eligible to have certain convictions spent after a 5-year conviction period or apply for a spent conviction order for relevant convictions.

These amendments may promote section 8 and section 13 rights to the extent that they expand eligibility to have a conviction spent and, as a result, may enhance a person's ability to access human rights such as education, employment and housing, enhance a person's protection from discrimination based on their criminal history and protect the privacy and reputation of a person who has a minor or historic conviction.

To the extent that Aboriginal people are overrepresented in the criminal justice system, these amendments may support the right under section 19(2) of the Charter to the extent that improved access to the spent conviction scheme may remove barriers for Aboriginal people to enjoy culture, maintain kinship ties and maintain connection to land, identity, traditional laws and customs.

Amending the SCA to ensure all young people are eligible to have certain convictions spent after a 5-year conviction period or apply for a spent conviction order for relevant convictions may also promote sections 17(2) and 23(3) of the Charter to the extent that it enhances a child's protection from discrimination based on their criminal history and provides for children convicted of an offence to be treated in a way that is appropriate for their age.

Amendments to allow disclosure of spent conviction information under Family Violence and Child Information Sharing Schemes ensures appropriate exemptions to the SCA

Exemptions to disclosure are proportionate limitations on section 8, 13 and 19 rights, having regard to the need to manage risks of family violence and risks to child safety and wellbeing.

The Bill will clarify permitted disclosures of spent conviction information to enable disclosures under the Family Violence Information Sharing Scheme (FVISS) and the Child Information Sharing Scheme (CISS) in accordance with Part 5A of the *Family Violence Protection Act 2008* and Part 6A of the *Child Wellbeing and Safety Act 2005* respectively.

Disclosure of criminal history information, including spent convictions, between Information Sharing Entities (ISEs) under the FVISS is required for the purposes of establishing, assessing and managing risks of family violence. Similarly, disclosure under the CISS is required to enable similarly prescribed ISEs to share information to promote the wellbeing and safety of children.

To the extent the amendments limit the rights to equality before the law, privacy and reputation and, for Aboriginal people, access to distinct culture rights (sections 8, 13, 19(2) respectively) by further enabling the disclosure of spent convictions information under the FVISS and CISS, the limitations are proportionate having regard to the need to protect individuals from the risk of family violence and risks to child wellbeing and safety.

The amendments allow ISEs prescribed in the *Family Violence Protection (Information Sharing and Risk Management) Regulations 2018*, which include courts, police, corrections, family violence service providers, schools and public hospitals, to carry out their existing functions under the FVISS and CISS. The Bill addresses an unintended omission in the SCA by explicitly permitting the disclosure of spent conviction information for limited purposes under the *Family Violence Protection Act 2008* and the *Child Wellbeing and Safety Act 2005*.

The current provisions of the SCA includes exemptions to allow disclosure of spent convictions for law enforcement functions. In almost all cases, these exemptions already allowed for the FVISS and CISS to operate without limitation. The Bill provides further clarity regarding these exemptions, ensuring that information sharing practices that had been lawful prior to the commencement of the SCA can continue without any limitations from the SCA.

Providing lawful exemptions for disclosure of spent convictions to protect individuals from family violence and to promote the safety and wellbeing of children is also consistent with and may promote the rights of families and children in section 17 of the Charter.

Amendments to allow data sharing for research, access to court records and publication of judgments ensures appropriate exemptions to the SCA

Exemptions to disclosure of spent convictions are reasonable and justifiable limitations on section 8, 13, and 19 rights to support research and analysis of the justice system and the principles of open justice

The Bill includes further, but limited, exemptions to the disclosure of spent conviction information by enabling disclosure by courts in the form of identified data sharing for research purposes, in the publication of judgments and in providing access to court records.

To the extent the amendments limit the rights to equality before the law, privacy and reputation and, for Aboriginal people, access to distinct culture rights (sections 8, 13, 19(2) respectively) by further enabling the disclosure of spent convictions information, the limitations are reasonable and justifiable.

Regarding disclosure of spent convictions for research purposes, the Bill addresses an unintended consequence of existing provisions in the SCA that, in some cases restricted previously permitted data sharing. Prior to the introduction of the SCA, courts and tribunals routinely shared datasets including identifying information and conviction details with research bodies. This sharing of identified data was vital to support research and analysis functions to inform the operations of the justice system. This identified data was not made publicly available and the Bill contains safeguards to ensure that this remains the case.

For example, disclosure of identified court data, including spent conviction information, by courts to the Sentencing Advisory Council (SAC) enables SAC and the courts to fulfil their statutory obligations under the *Sentencing Act 1991* and supports courts to impose appropriate sentences, having regard to statistics on sentencing practices provided by SAC.

In this respect, the Bill may promote the right to equality before the law in section 8 of the Charter by enabling consistent, fair and lawful decision-making by the courts.

Disclosure of identified court data for the purposes of publishing judicial decisions and proceedings and to provide access to court records under relevant legislation, rules, regulations and the implied or inherent jurisdiction of courts and tribunals is consistent with the principles of open justice. These exemptions are consistent with section 24 of the Charter, specifically subsection (2) which provides that all judgments or decisions made by a court or tribunal in a criminal or civil proceeding must be made public unless the best interests of a child otherwise requires, or a law other than this Charter otherwise permits.

The Bill also provides a regulation making power to prescribe further bodies that can receive spent convictions information from courts and tribunals and that can disclose spent conviction information to other prescribed bodies, in recognition that such exemptions may be required for limited additional circumstances where disclosure is necessary to support the administration of justice.

Having regard to the purposes of the limitation on a person's right to privacy, reputation and non-discrimination, and for Aboriginal people, access to distinct culture rights, these exemptions are reasonable and proportionate limitations on the rights under sections 8 and 19(2) of the Charter.

Likewise, prescribing lawful exemptions for disclosure supports a person's right not to have their privacy or reputation unlawfully or arbitrarily interfered with, consistent with section 13 of the Charter.

Given this protection, the Bill strikes an appropriate balance between the need to support the rehabilitation of individuals and public safety and the administration of justice, and is compatible with sections 8, 13 and 19(2) of the Charter.

Part 5 – Amendments to the Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019 and Forests Act 1958

The Bill will amend the *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* (FPRC Act) and the *Forests Act 1958* (Forests Act) to extend firefighters' presumptive rights coverage to cervical, ovarian and uterine cancers.

Right to equality and protection against discrimination

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

The term 'discrimination' referred to in section 8(3) of the Charter is defined as:

> Discrimination (within the meaning of the *Equal Opportunity Act 2010* (EO Act)) on the basis of an attribute set out in section 6 of that Act.

'Employment activity' is identified as an attribute within section 6 of the EO Act. The proposed amendments to the FPRC Act and Forests Act create provisions that confer an additional benefit on eligible persons on the basis of certain characteristics of their employment or service, including the nature of their employment as a

firefighter, volunteer firefighter or other eligible person and the duration of their service, where they are diagnosed with primary site cervical, uterine or ovarian cancer.

'Disability' is identified as an attribute within section 6 of the EO Act. The definition of 'disability' in the EO Act includes 'the presence in the body of organisms that may cause disease'. This Bill creates provisions that prescribe which types of disease qualify for the rebuttable presumption to compensation. The proposed amendments expand the limited list of diseases to which the rebuttable presumption applies to include cervical, uterine and ovarian cancers. Existing provisions also continue to limit access to the presumptive right to those persons that have served for a qualifying period of 10 years and recognition of only cancer diagnoses which occurred on or after 1 June 2016.

'Sex' and 'sex characteristics' are both identified as an attribute within section 6 of the EO Act. The Bill expands access to the rebuttable presumptive right to compensation with reference to additional types of cancer related to sex and sex characteristics, specifically cancers that impact the female reproductive system. These provisions reduce any indirect discriminatory limitation in access to the presumptive rights scheme based on the sex and sex characteristics of the firefighter, volunteer firefighter or other eligible person.

These provisions limit the ability of certain firefighters and staff from accessing the rebuttable presumptive right to compensation by virtue of employment defined by the EO Act. Further, while these provisions expand the number of diseases recognised under the presumptive rights compensation scheme, it nonetheless continues to limit access to the rebuttable presumption for other diseases experienced by firefighters and staff. These provisions therefore may limit the rights to equality and protection against discrimination.

To the extent that these provisions do limit the rights to equality and protection against discrimination, these limitations are minor and are reasonable and demonstrably justified. The provisions will directly achieve their important purpose of assisting female firefighters and staff diagnosed with serious illnesses, by expanding their access to compensation under the *Workplace Injury Rehabilitation and Compensation Act 2013*. The provisions are necessary to promote the intent of the scheme, and ensure female firefighters and staff are not disadvantaged in their access to the scheme by reason only of their sex or gender. They also operate to promote substantive equality for female firefighters by ensuring female- specific reproductive cancers are also included in the presumptive rights scheme alongside male-specific reproductive cancers. Further, limiting the scope of the scheme to any disease diagnosed on or after 1 July 2016 is necessary to ensure compensation entitlements can be costed and implemented effectively, without any risks to the ongoing viability of the scheme.

Right to privacy

Section 13 of the Charter provides that a person has the right not to have their privacy, unlawfully or arbitrarily interfered with, and not to have their reputation unlawfully attacked. This right protects informational privacy, including a person's medical records or health status.

An interference with privacy will not limit the right to privacy where that interference is not unlawful or arbitrary – that is, where the interference is provided for by law, and is not unpredictable, unjust, or unreasonable in the circumstances.

These provisions may be relevant to the right to privacy. Under the existing provisions of the FPRC Act and the Forests Act, WorkSafe Victoria will request that the relevant advisory committee provide an expert opinion on whether a claimant is eligible for compensation.

The committee will consider personal information including relevant records, volunteer or employment data and local knowledge. This access to information may interact with a claimant's right to privacy.

However, these provisions do not unlawfully or arbitrarily interfere with a person's privacy. This is because the FPRC and the Forests Act specifies the parameters of the information required to be disclosed, and the Firefighters' Presumptive Rights Compensation Regulations 2019 and Forests (Forest Firefighters Presumptive Rights Compensation) Regulations 2022 provide that a claimant's information must be treated as confidential.

Collection and use of the information is also required to maintain the integrity of the compensation scheme as a whole.

Therefore, any engagement with a claimant's privacy does not constitute an unlawful or arbitrary interference and is consistent with section 13 of the Charter.

Freedom of expression

Section 15 of the Charter provides that all persons have the right to freedom of expression. This includes the right to impart information, including through any medium that the person may choose, or a right not to impart information at all.

These provisions may be relevant to a claimant's right to freedom of expression by requiring that they provide certain information to support the eligibility assessment by the relevant advisory committee. Information

required to be disclosed may include personal information including relevant records, volunteer or employment data and local knowledge.

However the requirement to impart personal or confidential information, including medical information, is reasonably necessary to verify the claimant's eligibility to the rebuttable presumption and maintain the integrity of the compensation scheme as a whole.

To the extent that freedom of expression under section 15 is limited by the requirement to provide information, the limitation is reasonable and demonstrably justified.

Part 6 – Amendments to the Legal Profession Uniform Law Application Act 2014

Right to privacy and reputation

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Section 13(b) states that a person has the right not to have their reputation unlawfully attacked. An interference with the right to privacy and reputation is justified if it is both lawful and not arbitrary. An interference will be lawful if it is permitted by 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 sort.

The amendments relating to the register of disciplinary action (RODA) engage the right to privacy and reputation by allowing the immediate publication on the publicly available RODA of information about lawyers who are subject to disciplinary action determinations. Section 150C of *Legal Profession Uniform Law Application Act 2014* prescribes the information that may be included on the RODA, which includes a lawyer's full name, address for service, home jurisdiction and particulars of the disciplinary action. The immediate publication of disciplinary action determinations on the register is for the legitimate purpose of promoting transparency and protecting consumers of legal services and accordingly does not constitute an arbitrary interference with privacy and reputation.

The amendment is proportionate to the need to strengthen consumer protections and information will only be published after a determination is made. The proposed reforms will support the community to access accurate and up to date information about a legal practitioner and in turn better equip them to make an informed decision about whether to engage that legal practitioner. Accordingly, the amendments are consistent with the right to privacy and reputation.

Part 7 – Amendments to the Children, Youth and Families Act 2005

The Bill will promote the right to equality before the law (section 8) by increasing access to justice for Victorians. Currently, court users may be required to travel significant distances to physically file documents with registry. These amendments will reduce the need for travel by enabling certain applications to be filed online. As such it will ensure that court users, including those with disabilities and who live in rural or regional areas, can access registry services more easily.

Part 8 – Amendments to the Jury Directions Act 2015

Part 8 of the Bill will clarify that certain jury directions are available in all sexual offence trials. These jury directions address misconceptions about:

- the continuation of relationship or communication after a sexual offence;
- the absence of physical injury, violence or a threat;
- responses to a non-consensual act;
- other sexual activity;
- personal appearance and irrelevant conduct;
- non-consensual sexual acts occurring between all sorts of people; and
- general assumptions not informing a reasonable belief in consent.

These amendments will confirm that trial judges can give these jury directions in trials involving charges that do not include lack of consent as an element, such as trials for sexual offences against children. These directions can assist juries in better assessing the evidence and reaching a verdict. They also guard against a jury making incorrect assumptions as to these issues, promoting victim-survivors' rights and achieving fairer outcomes in proceedings for all sexual offences.

These reforms promote the protection of families and children under section 17, the right to a fair hearing under section 24 and rights in criminal proceedings under section 25 of the Charter. They do so by clarifying the availability of existing directions that make it easier for juries to apply the law.

Limitation of rights

Clause 62 inserts a transitional provision to apply the Bill's amendments to proceedings where offences may have been committed before the new provisions commence. This may engage the protection against retrospective criminal laws under section 27 of the Charter.

Section 27(1) of the Charter provides that a person must not be found guilty of a criminal offence because of conduct that was not an offence at the time the conduct was engaged in. Accordingly, while section 27 prohibits imposing criminal liability where previously there was none, it does not prohibit retroactivity in respect of procedural laws. This includes changes to the rules of evidence or other procedural elements such as, in this case, the content of jury directions, given they relate to how the trial is conducted, and do not themselves impose criminal liability. This is consistent with the operation of the equivalent provision of the International Covenant on Civil and Political Rights, whereby article 15(1) does not extend to changes in procedural law. This also reflects the statutory interpretation principle that the presumption against retrospectivity does not extend to laws that are merely procedural.

Accordingly, Part 8 of the Bill, and in particular clause 62, does not limit the right against retrospective criminal laws under section 27 of the Charter.

Part 9 – Amendments to the Criminal Procedure Act 2009

This is a minor and technical amendment that inserts specified inspectors to Schedule 3 to the Criminal Procedure Act to allow witnessing of statements contained in criminal briefs. No human rights are affected.

Part 10 – Amendments to the Victorian Civil and Administrative Tribunal Act 1998, Wrongs Act 1958, Limitation of Actions Act 1958 and the Domestic Building Contracts Act 1995

Part 10 of the Bill is compatible with the Charter. The amendments engage the right to a fair hearing (section 24) by increasing access to justice for Victorians. The reforms seek to do this by increasing court and tribunal efficiencies, clarifying jurisdictional uncertainty and preventing previous decisions made in good faith from being invalid. These reforms seek to empower parties to access fair justice.

To ensure that past Victorian Civil and Administrative Tribunal (VCAT) decisions made under the previously understood scope of VCAT's jurisdiction are effective, the Bill deems that parties have the same rights and liabilities purportedly established by those decisions from those decisions until the commencement of this Bill. While recent Supreme Court decisions have only highlighted the consequences of previous High Court decisions that ruled VCAT is not a 'court' rather than extending the meaning, its clarity in holding that VCAT does not have jurisdiction to determine 'indirect' federal law matters has had a significant impact.

This is because there was a widespread assumption and honest belief that VCAT had jurisdiction to determine 'indirect' federal law matters. The curative provisions are therefore considered an appropriate response given the high volume of past decisions made in good faith but which are now invalid.

The Bill provides necessary certainty regarding parties' rights and liabilities, and ensures that past VCAT decisions cannot be challenged solely on technical jurisdictional grounds. Any limitation is confined, because parties may challenge the deemed statutory rights and liabilities, and rights to appeal on other grounds are not affected. For these reasons, the Bill strikes an appropriate balance between the public interest in legal certainty and the right to a fair hearing, and any limitations on fair hearing rights are reasonable and justified.

Part 11 – Amendments to the Crimes Act 1958

Part 11 of the Bill amends the *Crimes Act 1958* to make clear that if a person self-identifies as an Aboriginal person, police must notify the VALS. This is in addition to the existing requirement for VALS to be notified when police are of the opinion that the person is an Aboriginal person.

Over the past decade, there has been a significant increase in the number of Aboriginal people remanded in custody. The potential devastating effects of time spent in custody have been well documented, from the 1991 Report of the Commission into Aboriginal Deaths in Custody to the recent Parliamentary Inquiry into Victoria's Criminal Justice System (the Inquiry) and the Coronial Inquiry into the passing of Veronica Nelson, a proud Gunditjmara, Dja Dja Wurrung, Wiradjuri and Yorta Yorta woman who died at Dame Phyllis Frost Centre on 2 January 2020.

Section 464FA of the Crimes Act provides for a process known operationally as the Custody Notification Service. It requires that VALS be notified within an hour of an Aboriginal person being taken into custody. Under the current provisions, Aboriginality is to be determined for the purposes of triggering the notification requirement by the opinion of the investigating official, who must have regard to any statement made by the person as to whether they are an Aboriginal person.

In its submission to the Inquiry, VALS reported that it was aware of incidents in which the validity of a person's self-identification as Aboriginal had been questioned by investigating officials. VALS reports that it has its own processes for cases where a person's Aboriginality is in question, and that it is never appropriate for officials to

prefer their own judgement or evidence from records over a person's self-identification. The report of the Inquiry subsequently recommended that section 464FA be amended to provide that an investigating official must contact VALS in all circumstances where a person taken into custody self-identifies as an Aboriginal person. The Bill enacts this recommendation, thereby strengthening the protection of human rights.

Recognition and equality before the law

Section 8(3) of the Charter relevantly 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.

Aboriginal people are disproportionately affected by contact with the criminal justice system, including in respect of overrepresentation in custody. The amendments in Part 11 of the Bill provide for prompt, mandatory notification to VALS where a person in custody identifies as an Aboriginal person, thereby upholding the right to equality by ensuring Aboriginal people have ready access to appropriate legal assistance and other support. It also ensures self-identification is preferred over the opinion of investigating officials, allowing VALS to use its own culturally appropriate processes for determining if a person is Aboriginal. However, investigating officials can still make a referral if the person does not self-identify but the official knows or is of the opinion the person is Aboriginal, particularly in circumstances where an accused may be unable to communicate. This ensures notification occurs as broadly as possible, enabling Aboriginal persons to be appropriately offered cultural support in custody. A person who does not wish to use the support can advise that when VALS offers it.

While this section of the Crimes Act continues to operate to protect Aboriginal people as a group, rather than all people, it will not result in less favourable treatment of other groups of people. However, if it did have this effect, section 8(4) of the Charter provides that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination will not constitute discrimination. The purpose of the amendment is to protect Aboriginal people from discrimination, both in the justice system specifically and more broadly, that results in an overrepresentation of Aboriginal people in custody. In this context, it is appropriate for Parliament to strengthen laws aimed at reducing this discrimination and its impacts.

Liberty and security of the person

Section 21 of the Charter provides that every person has the right to liberty and security, and that the arrest and detention of any person must be both lawful and not arbitrary.

The amendments to the Crimes Act in Part 11 of the Bill promote the right to liberty by ensuring that Aboriginal people, who are overrepresented in the criminal justice system, receive prompt, culturally appropriate legal assistance and support for their needs in custody. Effective legal representation gives accused people a better chance at being granted bail or being otherwise released from custody, and guards against a person being held in custody where it is not warranted. Furthermore, culturally appropriate legal assistance of the kind offered by VALS ensures specific attention is given to the specific needs or sensitivities of an Aboriginal person being held in custody, helping to address the documented disproportionate impact of contact with the criminal justice system on Aboriginal people.

Right to privacy and reputation

Section 13 of the Charter provides a person has the right not to have their privacy unlawfully and arbitrarily interfered with. However, this right has internal limitations that allow for lawful and non-arbitrary interference with a person's privacy.

The amendment requires police to notify VALS if a person self-identifies as an Aboriginal person. Police must also notify VALS if they know or are of the opinion that an accused person is Aboriginal, even where there is no self-identification. In both circumstances, the notification must be made regardless of whether that person authorises the sharing of information. The notification will continue to be automatic upon police entering information about Aboriginality into police records. While this may interfere with a person's right to privacy, the interference is non-arbitrary. The purpose of notification is to protect and promote the rights of an accused Aboriginal person in custody by ensuring that they receive an offer of culturally safe legal assistance, as well as access to appropriate care and treatment in custody.

As a result, the impact on the right to privacy is reasonable, appropriate and justified by the purpose of the amendment.

Part 12 – Amendments to the Victoria Police Act 2013

The amendment to the regulation making power in Schedule 5 of the Act amends a mistaken omission in upcoming legislation. No human rights are affected.

Jaclyn Symes MP
Attorney-General
Minister for Emergency Services

[1] Explanatory Memorandum, Charter of Human Rights and Responsibilities Bill 2006, 10.

Second reading

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:20): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

The Justice Legislation Amendment Bill 2023 amends a number of Acts to support the courts and the Victorian Civil and Administrative Tribunal and improve the operation of the Victorian justice and legal systems.

Making temporary measures permanent to assist the efficient operation of the courts

The Bill will assist the courts to operate efficiently and safely, by making temporary measures in the *Open Courts Act 2013* and the *Court Security Act 1980* permanent, with appropriate modifications.

The Bill will continue to support remote public access to court and tribunal hearings by:

- providing certainty about when remote hearings can be used as part of business-as- usual operations, and
- allowing courts and tribunals to provide alternatives to physical access if hearings are conducted in a physical court room but it is in the interests of justice not to allow physical attendance by the public (for example, to mitigate health risks).

This will, in turn, support more efficient and accessible services and facilitate broader public access to court and tribunal proceedings. For example, non-physical access enables members of the public and the media to observe proceedings from their home, office, or public library. This may enhance open justice by offering greater convenience, particularly where distance, cost, or the ability to travel to a court or tribunal is an issue.

The Bill will also confirm that authorized officers can use their existing powers to effectively manage court and tribunal premises in response to public health risks.

The provisions would allow authorized officers to restrict access to court and tribunal premises and/or give reasonable directions for the health of all persons on the premises when a pandemic declaration is in force, or to ensure that relevant pandemic and public health directions under the *Public Health and Wellbeing Act 2008* are followed at court and tribunal premises.

This will provide certainty that courts and tribunals can take steps to comply with health and safety obligations to their employees and court users generally, and mitigate delays caused by transmission of illness.

These reforms will support courts and tribunals to continue managing their premises safely and to use digital technologies to administer justice flexibly, effectively and efficiently.

Implementing Recommendation 2 of the Tanya Day coronial inquest findings

The Bill will implement Recommendation 2 of the Tanya Day coronial inquest findings to provide clarity around the role of police coronial investigators in coronial investigations into reportable deaths. It will also give effect to Recommendation 29 of the Royal Commission into Aboriginal Deaths in Custody and Recommendation 42 of the Victorian Parliamentary Law Reform Committee Review of the *Coroners Act 1985*.

The role of the police coronial investigator has operated by convention and informal arrangements between the Coroners Court and Victoria Police to date. The Bill will provide a coroner with an explicit power to direct a coronial investigator, who will have a duty to comply with all reasonable and lawful directions. There will be a narrow exception to the duty to comply, for directions that are, in the opinion of the Chief Commissioner, unreasonable or likely to compromise a criminal investigation. The Coroners Act reforms will improve the transparency and independence of the coronial system by providing a clear legislative framework around the role of the coronial investigator.

Improving the operation of the Spent Convictions Act 2021

Addressing barriers to eligibility under the Spent Convictions Act

The Bill will remove unintended limitations to eligibility to have convictions spent. In particular, the reforms remove the requirement for children and young offenders to have been sentenced under specific legislation to be eligible to have their convictions spent automatically after a conviction period of five years or, for serious convictions, to be eligible to apply to the Magistrates' Court to have their convictions spent.

The spent convictions scheme is particularly important for children and young people, giving them a chance to rehabilitate and re-integrate into society despite past offending. These reforms ensure that these benefits are available to all children and young people.

The Bill also addresses the lack of definition of 'term of imprisonment' in the Spent Convictions Act. The length of a term of imprisonment imposed for a conviction reflects the seriousness of that conviction, determining whether and when a conviction can be spent. However, without a definition, imprisonment can be interpreted as including sentences such as suspended sentences, home detention or intensive corrections orders. In these cases, courts have imposed sentences that do not involve physical imprisonment or detention and these sentences should not be given the same level of seriousness as convictions involving actual time in prison or detention.

To address this, the reforms create a new definition of a 'custodial term', which is defined narrowly to include only periods where someone is physically imprisoned or detained. This narrow definition means that more convictions will be eligible to be spent, ensuring that the benefits of the Spent Convictions Act are extended to support more Victorians to rehabilitate and move on with their lives.

Allowing appropriate exemptions to the Spent Convictions Act for family violence and child information sharing, data sharing for research, access to court records and publication of judgments

The Bill addresses urgent, unintended limitations to the Family Violence Information Sharing Scheme, established under the *Family Violence Protection Act 2008*, and the Child Information Sharing Scheme, established under the *Child Wellbeing and Safety Act 2005*.

The current drafting of the Spent Convictions Act includes exemptions for law enforcement agencies and courts to share spent conviction information, recognising that disclosure of past offending, including spent convictions, is crucial to manage safety and risk in our community. In almost all cases, these exemptions allowed for the family violence and child information sharing schemes to operate without limitation. However, this Bill provides certainty, making it clear that all aspects of these important information sharing schemes can operate without limitations from the Spent Convictions Act.

Additionally, the Bill provides for regulations to prescribe further bodies that can receive spent convictions information from courts and tribunals and that can disclose spent conviction information to other prescribed bodies. This allows the flexibility for the Spent Convictions Act to respond to community safety needs by allowing the disclosure of spent convictions where appropriate.

The Bill also clarifies that current practices to share data for research purposes, as well as existing access to court records and publication of court judgments, are not affected by the Spent Convictions Act. Furthermore, the Bill ensures that it is clear that Court Services Victoria can support courts and tribunals to carry out their functions under the Spent Convictions Act. While many of these actions were permitted under the existing drafting of the Spent Convictions Act, the reforms provide clear and appropriate exemptions to support the smooth and effective operation of our justice system.

The Bill supports a robust, effective spent convictions scheme that makes sure the actions of the past no longer unfairly impact people's future, while maintaining access to convictions where needed for our justice system to operate effectively and keep people safe.

Expanding the presumptive rights scheme to include three additional cancers affecting female firefighters

The Victorian Government acknowledges the significant risks and dangers that firefighters and other fire services personnel are exposed to in the course of their service, including increased susceptibility to certain types of cancer. In 2019 the government legislated the firefighters' presumptive rights compensation scheme to make the process of applying for compensation less onerous for Victorian firefighters engaged by Fire Rescue Victoria and the Country Fire Authority. The scheme recognises the invaluable service provided by firefighters and the dangerous work that they do.

In 2022, the Scheme was extended to apply to forest firefighters engaged by Forest Fire Management Victoria and to vehicle and equipment maintenance employees engaged by Fire Rescue Victoria and the Country Fire Authority.

In June of this year, the Government made a public commitment to further extend the scheme to cover three female specific cancers – primary site cervical, ovarian, and uterine cancers. This Bill delivers on this

commitment and amends the *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019* and the *Forests Act 1958* to extend presumptive rights coverage to female career and volunteer firefighters and vehicle and equipment maintenance employees who contract primary site cervical, ovarian, and uterine cancers.

Presumptive rights for cervical, ovarian and uterine cancers will be subject to a qualifying period of 10 years to align with other Australian and international jurisdictions. It will relate to cancer diagnoses on or after 1 June 2016, which is in line with cancers already included under Victoria's presumptive rights legislation.

This expansion of presumptive rights to include the additional three cancers follows consultation with key stakeholders and will ensure more equitable access to cancer compensation for female firefighters.

Clarifying how the Legal Profession Uniform Law applies in Victoria and enhancing consumer protections for legal service consumers

The Bill clarifies legislative uncertainties about how the Legal Profession Uniform Law applies in Victoria and enhances consumer protections for Victorian legal service consumers.

The Bill clarifies that the offences of causing a deficiency in a trust account and the improper destruction of regulated property are indictable offences that are triable summarily. Both offences prescribe a maximum penalty of 500 penalty units or 5 years' imprisonment or both. Despite this penalty exceeding the jurisdiction of the Magistrates' Court, a technicality in the language used to prescribe these penalties in the uniform legislation has resulted in these offences being classified as summary offences in Victoria and subject to a 12-month limitation period for commencing prosecution. This has created a practical impediment to prosecuting these matters as there is often a significant delay in detecting complex trust accounting deficiencies or the mishandling of property. These amendments will support more effective prosecution of this conduct, ensure penalties are commensurate with the conduct and provide an effective disincentive to inappropriate conduct.

The Bill amends the legislative framework for the register of disciplinary action for Victorian lawyers, to increase consumer protections and better align with the frameworks in other participating jurisdictions of the uniform law scheme. Presently, the Victorian Legal Services Board cannot publish on the register of disciplinary action any details of a determination of unsatisfactory professional conduct under section 299 of the Legal Profession Uniform Law. This is because section 150E of the *Legal Profession Uniform Law Application Act 2014* (LPULA Act) provides that the Victorian Legal Services Board must not publish information until the time limit for an appeal against the determination is expired and no time limit is currently specified. The Bill addresses this by providing a 28-day time limit for appealing a determination under section 299 of the Legal Profession Uniform Law. Section 150E of the LPULA Act is also repealed to allow the immediate publication of disciplinary action outcomes on the register of disciplinary action. Correspondingly, if a disciplinary action is quashed on appeal the details must be removed from the register of disciplinary action. Appropriate transitional measures are included to minimise impacts on affected legal practitioners.

Supporting the roll-out of the Case Management System in the Family Division of the Children's Court

Part 7 of this Bill will make technical amendments to the *Children, Youth and Families Act 2005* to support the Children's Court of Victoria in performing its functions electronically. These reforms will modernise registry services and improve the efficiency of court operations by enabling certain documents to be filed electronically. They will deliver an improved court-user experience by reducing the need to print out documents, travel to court locations and join registry queues.

Clarifying that certain jury directions are available in all sexual offence trials

In 2022, new jury directions were introduced to address some common misconceptions that arise in the context of sexual offence trials. This included a direction, recommended by the Victorian Law Reform Commission, addressing misconceptions about why a person would continue a relationship or maintain contact with an accused after a sexual offence.

The current wording of this direction refers to a lack of consent to sexual acts. This reference to 'consent' created uncertainty about whether it could be used in proceedings for offences which do not require the prosecution to prove lack of consent, such as sexual offences against children. As this misconception can arise in such cases, and should be addressed where relevant, the Bill clarifies that the direction can be used in proceedings related to all sexual offences.

Similarly, the Bill clarifies that other jury directions related to consent and reasonable belief in consent may be given in relation to all sexual offences, regardless of whether lack of consent is an element. These directions may address, for example, that sexual offending can occur without physical injury being caused to the victim. Existing processes for determining whether directions should be given will apply – for example, the judge must have good reasons for giving the direction.

Allowing certain authorised officers to witness statements in criminal prosecution briefs

Authorised employees of PrimeSafe and Dairy Food Safe Victoria are tasked with investigating and carrying out prosecutions under the *Meat Industry Act 1993* and *Dairy Act 2000* respectively. But the *Criminal Procedure Act 2009* does not allow them to witness statements that are used to prosecute these matters in court, resulting on this burden falling on others, such as police. To improve justice system efficiency, the Bill will allow these authorised employees to witness such statements.

Addressing various legal and procedural issues in respect of the Victorian Civil and Administrative Tribunal's jurisdiction outlined in *Thurin v Krongold* and other Supreme Court decisions

The Bill will address various legal and procedural issues in respect of the Victorian Civil and Administrative Tribunal's (VCAT's) jurisdiction which have been outlined in recent Supreme Court decisions. These reforms will provide certainty about the jurisdiction and rights of parties in impacted cases, noting that this parliament cannot legislate on matters of Commonwealth constitutional law that limit the operation of tribunals.

The Court of Appeal's decision in *Thurin v Krongold*[1] (*Krongold*) late last year highlighted that, because of certain provisions in the Commonwealth Constitution, VCAT does not have jurisdiction over cases that indirectly raise matters of federal law. The decision will require the transfer of many cases intended to be heard by VCAT to the courts. Currently, orders to transfer cases can only be made by VCAT's judicial members.

In response to *Krongold*, the Bill will implement several reforms in the *Victorian Civil and Administrative Tribunal Act 1998* (VCAT Act) to minimise delay and clarify uncertainties faced by litigants in affected matters. The reforms will:

- expand the class of VCAT members who can make orders to transfer federal jurisdiction matters to a court for determination,
- provide courts with the power to extend the limitation period for federal jurisdiction matters referred to them by VCAT, and
- preserve the rights and liabilities of parties involved in previous VCAT decisions which are no longer valid due to the matters having an 'indirect' connection to federal law.

The Part 10 retrospective validation amendments have been included as they are considered an appropriate response in this context given the high volume of past decisions which are now invalid on the basis of the recent findings that VCAT lacks the required jurisdiction. Commentary from the legal profession regarding *Krongold and Vaughan Constructions Pty Ltd v Melbourne Water Corporation (Building and Property)*[2] demonstrates that the profession views these decisions as having effectively reduced the previously-understood scope of VCAT's jurisdiction in a significant way. The Bill will provide litigants with certainty, avoid the need for litigants to spend additional time and money having their disputes re-heard at courts, and avoid the risk of the courts receiving an influx of applications to re-hear previous VCAT matters.

The Bill will also support efficiencies by empowering the courts to continue to hear domestic building matters that would otherwise be transferred to VCAT, where an assessment has been made that the action may raise a controversy involving federal subject matter in the future. This will prevent parties from being 'passed back' to VCAT despite there being a strong chance that the matter will need to be transferred to a court due to federal jurisdiction issues arising.

Other recent decisions by the Supreme Court and VCAT have found that the Victorian *Limitation of Actions Act 1958* (Limitation of Actions Act) does not apply to VCAT proceedings, and that VCAT does not have jurisdiction to make rulings on contribution claims and contributory negligence claims under the Victorian *Wrongs Act 1958*. These decisions are both contrary to what had previously been assumed by VCAT and the legal profession and do not reflect government's intention. The Bill will remove these anomalies in VCAT's jurisdiction by:

- clarifying that the Limitation of Actions Act applies to VCAT proceedings,
- clarifying that VCAT has jurisdiction to determine claims under Part IV and Part V of the Wrongs Act, to avoid the need for over a thousand VCAT cases to be transferred to a court for resolution, and
- preserving the rights and liabilities of parties involved in previous VCAT decisions on claims which were unknowingly made without jurisdiction.

These reforms will make critical changes to complex legal issues impacting parties, the legal profession and Victoria's Court system.

Ensuring the Victorian Aboriginal Legal Service is notified in all circumstances when a person taken into custody self-identifies as Aboriginal

Part 11 of the Bill makes changes to the *Crimes Act 1958* to ensure that the Victorian Aboriginal Legal Service (VALS) is contacted in all cases where a person taken into custody identifies as Aboriginal. This change is important to ensure VALS is able to provide prompt, culturally appropriate legal assistance to Aboriginal people who come into contact with the justice system – a key factor in tackling the overrepresentation of Aboriginal people in custody.

Whenever an Aboriginal person is in custody, Victoria Police are required to notify VALS. Currently, a notification to VALS is only required where an investigating official is of the opinion that a person is Aboriginal. While an official must take any statements by the person into account, a statement of self-identification is a consideration rather than a mandatory trigger for notification. This amendment will make sure that a statement of self- identification as an Aboriginal person always meets the threshold for mandatory notification, regardless of any other factors or opinions held by investigating officials. Investigating officials may still notify VALS if they know or are of the opinion the person is Aboriginal. This may be in circumstances where the person is unwilling or unable to self- identify, for example, if they are unwell.

This amendment responds to a recommendation from the report of Parliament's Legal and Social Issues Committee's Inquiry into Victoria's criminal justice system.

Maintaining existing regulation making power to prescribe fees for the provision of a broad range of police services

An amendment is included to the regulation making powers in the *Victoria Police Act 2013*. Currently, the Act enables the regulations to prescribe fees for a range of services provided by police personnel, in particular for the deployment of resources to search and provide information. This amendment will prevent the mistaken removal by a previous Bill of the existing power of the regulations to prescribe the fees for the range of services that police personnel provide.

I commend the Bill to the house.

[1] [2022] VSCA 226.
[2] [2023] VCAT 233.

Georgie CROZIER (Southern Metropolitan) (17:20): I move:

That the debate on this bill be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Bail Amendment Bill 2023

Introduction and first reading

The PRESIDENT (17:21): I have a further message from the Assembly, which is a lot shorter:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Bail Act 1977** and to make consequential amendments to other Acts and for other purposes'.

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:21): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Harriet SHING: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:21): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

Introduction

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 Bail Amendment Bill 2023 (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 have this opinion for the reasons outlined in this statement.

Overview of the Bill

Over the past decade, there has been a significant increase in the number of Victorians remanded in custody. The operation of existing bail laws is a major driver of this increase and is disproportionately affecting Aboriginal people, women, children, and people experiencing poverty.

The purpose of the Bill is to create a more proportionate bail response to low-level offending by refining the more onerous bail tests to focus on more serious offending and the gravity of the risks that are presented by a person charged with an offence. In doing so, this Bill will assist in ensuring that Victoria's bail laws strike the appropriate balance between the right to liberty and community safety.

The Bill will amend the *Bail Act 1977* (the Bail Act) to –

- Reduce the circumstances in which reverse-onus bail tests apply so that they only apply to more serious offending, and to children in extremely limited circumstances;
- Better target the application of the 'unacceptable risk' test to re-offending that endangers the safety or welfare of another person;
- Expand the factors in sections 3A and 3B that must be considered when an applicant for bail is an Aboriginal person or a child respectively, to better reflect the unique needs and circumstances of these vulnerable cohorts;
- Subject to limited exceptions, prohibit remand for offences against the *Summary Offences Act 1966* (the Summary Offences Act);
- Introduce new 'surrounding circumstances' in the Bail Act that require bail decision makers to consider (when applying a reverse-onus test or the unacceptable risk test) whether the accused is likely to receive a custodial sentence and, if so, whether they are likely to spend more time on remand than the likely length of that custodial sentence;
- Amend the new facts and circumstances test in section 18AA to encourage represented bail applications at the earliest opportunity;
- Repeal the offences of contravening certain conduct conditions (section 30A) and committing an indictable offence while on bail (section 30B) from the Bail Act; and
- Clarify technical provisions in the Act and modernise the Act.

The Bill will also make consequential changes to other Acts.

Human rights issues

The Bill will amend the Bail Act and reduce the impact of the Act on Charter rights. As discussed in this statement, the operation of the Bail Act does, and will continue to, limit Charter rights, but in my opinion, these are reasonable limitations that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom taking into account relevant factors as outlined in section 7(2) of the Charter.

The human rights protected by the Charter that are relevant to the Bill and the operation of the Bail Act are:

a. right to liberty and security of person (section 21);
b. cultural rights (section 19);
c. right to recognition and equality before the law (section 8);
d. protection of families and children (section 17);
e. right not to have a person's family unlawfully or arbitrarily interfered with (section 13(a));
f. right to be presumed innocent until proved guilty according to law (section 25(1)); and

g. a child's right to a procedure that takes account of their age and the desirability of promoting their rehabilitation (section 25(3)).

While matters relating to remand principally engage the right to liberty, the very nature of being remanded in custody or being subject to bail conditions necessarily involves the limitation of other rights, including freedom of movement (section 12), privacy (section 13), expression (section 15) and peaceful assembly and freedom of association (section 16). This is an unavoidable result of the deprivation of liberty and the powers held by officers in charge of custodial facilities that are necessary to maintain good order and security of the facilities and the welfare of detained persons. The family unit will also be affected when a parent or guardian is remanded, which interferes with the privacy and protection of family and engages both section 13 and section 17(1).

Accordingly, when this statement discusses the Bill's effect on liberty, it is also referring to the bundle of rights that are necessarily affected through the deprivation of liberty and being detained in custody.

Amending the reverse-onus tests under the Bail Act

Section 4 of the Bail Act provides for a general *entitlement* to bail (sometimes referred to as a presumption of bail). However, this presumption may be displaced due to the seriousness of the charged offence or the circumstances in which an offence is alleged to have occurred. For example, the 'show compelling reason' test will apply if an accused is charged with a serious offence listed in Schedule 2 of the Bail Act (such as rape). Alternatively, if an accused is charged with a non-scheduled indictable offence (such as theft), which was alleged to have occurred while the accused was on bail for another non-scheduled offence, they will also face the 'show compelling reason' test. This is known as an 'uplift' into a more onerous bail test.

Where the presumption in favour of bail has been displaced, the accused bears the burden to satisfy the decision maker that bail is justified to the requisite standard – either the 'show compelling reason' test (section 4C) or the most onerous 'exceptional circumstances' test (section 4A). This reverses the onus of proof from the prosecution to the accused.

Currently, due to the existence of the uplift provisions, an accused charged with multiple non scheduled indictable offences may be uplifted into the most onerous reverse-onus category, the 'exceptional circumstances' test. For example, if an accused is charged with a theft while on bail for another theft they will be uplifted into the 'show compelling reason' test. If the same accused is charged with a third theft while on bail, they will face the 'exceptional circumstances' test. This is known as a 'double uplift'. As a result of these provisions, there has been a significant increase in the number of people accused of repeat but relatively minor offending facing reverse-onus tests and, therefore, not being granted bail.

The Bill will preserve the general presumption in favour of bail but make a number of changes to the bail tests that are used to determine whether a person accused of a criminal offence is granted bail or remanded in custody. Specifically, the Bill maintains the reverse-onus tests in sections 4AA, 4A (the 'exceptional circumstances' test) and 4C (the 'show compelling reason' test) of the Bail Act. However, it will modify the application of these tests so that they are better targeted at persons charged with serious offences or who are a terrorism risk or have a terrorism record. The Bill also differentiates between adult and child applicants for bail. By refining the bail tests to make it more likely that bail will be granted where community safety will not be jeopardised, the Bill seeks to better balance the right to liberty with community safety.

Promotion of the right to liberty (section 21)

Section 21 of the Charter provides that every person has the right to liberty and security (section 21(1)) and that a person must not be deprived of their liberty except on grounds, and in accordance with procedures, established by law (section 21(3)). Further, subsection (6) provides that a person awaiting trial must not be automatically detained in custody. It is plain that a person who does not obtain bail as a consequence of a decision made under the Bail Act has been deprived of liberty on grounds, and in accordance with procedures, established by law. It also the case that the opportunity to be granted bail, including in accordance with the general presumption or under the reverse onus tests means that there has not been "automatic detention".

Subsection (2) provides that a person must not be subjected to arbitrary arrest or detention. The word 'arbitrary' has a particular legal meaning. In section 21(2) of the Charter it broadens the right beyond freedom from unlawful arrest and detention – an arrest or detention will limit the right because it is 'arbitrary' if it is capacious, unjust, unreasonable or disproportionate to a legitimate aim. The Bill, by narrowing the application of the reverse onus tests, ensures that a refusal to grant bail will not be arbitrary for the purpose of section 21(2).

Clause 8(2) of the Bill will narrow the application of the reverse-onus tests to adults charged with serious criminal charges that are specified in the Bail Act schedules by repealing items 1 and 30 of Schedule 2. Item 1 is an indictable offence alleged to have been committed while on bail (among other circumstances). Item 30 is an offence against the Bail Act. Importantly, the repeal of items 1 and 30 from Schedule 2 will eliminate the possibility of 'uplift' into a reverse-onus category for adults charged with repeat, lower-level offences. The effect of this amendment is that only those accused of a serious offence that is listed in the Bail Act

schedules (or someone who has a terrorism record or poses a terrorism risk) will face a reverse-onus bail test. The Bill removes the possibility of uplift into a reverse-onus category where the offence is alleged to have occurred in particular circumstances, for example, where a person offends while on bail, rather than because of the gravity of the offence itself or the risk to community safety.

Part 4 of the Bill complements the narrowing of the reverse-onus tests by repealing two of the three Bail Act offences (contravening certain conduct conditions and committing an indictable offence while on bail). These reforms effect a more proportionate response to bail breaches that is more consistent with the right to liberty.

The Bill preserves uplift consequences for those charged with an offence listed in Schedule 2 while on bail (or subject to another order) for another Schedule 2 offence. Divisions 5 and 6 of Part 2 of the Bill change the circumstances in which uplift will occur.

Conversely, clause 25 provides that adults charged with a scheduled offence while on remand or while at large awaiting sentence for a Schedule 2 offence will be uplifted into the exceptional circumstances test. This change will ensure that those charged with serious offences while on remand or at large awaiting sentence are treated in the same way under the Bail Act as those charged with serious offences while on bail or at large awaiting trial.

Clause 26(2) of the Bill provides that a person released on an undertaking under the *Sentencing Act 1991*, will not be considered at large awaiting sentence, or serving a sentence, for the purposes of determining whether the exceptional circumstances test applies per section 4AA(2) of the Bail Act. This change reflects the fact that an adjourned undertaking is lower in the sentencing hierarchy than a fine, which does not attract the same uplift consequences under the Bail Act. This has the effect of ensuring that adults who are charged with a Schedule 2 offence, whilst subject to an undertaking for another Schedule 2 offence, are no longer uplifted to the exceptional circumstances test. The balance of these amendments mean reverse-onus tests are only applied to the most serious offending identified in the Schedules and to those who pose a terrorism risk or have a terrorism record. This reflects a more balanced and targeted approach by responding to the challenges arising from the inflexibility of the current bail laws and their potential for arbitrary outcomes, while maintaining an appropriately robust approach to serious offenders.

While the Bill will narrow the application of the reverse-onus tests, these tests will still apply where appropriate and will result in the remand of accused persons who do not meet the applicable test. This will be considered further below.

Promotion of the protection of children (sections 17(2) and 25(3))

Section 17(2) of the Charter provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of being a child. This right embraces modification to laws that apply to children to adequately account for a child's special vulnerability. As a related right, section 25(3) of the Charter also provides that a child charged with a criminal offence has the right to a procedure that takes into account their age and the desirability of promoting the child's rehabilitation. This includes prioritising prevention, diversion and minimum intervention in response to offending by children, in order to address the causes of offending behaviour at an early stage and divert the child away from the criminal justice system.

Clause 18 of the Bill will remove the application of reverse-onus tests for almost all children charged with a criminal offence. Clause 18 does this by inserting into the Bail Act new section 4AAB. Section 4AAB sets out when the 'exceptional circumstances' and 'show compelling reason' tests apply to a decision about whether to grant bail to a child. Reverse- onus bail tests will continue to apply to children charged with a homicide offence, schedule 1 terrorism offence or who have a terrorism record or pose a terrorism risk in a manner consistent with the current provisions of the Bail Act (see clause 18). This exception reflects the inherently serious nature of terrorism and homicide offences, and expert findings that children are a particular target for radicalisation. While a child may have a lesser status or culpability at law, they may still pose the same level of risk to the community as an adult offender and the same potential to commit terrorist acts that cause serious and catastrophic harm. In order to ensure the community is adequately protected from the threat of terrorism, it is necessary and appropriate that a presumption against bail for those that pose a terrorist risk continue to apply to children without modification, and that children be deterred and prevented from engaging in acts of terrorism to the greatest extent possible.

Maintaining existing limits on the right to liberty (section 21)

The Bill will narrow the application of reverse-onus tests and reduce existing lawful limitations on rights under the Bail Act. Nonetheless, the Bill largely maintains the existing bail framework under which an accused person can be remanded in custody, where that is appropriate. Even though the effect of the Bill is to reduce limitations on rights, I consider it appropriate to discuss the existing limits on the right to liberty in the Bail Act and why these limitations remain reasonably justified.

As set out above, the reverse-onus tests engage section 21(2) of the Charter in that the use of these tests may be considered an *arbitrary* limitation on the right to liberty. In the context of bail laws generally, the right of an individual to liberty must be balanced against the safety of the community, including both protection from serious criminal offending and promoting feelings of safety. These competing rights are reflected in the guiding principles of the Bail Act (at section 1B), which recognise the importance of maximising community safety as well as taking account of the presumption of innocence and the right to liberty. In my view, retaining reverse-onus bail tests for more serious offences and for accused who pose a terrorism risk or have a terrorism record is justified under the Charter as it gives effect to a purpose of the Bail Act, namely striking a balance between the importance of maximising the safety of the community and persons affected by crime with the presumption of innocence and the right to liberty for persons accused of a crime. The limitation on the right is narrow as the reverse-onus tests apply only to those pose a terrorism risk or have a terrorism record or who are charged with serious offences, who it can be reasonably presumed may pose a greater risk to community safety. The offences that attract a reverse-onus test are specified in clear lists appended to the Bail Act.

In my view, these provisions are not arbitrary as they are a proportionate response to concerns about community safety. By targeting those charged with serious offences the bail laws strike an appropriate balance. The Bill will limit the application of the reverse-onus bail tests by removing uplift consequences for those who are charged with multiple offences that are not listed in the Bail Act schedules. This means that reverse-onus tests will only apply to those charged with offences listed in the Bail Act schedules or who have a terrorism record or pose a terrorism risk. Through the Bail Act, Parliament has deemed the relevant offences specified in the Bail Act schedule as serious enough to warrant satisfaction of a more onerous test before bail can be granted. Importantly, even under the reverse-onus tests a bail decision maker has discretion to grant bail if the onus is met and it is appropriate in the circumstances.

Retaining reverse-onus tests also engages section 21(6) of the Charter, which provides that a person awaiting trial must not be automatically detained in custody. As mentioned, the Bail Act retains a discretion for bail decision-makers to grant bail. Further, the Bill maintains a presumption in favour of granting bail in most cases, and the Bill broadens the circumstances in which this presumption applies. Accordingly, it cannot be said that a person will be 'automatically' detained – rather, detention occurs if a bail decision maker decides to refuse to grant bail in accordance with the Bail Act. The Bill does not affect existing provisions regarding obligations of police, bail justices and courts to consider bail applications in a timely manner, nor the obligation of police to bring a person before a court or bail justice following arrest. As such I am of the view that the Bill is compatible with the right at section 21(6) of the Charter.

Presumption of innocence (section 25(1))

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

As bail is an ancillary criminal process, it is not directly relevant to a determination of guilt. However, the presumption of innocence has been described as the starting point for bail applications. That is, the presumption of innocence must be considered when deciding a bail application.

This Bill will not change the existing guiding principles in section 1B of the Bail Act which recognise the importance of the presumption of innocence (together with the right to liberty). Bail decision makers will continue to have regard to the significance of the presumption of innocence when determining bail applications.

In my opinion, neither the Bill nor the Bail Act limits the right to the presumption of innocence.

Further confining the circumstances for remand – Parts 2, 4 and 5 of the Bill

As well as refining the reverse-onus tests for people accused of low-level offending, the Bill will make other targeted changes to narrow further the circumstances in which a person may be remanded under the Act, through:

- subject to limited exceptions, prohibiting remand for offences against the Summary Offences Act;
- better targeting the application of the 'unacceptable risk' test to re-offending that endangers the safety or welfare of a person;
- requiring bail decision makers to consider, when applying a reverse-onus test or the unacceptable risk test, whether the accused is likely to receive a custodial sentence if found guilty of the charged offences, and if so, whether the likely time on remand is likely to exceed the length of that sentence;
- providing a new exception to the 'new facts and circumstances' test to encourage represented bail applications at the earliest opportunity; and
- repealing two offences against the Bail Act, namely contravening certain conduct conditions (section 30A) and committing an indictable offence while on bail (section 30B).

Each of these reforms promotes the right to liberty by improving the prospect of bail for a number of people charged with an offence and who do not present an unacceptable risk to the safety of the community, as I elaborate on below.

Promotion of the right to liberty (section 21)

Clauses 9 and 10 will further protect against arbitrary interferences with the right to liberty by prohibiting remand for those charged with certain summary offences. Clause 10 does this by requiring the court to grant a person bail or to allow the person to go at large if that person is, subject to limited exceptions, accused of an offence against the Summary Offences Act. Clause 9 inserts into the Bail Act new section 4AAA, which again provides, subject to limited exceptions, that a bail decision maker must not refuse bail to a person accused of an offence against the Summary Offences Act (new section 4AAA(1)), and no exception applies.

The exceptions to the prohibition on refusing bail provided under clauses 9 and 10 are offences against the Summary Offences Act that are specified in the new Schedule 3. Schedule 3 is inserted by clause 11 and sets out offences of a more serious nature. Accordingly, all of the offences for which remand is prohibited are relatively minor Summary Offences that are not sexual, violent or of a more serious nature, and which are often committed by a person experiencing disadvantage. The Bill does not interfere with existing provisions of the Bail Act that empower a court to revoke bail where appropriate.

Clause 36 of the Bill seeks to ensure that bail decision makers carefully consider the likely time of remand as compared to the possibility of, and likely length of, a custodial sentence if the accused person is found guilty of the offence. It does this by introducing additional 'surrounding circumstances' that must be considered by a bail decision maker when applying an applicable reverse-onus test or the unacceptable risk test. The new surrounding circumstances will expressly require a bail decision maker to consider whether the accused is likely to be sentenced to a term of imprisonment (new section 3AAA(1)(aa)(i)) and to compare the likely time on remand against the likely length of any custodial sentence (new section 3AAA(1)(aa)(ii))) but will not mandate that bail be granted. Rather, a bail decision maker will weigh the new considerations against all other relevant surrounding circumstances when determining a bail application. A bail decision maker is required to take into account a similar consideration in respect of children (see clause 35 and new section 3B(1)(k)). It is anticipated that the Bill will reduce the likelihood of persons being remanded in circumstances where they are unlikely to receive a custodial sentence or where the likely time on remand is likely to exceed the length of any custodial sentence (if the accused is found guilty of the charged offence). In doing so, the Bill will emphasise the importance of making bail decisions that are proportionate to any limitation on the right to liberty likely to be imposed by way of a sentence.

Clause 14 will amend the 'unacceptable risk' test (section 4E of the Bail Act) so that it better targets those who pose an 'unacceptable risk' of re-offending that may endanger the safety or welfare of another person. The Bill will therefore distinguish between a risk of serious re-offending and a risk of low-level or petty re-offending and will promote the right to liberty by narrowing the circumstances in which a remand decision can be made.

Clause 14 will repeal section 4E(1)(a)(ii) and amend section 4E(1)(a)(i) of the Bail Act to provide that a bail decision maker must refuse bail if they are satisfied that the accused would, if released on bail, endanger the safety or welfare of any other person, whether by committing an offence that has that effect or by any other means. This amendment has the effect of excluding from the unacceptable risk test a risk of further offending while on bail that does not endanger the safety or welfare of any other person. Subsections 4E(1)(a)(iii) and (iv) of the Bail Act will remain unchanged, such that a bail decision maker must refuse to grant bail where they are satisfied there is an unacceptable risk the accused will interfere with a witness or otherwise obstruct the course of justice in any matter, or fail to surrender into custody in accordance with the conditions of bail.

Under the revised test, a risk of re-offending that does not endanger the safety or welfare of any other person will no longer satisfy the unacceptable risk threshold. This will limit the remand of those accused of minor offences who pose little risk to the community or to the administration of justice.

Clause 115 will amend section 18AA to limit the circumstances in which a person must demonstrate new facts and circumstances test when making a further application for bail. This is intended to encourage the making of represented bail applications at the earliest opportunity by enabling all accused to make two legally represented applications for bail before a court after being taken into custody without having to demonstrate new facts and circumstances. This reform will reduce instances of short-stay remand in which people are remanded for short periods of time while they prepare for a represented bail application. Following two legally represented applications, an accused person will still need to demonstrate new facts and circumstances to make a further application with legal representation. The reform does not remove an accused person's ability to make a further application for bail without demonstrating new facts and circumstances at any point if the person was not legally represented when bail was refused or revoked. This reform therefore promotes the right to liberty.

As outlined above, Part 4 of the Bill will repeal two of the three offences against the Bail Act, namely contravening certain conduct conditions (section 30A) and committing an indictable offence while on bail (section 30B). This reform will reduce instances of an accused being charged with multiple offences for a single act, which may in turn encourage the granting of bail. For example, at present a person on bail who allegedly commits theft may be charged with both theft and committing an indictable offence on bail. By reducing the number of offences that can be charged for a single act, the Bill encourages more proportionate bail responses.

Likewise, repealing the offence of contravening certain conduct conditions will also encourage more proportionate bail responses as it will remove the possibility of a person being charged for conduct which would not otherwise constitute a criminal offence if not for the person's bail conditions. For example, bail breaches such as failing to report to a police station as required, returning home past curfew or failing to update the police informant about a change of address, will no longer attract criminal charges. Bail revocation will remain an option for bail breaches to ensure appropriate consequences for this behaviour, however repealing the offence of contravening certain conduct conditions will mean people are not further criminalised for low-level bail breaches.

The Bill does not repeal the offence of failure to answer bail (section 30). Ensuring the accused's attendance at court is a fundamental purpose of bail. This offence has existed since the Bail Act first commenced in 1977 and has always been subject to a reverse onus. Until 2004, the offence was also subject to an additional prohibition on remand unless the accused could satisfy the court that the failure was due to causes beyond the accused's control. This prohibition was repealed to reduce any discriminatory impact on disadvantaged cohorts, following a 2001 Victorian Law Reform Commission review. That review was the Commission's first community law project and was prompted by an approach by the Victorian Aboriginal Legal Service. It was only after the 2013 introduction of two new Bail Act offences that remand rates increased significantly. Furthermore, by repealing item 30 of Schedule 2, the reverse-onus tests will no longer apply to failure to answer bail, avoiding 'uplift' to a more onerous bail test, as discussed above. This means that, for the first time since its inception, the offence of failure to answer bail will not attract a reverse onus test. This will also encourage more proportionate bail responses, as a person charged with this offence will not have to satisfy a reverse onus.

New factors to be considered where applicant is an Aboriginal person or a child – Part 3 of the Bill

The Bill provides for new factors in sections 3A and 3B of the Bail Act that must be considered when an applicant for bail is an Aboriginal person or a child respectively, noting that where the applicant is an Aboriginal child the bail decision maker must take into account the factors in both clauses 33 and 35. These provisions will promote the rights to equality (section 8), culture (section 19) and protection of children (section 17(2)) in the Charter.

Clause 33 provides further particularisation of the existing considerations in section 3A to give more guidance to bail decision makers and ensure the considerations are central to all bail determinations where the applicant is an Aboriginal person. The revised provision reflects the persisting systemic issues contributing to the over-representation of Aboriginal people in the criminal justice system and details the experiences of Aboriginal Victorians including factors that make them particularly vulnerable in the bail and remand system. The expanded list of considerations also recognises the importance of maintaining and developing cultural connection and will assist bail decision makers to make culturally appropriate bail decisions. Clause 33 also requires bail decision makers who have refused bail to an Aboriginal person to identify the matters they had regard to in taking into account the issues set out in section 3A(1), as amended, and to record those matters in writing or state them orally.

Clause 35 will expand and modernise the considerations in section 3B (factors that must be taken into account by a bail decision maker when making a bail determination in relation to a child) to ensure they account for the special needs and vulnerability of a child, and the detrimental impact of remand for children.

Clause 38 amends section 3AAA(1)(h) by listing what may constitute a 'special vulnerability' and adding a physical disability to that list.

Promotion of the right to equality (section 8)

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. The purpose of this component of the right to equality is to ensure that all laws and policies are applied equally, and do not have a discriminatory effect.

'Discrimination' under the Charter is defined by reference to the definition in the *Equal Opportunity Act 2010* on the basis of an attribute in section 6 of that Act, which relevantly includes age, race, gender identity, religious belief and disability. Relevantly, indirect discrimination occurs where a person imposes a

requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with a protected attribute, but only where that requirement, condition or practice is not reasonable.

Clauses 33 and 35 seek to promote equality rights and children's rights by providing an updated list of factors that must be considered by bail decision makers when making a bail determination in relation to an Aboriginal person or a child respectively. These reforms seek to ensure that bail decision makers properly consider all factors relevant to an individual bail application, including those that may mitigate against a limitation on the right to liberty. The revised provisions intend to give effect to the reasons the considerations were originally inserted in the Act. For example, clause 33 acknowledges the 'historical and ongoing discriminatory systemic factors that have resulted in Aboriginal people being over-represented in the criminal justice system, including in the remand population' (section 3A(1)(a), as amended). In respect of children, pursuant to the amendments made to section 3B of the Bail Act by the Bill, 'a bail decision maker must take into account … the need to impose on the child the minimum intervention required in the circumstances, with the remand of the child being a last resort' (section 3B(1)(b), as amended).

The amended considerations in clause 33 promote equality for Aboriginal Victorians by acknowledging the unique disadvantages Aboriginal people have and continue to face and recognises 'the risk of harm and trauma that being in custody poses to Aboriginal people' (section 3A(1)(b), as amended). In effect, the Bill will require specific consideration of factors relevant to the exercise of Aboriginal cultural rights, which in turn will inform bail decisions involving Aboriginal people. This will encourage the making of bail decisions that are consistent with Aboriginal cultural rights to the extent possible. As is currently the case under the Bail Act, clause 33 will be relevant when making all determinations under the Bail Act. This may include extending, granting or revoking bail and setting or varying bail conditions, not just granting or refusing bail.

Clause 33 of the Bill also requires that bail decision makers must take into account the importance of Aboriginal bail support services when setting bail conditions for an Aboriginal person where such services are available and where appropriate, noting that the Aboriginal person may not always wish to engage with an Aboriginal service.

For children, clause 35 will require bail decision makers to consider the fact that some cohorts of children (such as Aboriginal children, children involved in the child protection system, and children from culturally and linguistically diverse backgrounds) experience discrimination, which results in their over-representation in the criminal justice system (see new section 3B(1)(j)).

No limit on the right to equality (section 8)

Section 8(4) of the Charter qualifies the equality right by clarifying that measures taken for the purpose of assisting or advancing persons or groups who are disadvantaged because of discrimination, do not constitute discrimination.

As outlined above, clause 33 of the Bill requires bail decision makers to consider the additional factors in section 3A when the applicant for bail is an Aboriginal person. As a consequence, Aboriginal applicants for bail, including Aboriginal children, are treated differently under the Bail Act than non-Aboriginal applicants.

As the amendments only have the effect of introducing new considerations concerning Aboriginal people, including their cultural rights and obligations, that bail decision makers must ensure their determination accounts for, I do not consider that this results in unfavourable treatment of other groups of people. However, even if it did, it would not constitute discrimination as it would be a special measure under section 8(4) of the Charter. This is because its purpose is to assist and advance Aboriginal people, who are more likely than non-Aboriginal people to be remanded in custody. The continuing and increasing overrepresentation of Aboriginal people in the remand system is a symptom of the discrimination experienced by Aboriginal people in Victoria.

As such, proactive steps are required by this Parliament to address discrimination which has been a cause of Aboriginal disadvantage in the bail and remand system. The proposed differentiated approach is appropriately limited as it requires a bail decision maker to take into account Aboriginal-specific factors when determining a bail application but does not mandate a particular decision – in other words, the bail decision-maker retains a discretion to grant or refuse bail having considered all the relevant circumstances. Aboriginal people may still be remanded in custody despite a proper consideration of the updated Aboriginal-specific factors and section 3A of the Bail Act.

Cultural rights (section 19)

Section 19(2) of the Charter provides that Aboriginal persons hold distinct cultural rights, including the right to maintain kinship ties and their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

Aboriginal culture has its own concept of kinship and Aboriginal kinship networks may extend beyond the immediate family and into other parts of their community. The Bail Act directly affects the exercise of Aboriginal

cultural rights because a decision to remand an Aboriginal person may interrupt cultural connections, including kinship networks, and restrict access to places of spiritual significance for Aboriginal people.

By requiring bail decision makers to consider certain factors in relation to Aboriginal people (clause 33) (including a note to remind bail decision makers of the distinct cultural rights Aboriginal persons hold under the Charter) the Bill will support the exercise of Aboriginal cultural rights, including the right to enjoy identity and culture, maintain kinship ties and connection to country, traditional laws and customs. This is crucial to ensuring that there are fewer barriers for Aboriginal people to the enjoyment of cultural rights and, in that way, the Bill will promote the right in section 19.

Protection of children (section 17(2))

As discussed above, the Bill updates the child-specific considerations in section 3B of the Bail Act to better recognise the vulnerability of children and the detrimental impact of remand for children, and to reflect the key themes of recommendation 58 of the Our Youth, Our Way Report. Clause 35 of the Bill will require bail decision makers to take into account:

- the need to impose on the child the minimum intervention required in the circumstances, with remand being a last resort;
- the child's age, maturity and stage of development;
- the common law presumption of *doli incapax*, that a child who is 10 years of age or over but under 14 years of age cannot commit an offence;
- any cognitive impairment, mental illness or disability of the child;
- the child's personal history; and
- any other relevant factor or characteristic.

Where an applicant for bail is an Aboriginal child, the bail decision maker must take into account both clauses 33 (setting out considerations in relation to an Aboriginal person) and 35 (setting out considerations in relation to a child).

In my opinion, the Bill promotes the rights of children and families. The extent to which any limitation remains is reasonable and justified for the reasons discussed above.

Conclusion

In my opinion the Bill does not unreasonably limit any Charter rights. The amendments to the Bail Act achieve a proportionate balance between the rights protected under the Charter and the protection of the community.

I consider the Bill to be compatible with the Charter.

Jaclyn Symes MP
Attorney-General
Minister for Emergency Services

Second reading

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:21): I move:

That the bill be now read a second time.

Ordered that second-reading speech be incorporated into *Hansard*:

The Bill introduces a suite of changes to the *Bail Act 1977* to ensure our bail laws protect the whole community and better target the use of remand to cases where it is necessary to prevent an unacceptable risk to community safety.

The government introduced changes to Victoria's bail laws in 2017 in response to the tragic events in the Melbourne CBD on 20 January of that year, when James Gargasoulas murdered six people and injured many others. Mr Gargasoulas was on bail at the time, and this was not the first violent crime that had undermined public confidence in the bail system.

In response to these events, government asked the Honourable Paul Coghlan QC to undertake an urgent review of Victoria's bail laws, with the aim of increasing community safety and restoring the public's trust in the bail and justice systems. The government then committed to implementing, or going further than, all of the recommendations in Mr Coghlan's first report.

The subsequent legislative changes made Victoria's bail laws the toughest in the country, including by making it more difficult for repeat offenders to get bail. The changes were intended to ensure that offending on bail

should have consequences. In order to achieve that, a tougher bail test applied to people alleged to have committed offences while on bail. Those changes have become known as the 'uplift' provisions.

The changes, which came into effect in 2018, resulted in a significant increase in remand numbers. The changes were made to safeguard the community. However, it is our job to make sure that the protection of the community includes all members of the community, especially those who are most vulnerable. The 2018 changes to the Bail Act left some of our community disproportionately exposed to criminalisation and incarceration. In this respect, we got the balance wrong.

We know that the changes we made have had a disproportionate impact on people who were already experiencing significant disadvantage, with a particular impact on Aboriginal people, people with disabilities, children and women. Ultimately, the net was cast too wide.

The reforms we are now introducing seek to ensure that all members of the community are protected, and that low-level offending is responded to proportionately and effectively. We acknowledge that these reforms are urgently needed. They will take effect as of 25 March 2024, which balances this need for change with the time that the courts, police, and legal assistance providers will need for implementation.

The disproportionate impact of bail laws on vulnerable Victorians has been highlighted by the case of Ms Veronica Nelson, a proud Gunditjmara, Dja Dja Wurrung, Wiradjuri and Yorta Yorta woman who died at Dame Phyllis Frost Centre on 2 January 2020. Veronica was on remand, having been refused bail in December 2019 for shop theft offences. I express my profound and deepest sympathies to Veronica's family, friends and community.

The recent coronial inquest into Veronica's death found that the bail system has a discriminatory impact on Aboriginal people resulting in grossly disproportionate rates of remand, with the most significant impact being on Aboriginal women. The reforms in the Bill will address well-documented concerns with our current bail laws, which were highlighted in the Inquest into Veronica's death. It will do this by:

- refining the bail tests to focus on serious alleged offending and serious risk;
- reducing the overrepresentation of vulnerable groups in the justice system including women, Aboriginal peoples and children; and
- appropriately balancing the response of the system to accused people with the rights and protection of victim-survivors and the community.

Remand and custody should be used to keep Victorians safe, not to further punish the most vulnerable members of our community. Our new laws will reflect that.

I will now explain the key features of the reforms.

Preventing inappropriate 'uplift' to higher reverse-onus tests

The Bill introduces a balanced and flexible approach to bail decisions for adults that more appropriately targets reverse-onus tests to those accused of serious offending. This should help to avoid the remand of those accused of relatively minor offences who would not pose an unacceptable risk to community safety if they were released on bail.

We have heard of examples such as a man who was charged with stealing less than $2 worth of petrol, then refused bail and held in custody for nearly 24 hours because the 'uplift' provisions meant he faced the most onerous bail test. There should be consequences for breaching bail, but it is clear that the current consequences are too harsh and too broadly applied.

This is just one example of the unintended consequences resulting from the 'uplift' provisions, which were primarily intended to encourage compliance with bail by imposing more onerous bail tests on people alleged to have offended while on bail. However, we now know that the blanket application of the uplift provisions is at least partially responsible for the remand of people accused of minor offences who pose little risk to the community if released on bail.

In particular, the 'double uplift' brought about by the 2018 reforms to the Bail Act resulted in those accused of repeat lower-level offences facing the same tough reverse-onus bail test as those charged with the most serious offences such as murder. For example, a charge of minor shop theft allegedly committed when a person is already on bail for an earlier charge of shop theft results in the person having to 'show compelling reason' to be granted bail. This test applies to serious offences such as rape. A further minor shop theft allegedly committed on bail results in the person having to establish 'exceptional circumstances' in order to be granted bail. This is same test applied to an alleged murderer. The total value of these thefts could be just a few dollars and the risk to community safety minimal.

The Bill addresses this perverse outcome by providing that reverse-onus tests will apply only to the serious offences specified in the schedules in the Bail Act. This will be done by removing uplift consequences from non-

scheduled offences and Bail Act offences. Reverse onuses will still apply to the serious offences listed in Schedules 1 and 2 to the Bail Act. These changes will simply reduce the scope for alleged minor offending to be treated disproportionately and inflexibly by the bail system due to the blanket approach of the uplift provisions.

The Bill will not change the treatment of those deemed to be a terrorist risk, or who have a terrorism record – a reverse onus test will continue to apply.

I want to emphasise that accused people must comply with their bail conditions, and that alleged offending while on bail is a serious matter. As with any accused person, alleged minor offenders will still be remanded if they pose an unacceptable risk to the community. When a person is not complying with their bail conditions, police and prosecutors have the discretion to apply for bail conditions to be varied or bail to be revoked. Criminal penalties will continue to apply to the minor offending that is targeted by this reform.

Refining the unacceptable risk test

Refinements to the unacceptable risk test will support the reverse-onus reforms. The current test requires that bail be refused if there is an unacceptable risk that the accused, if released on bail, would:

- endanger the safety or welfare of another;
- commit an offence;
- interfere with witnesses or obstruct the course of justice; or
- fail to surrender into custody.

Under the current test, a person can be remanded due a perceived risk of minor reoffending that would not pose a risk to community safety. If left unchanged, it would frustrate the intent of the reforms to ensure that accused are only remanded where necessary. To address this, the Bill refines the unacceptable risk test so that a risk of minor, non-violent reoffending cannot by itself result in an accused person being remanded.

A bail decision maker will still be able to remand an accused person if their risk of offending on bail poses a risk to the safety or welfare of another person. For example, an accused person who poses a risk of family violence offending must be remanded if they are an unacceptable risk to the safety or welfare of any person, which would include a victim-survivor of family violence. The risk is not confined to violent offending. A risk of property-based offending may pose an unacceptable risk of endangering the welfare of another and in that case the accused must be remanded.

The unacceptable risk test will continue to apply to all offences. The accused will still be remanded where bail is considered to pose too great a risk to the community or to the administration of justice. This reform simply allows decision makers to weigh up the gravity of potential reoffending and associated community safety risk in a more nuanced fashion. Recent cases have clearly demonstrated that custody can be a disproportionate response to the risk that an accused might, for example, commit minor thefts simply to have enough food to eat.

Repeal of Bail Act offences

The Bill repeals two of the Bail Act offences – commit indictable offence whilst on bail and contravene conduct condition of bail. These offences, which were introduced in 2013, have had a disproportionate impact on women, Aboriginal people and people experiencing disadvantage. Repealing these offences responds to calls from the legal community and recommendations made by the Coroner in the Veronica Nelson Inquest.

Remand data shows that in the years following the commencement of the two new bail offences, there was a substantial increase in the size of Victoria's remand population that was far above the increase in Victoria's crime rate. Data also shows that the offences have particularly impacted those accused of low-level offending, making them more likely to be remanded. Vulnerable individuals whose lives are already subject to instability, or First Nations people whose bail conditions are culturally inappropriate, face an increased risk of non-compliance with their bail conditions. These individuals may end up with more charges for breaches of bail conditions than the initial charge for which they were arrested. Therefore, the retention of these offences risks embedding these cohorts further into the criminal justice system.

There will still be consequences for breaching bail conditions or committing further offences on bail. For example, when a person breaches a conduct condition of bail, police can apply to the court for stricter conditions to be imposed or for bail to be revoked. A person who commits an indictable offence on bail is already facing a charge for that indictable offence. Similarly, non-compliance with bail conditions or further offending on bail must be considered by bail decision makers as part of the surrounding circumstances when deciding whether to grant or refuse bail. These matters are also taken into account in sentencing.

This reform aims to prevent the compounding, negative impacts the 2013 bail breach offences have had on vulnerable cohorts, but it retains the mechanisms to remand serious offenders who blatantly breach their bail and threaten community safety.

The offence of failure to appear on bail is retained. Attendance at court is central to the purpose of the bail system, as well as being necessary to the efficient operation of the courts. The offence of failure to answer bail has existed since the Bail Act commenced in 1977, and it has not caused the kinds of issues created by the new offences. A reverse onus test will no longer apply to this offence, which will further limit the risk of inappropriate remand decisions.

Child bail reforms

The increased diversionary focus articulated in the 2022 *Youth Diversion Statement* has significantly reduced unnecessary remand of accused children and young people. However, some children and young people are still being remanded for committing minor offences, particularly while on bail. A differentiated approach to child bail is necessary to address the unique vulnerabilities and complex disadvantages that children and young people can face. Keeping children out of custody and in the community will encourage them to retain pro-social connections, leading to improved individual outcomes and enhanced community safety in the long term.

The presumption against bail is in many cases an inappropriately high barrier for children. The Bill excludes children from the application of reverse-onus bail tests, with limited exceptions for murder and other homicide offences, so that bail decisions relating to children will be solely based on the unacceptable risk test. These reforms will give better effect to the principle of custody as a last resort for children and better reflect the unique risks and vulnerabilities of children.

As with adults, reverse-onus bail tests will continue to apply to children accused of terrorism offences, who pose a terrorism risk or have a terrorism record. This reflects the unique seriousness and the significant impact of terrorism on victims and community.

The Bill updates the child-specific considerations in the Bail Act to modernise the considerations and ensure they account for the special needs and vulnerability of a child and the detrimental impact of remand for children. In addition to the current considerations in section 3B of the Bail Act, bail decision makers will need to take into account:

- the need to impose on the child the minimum intervention required in the circumstances, with remand of the child being a last resort;
- the common law presumption of *doli incapax*, that a child over 10 but under 14 years of age cannot commit an offence;
- the child's age, maturity, and stage of development;
- the child's personal characteristics and history, including any experiences of abuse, trauma, out of home care or involvement with child protection;
- any cognitive impairment, ill health including mental illness, or disability of the child;
- whether the child would likely be sentenced to a term of imprisonment if found guilty, and if so, whether time spent on remand if bail is refused would exceed the term of imprisonment;
- the importance of supporting the child to engage in education, work or training with minimal disturbance or interruption;
- the criminogenic and other risks that time in custody has been shown to have on children; and
- the fact that some cohorts of children experience discrimination, resulting in their over-representation in the justice system (such as Aboriginal children, children involved in the child protection system and children from culturally and linguistically diverse backgrounds).

Aboriginal-specific considerations

Section 3A of the Bail Act provides a list of non-exhaustive considerations that must be taken into account when making a bail determination in relation to an Aboriginal person, including setting bail conditions. It was intended to recognise the fact that Aboriginal peoples are overrepresented on remand and face unique disadvantages in their contact with the criminal justice system. However, the provision has not always worked as intended. It is poorly understood and applied inconsistently.

Following extensive consultation with Aboriginal communities, the Bill amends section 3A to give greater guidance to bail decision makers. This includes consideration of broader systemic factors that drive inequality as well as circumstances relevant to Aboriginal people, including factors that make them particularly vulnerable in custody. The provision is also intended to support the common law responsibility on bail decision makers to ensure incarceration rates of Aboriginal peoples are not further compounded unless there is good reason (see *Re HA (a pseudonym)* [2021] VSCA 64).

New section 3A requires consideration of:

- systemic factors that have resulted, and continue to result in the over-representation of Aboriginal peoples in the criminal justice system and remand population, and the increased risks of Aboriginal peoples in custody;
- personal circumstances and the lived experiences of Aboriginal peoples that may make a person particularly vulnerable in custody, may be a causal factor for offending behaviour, or may be disrupted by being remanded, such as disability, trauma, family violence, involvement with child protection, housing insecurity and caring responsibilities;
- the importance of maintaining protective factors that play a significant role in rehabilitation, such as connection to culture, kinship, family, Elders, country and community; and
- any other cultural obligations, such as sorry business.

Bail decision makers may consider information that is reasonably available to support decision making. Some factors relating to personal circumstances will not always be relevant, and will depend on the circumstances of the case. The provision recognises that decision makers should consider the importance of giving family, community or Aboriginal support services the opportunity to provide this information, in recognition of the importance of Aboriginal people being involved in decisions made about other Aboriginal people.

In setting bail conditions, bail decision makers must also consider the importance of available Aboriginal bail support services, as this may enable compliance with conditions.

Section 3A also requires bail decision makers to identify and record the relevant matters they took into account when refusing bail to an Aboriginal adult or child to ensure they engage meaningfully with the considerations. Bail decisions are difficult – the decision maker must balance a complex set of circumstances and weigh up many competing considerations under the Bail Act. The requirements under section 3A are not intended to be onerous. The new requirement provides a level of flexibility as to how bail decision makers record the matters they had regard to. Despite this discretion, it is important the relevant matters are recorded appropriately to promote consistency and transparency in decision making and to embed culturally safe practices in the bail system.

While section 3A requires a bail decision maker to take into account Aboriginal-specific factors, it does not mandate a particular outcome. The bail decision-maker retains discretion to grant or refuse bail having considered all the relevant circumstances and tests. The provision is intended to prompt bail decision makers to challenge any unconscious biases and make more culturally appropriate decisions.

Restricting remand for summary offending

The Bill will introduce a provision that prohibits remand for minor offences in the *Summary Offences Act 1966*. This covers offences that often occur as a result of disadvantage, and a custodial sentence is either prohibited by the Act or very unlikely if the accused is found guilty. This will assist in keeping vulnerable people out of custody where their offending is of such a minor nature. The reform intends to make clear that remand is not an option for these offences. However, the accused may be bailed subject to conditions, and if these conditions are breached then bail may be revoked. This maintains consequences for breach, while ensuring a person cannot be initially remanded for these offences.

This reform does not remove the ability of bail decision makers to appropriately account for community safety. Certain summary offences are sufficiently serious that remand should remain an option. The Bill lists offences that are excluded, such that remand remains an option for violent, sexual, and other more serious summary offences.

Consideration of likelihood of custodial sentence

Existing bail laws may cause an accused person to spend more time in custody on remand than a court would have wished to impose under their ultimate sentence. A person can still be remanded even when it is unlikely they will receive a custodial sentence, if that is required for community safety. However, this should not be something that occurs unless truly necessary.

Recent data shows a considerable increase in the number of fully 'time served' sentences, whereby a person's custodial sentence is equal to the number of days they have already spent on remand. This suggests that, in at least some cases, a non-custodial or shorter custodial sentence would have been appropriate but the time spent on remand was instead deemed to be the person's 'sentence'. This has disproportionately occurred in the case of certain cohorts, particularly women.

To address this, the Bill updates the surrounding circumstances in section 3AAA(1) to require bail decision makers to consider, when applying a reverse-onus test and/or the unacceptable risk test, whether the accused is likely to be sentenced to a custodial sentence. If so, they must consider whether the accused person is likely to spend more time on remand than the eventual custodial sentence, if found guilty of the alleged offending.

This amendment seeks to ensure that remand is being used appropriately, rather than being the de facto sentence for an accused who a court would otherwise have been adjudged to deserve less time in custody, or no custodial sentence whatsoever.

New facts and circumstances

The Bill will amend the Bail Act to allow an accused person to make a second legally-represented bail application before a court without having to establish 'new facts or circumstances'.

Under the current law, an accused who is refused bail following a legally represented application cannot make a further application for bail unless they satisfy the court that they have 'new facts or circumstances'. This requirement ensures people who have had an opportunity to make an application prepared by a lawyer do not continue to make unmeritorious applications and overwhelm the system.

Legal stakeholders advised that lawyers are reluctant to represent a person at the first possible opportunity because of concern that it will mean the person will be excluded from making a better-prepared application in the days following. This means accused people who may have a good case for bail make self-represented applications, or do not apply at the first opportunity. This contributes to a high number of short remands in the system.

These brief remands are not only unnecessary and costly to the community – they are also enormously disruptive to the lives of accused people, particularly those with caring responsibilities, insecure work or insecure housing.

Giving accused people the safety net of a second represented application for bail when they have had more time to prepare will encourage legal representation at the earliest possible opportunity, preventing at least some proportion of short stays in remand. The amendment will only apply to the first two bail applications made to a court by an accused after being taken into custody. Following two legally represented applications, an accused person will still need to demonstrate new facts and circumstances to make a further application with legal representation.

Clarifying the Bail Act and fixing anomalies in application of bail tests

Finally, the Bill makes some procedural and technical changes to address gaps in the current legislation.

The Bill rectifies anomalies in the application of bail tests, by:

- ensuring those charged with serious historical offences are subject to the same tough bail tests as those charged with the equivalent contemporary offences;
- ensuring that consistent bail tests apply to accused people who offend further while subject to certain orders;
- extending the court's power to allow an accused to go at large; and
- clarifying that 'adjourned undertaking' is not 'serving a sentence' to ensure reverse onus test are applied consistently and as intended.

The Bill also makes some simple but important improvements to the Act, including:

- adopting gender-neutral terms;
- updating the definition of 'Aboriginal person';
- replacing outdated terminology such as 'surety' with plain language definitions; and
- making it clear that the rules of evidence do not apply in a bail application.

Conclusion

Ensuring the safety of the community is a core concern of government. These reforms recognise that existing laws have failed to protect parts of our community, and we need to fix that. A person on remand has their life disrupted in ways that can entrench disadvantage and a pattern of contact with the criminal justice system. Remand should only be used where necessary – it is a key tool to help to ensure the safety of the community and the administration of justice. Where the accused poses an unacceptable risk if released on bail, it is appropriate that they be remanded. But the Bail Act can continue to prioritise community safety while ensuring that people are not unnecessarily exposed to harmful custodial episodes.

I wish to acknowledge the legal and community advocacy for these reforms, particularly that of the Aboriginal community. I would also like to again acknowledge the tragic events that shed light on the need for reform, as well as the continuing advocacy of the Aboriginal and Torres Strait Islander community.

I commend the Bill to the house.

Georgie CROZIER (Southern Metropolitan) (17:22): I move:

That the debate be adjourned for one week.

Motion agreed to and debate adjourned for one week.

Adjournment

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:22): I move:

That the house do now adjourn.

Multicultural festivals and events program

Michael GALEA (South-Eastern Metropolitan) (17:22): (448) I raise a matter for the Minister for Multicultural Affairs in the other place, and the action that I seek is that the minister support the applications made by multicultural organisations in my electorate that are seeking funding to assist in the organisation of events. As the minister is aware, the South-Eastern Metropolitan Region is one of the most multicultural regions in the state. An example is the local government area of Greater Dandenong, where the majority of residents were born overseas. Out of approximately 160,000 residents, the majority of the 95,000 who came from overseas came from non-English-speaking countries. Approximately 2700 people arrive from overseas each year into Greater Dandenong, with many arriving as refugees. The council is a refugee welcome zone, and this week, as we all do, they will be celebrating Refugee Week with a variety of events underway. Many Refugee Week events are funded by the multicultural festivals and events funding. In the City of Casey approximately 130,000 of the 350,000 residents were born overseas, speaking 140 different languages, and they include a large number of refugees. It is also home to one of the largest populations of Indigenous and Torres Strait Islander people in metropolitan Melbourne.

Multicultural events and festivals are a very important and special part of our south-east community, often celebrating a historic, significant or sentimental date or event. Community members take pleasure in being able to share these events with friends and family, being connected by culture and friendship. To Australian-born residents these events provide wonderful opportunities to learn about other cultures, customs and traditions. The multicultural festivals and events program is contributing funds to 346 Victorian organisations this year, sharing in over $1.3 million of funding. Again I ask the Minister for Multicultural Affairs to support the applications of our multicultural organisations in the South-Eastern Metropolitan Region.

Meningococcal B vaccination

Georgie CROZIER (Southern Metropolitan) (17:24): (449) My adjournment matter is for the Minister for Health, and it is in relation to the meningococcal B vaccination. It is a very terrifying disease for those children and teenagers who contract meningococcal. While it is uncommon, meningococcal is a very serious disease, as I have mentioned, that can cause permanent disability and sometimes death, and it affects very young children, teenagers and young adults in particular. Vaccination is the best way to prevent this disease, and it saves lives.

Victoria's immunisation schedule currently includes free vaccination for meningococcal strains A, C, W and Y for babies at 12 months and teenagers in year 10 at school. While a vaccine for meningococcal B is available, it is not included on the national immunisation program, and this means that the cost becomes prohibitive for many families already facing cost-of-living pressures. At around $200 per dose per child – they need two doses – it can be a very expensive exercise, and so many families are not undertaking this important vaccination requirement for their children.

Last week I had a meeting with Karen Quick, the CEO of Meningitis Centre Australia. Her organisation does a lot of work, a lot of advocacy, and is working with various governments around the country. South Australia has been funding meningococcal B immunisation for babies at 12 months

and teenagers since 2018, and that has resulted in a 60 per cent reduction in meningococcal B cases for the infant age group and a 73 per cent drop in cases for adolescents in the program's first two years. So you are seeing results in South Australia as a result of the undertaking by that government.

On 24 May last year I actually raised this issue and asked whether the government would look at it, and I got a very bland answer from the minister, so that is why I am raising it again – because there has been no action from the state government and there is still a very, very big issue out there in the community. As I said, other jurisdictions are undertaking this program. Queensland has recently announced that it too will be providing free meningococcal B vaccination for all babies and teenagers from next year.

So the action I seek again from the government is to expand Victoria's immunisation schedule to include meningococcal B, a measure that will save lives; reduce disability in babies, children, teenagers and young adults; and make a huge difference to those family members that are affected by this hideous disease.

Drug harm reduction

David ETTERSHANK (Western Metropolitan) (17:27): (450) My adjournment matter is for the Minister for Mental Health. Today is International Overdose Awareness Day, an annual global event aimed at raising awareness of overdoses, remembering those who have died and acknowledging the grief experienced by their loved ones. Overdose deaths in Australia have long exceeded the road toll. In 2022 over 500 Victorians died from overdose, more than double the number of people who died on our roads – both tragic.

The Penington Institute has released an excellent new report on access to opioid pharmacotherapy treatment in Australia. It considers system-wide issues across Australia and offers recommendations to improve access to this life-saving treatment. A key recommendation calls on government and stakeholders to:

> … work together to rapidly accelerate and expand trials of alternative opioid pharmacotherapy medications, including short-acting injectable opioids …

such as hydromorphone. In March the Ryan review of the medically supervised safe injecting room also recommended the Victorian government expand access to opioid pharmacotherapy, including hydromorphone, particularly for people whose previous treatment had not been successful. Indeed at the time the Premier expressed enthusiasm for the idea. He noted, and I am paraphrasing slightly here:

> Hydromorphone is one area –

where the Ryan review –

> … wants to see an expansion … there's very clear evidence that that works, it saves and changes lives itself, not just in North Richmond but across the board.

More recently, during deliberations for the Drugs, Poisons and Controlled Substances Amendment (Medically Supervised Injecting Centre) Bill 2023 we were assured that the government would be considering innovative therapies, including hydromorphone, in the recommissioning of the North Richmond safe injecting facility. So the action that I seek is that the minister update the house on the government's progress in relation to hydromorphone and expanded pharmacotherapy more generally, including in the recommissioning of the North Richmond safe injecting facility.

Camberwell Sunday Market

John BERGER (Southern Metropolitan) (17:29): (451) My adjournment is for the Minister for Small Business in the other place, Minister Suleyman, and the action I seek is for the minister to join me at Camberwell market to meet and speak with the small businesses that make it such a vibrant weekend destination. The Camberwell market is a favourite among locals in my electorate and represents a collection of small businesses. It has been a fixture of the community since it opened in

1976, and while during the week it is a car park, on Sundays it becomes a busy market full of unique stalls. My region of Southern Metro is home to many small businesses, like the ones that come to the Camberwell market on Sundays, and I am committed to ensuring the long-term success of this busy precinct.

The Andrews Labor government has a strong record supporting small businesses. We have had the Small Business Bus visit the Southern Metropolitan Region multiple times over the last year, providing expert advice and assistance to business owners and supporting them to plan for the future. The Andrews Labor government also supported small businesses in my electorate by providing access through the Ready for Growth program and delivering the new Jewish Arts Quarter in Elsternwick. This work has enabled small businesses to focus on what they do best: providing quality products and services.

Along with providing a venue for small businesses, the markets also attract people from across Melbourne who come and spend time at Camberwell Junction. The market is most famous for the extensive number of shops dedicated to second-hand goods. Aside from preloved goods there are also handmade crafts and treasures made by local artists. The Camberwell market would not be all of this without the tireless work of the Rotary Club of Balwyn. I have had the chance to meet and visit with them multiple times this year and have observed their significant impact on our community. I would like to particularly thank David Hobson and Michael Valos of Balwyn Rotary for their tireless work in the area. I want to highlight examples of their exemplary service: their work after the Türkiye and Syria earthquakes and to raise money after the devastating floods to help rebuild damaged communities.

The Camberwell Sunday market is a community institution in my electorate, providing small businesses with a venue to sell their products and the opportunity to fundraise for important causes. That is why I hope the minister will join me in my community of Camberwell. I know that the minister would enjoy visiting and seeing the variety of small businesses that call the Camberwell market home.

Short-stay accommodation

Bev McARTHUR (Western Victoria) (17:31): (452) My adjournment matter is for the Minister for Tourism, Sport and Major Events and concerns the rumoured introduction of a short-term bed tax in Victoria, which might include all commercial accommodation – regulated and unregulated.

Members interjecting.

Bev McARTHUR: They hate hotels. If it were not for this government's track record on introducing new taxes, I would find it hard to believe. But it flies in the face of common sense. Needless to say, Victorian hoteliers are rightly up in arms. To hit an industry still recovering from the destructive COVID lockdowns is baffling – the worst in the world, I might just add. The knock-on effects would be huge. The cost of accommodation is one of the first things people look at when deciding where to travel, and any reduction in the number of people staying in Victoria would have consequences for tourist attractions, restaurants and bars and indeed the whole visitor economy.

Hotel occupancy rates for Victoria in the year to June 2023 were 66.7 per cent, which is below the Australian average. We are again worst in the country – not surprising – and well below the 2019 rate of 77.3 per cent. That is not even too hot, is it? What kind of signal would this new tax send? It is not just about tourists. I have often spoken in Parliament about the world-leading events industry Victoria enjoys, not just purely the obvious sporting and music events –

Harriet Shing: They're coming to see you, Bev.

Bev McARTHUR: they need to come here and see me – but the vast vibrant and economically significant business events sector. I do not know why they do not come here for a bit of entertainment. Anyway, any new tax could make Melbourne and indeed the whole of Victoria a much less attractive

proposition. The proposed tax could add nearly a million dollars of direct cost to our pipeline of 179,000 room nights and might lead event organisers to consider alternative options.

Now, if this tax is going to solve the housing crisis, it might be worth examining, but the reality is it will do nothing of the kind. At best, it is another attempt to plug Labor's budget black hole. This government needs to learn that there is absolutely no way that picking on every conceivable item or activity and taxing it out of existence will solve any problem. Taxing hotels is not going to solve our housing crisis, it will just reduce overseas, interstate and Victorian tourism and add costs to business travel. Minister, the action I seek is to stop the bed tax. And let us not forget about Victorians that need to stay in the city for work or for hospital events where a loved one needs to access medical care or other social services not available outside the tram tracks. Stop the bed tax.

Duck hunting

Katherine COPSEY (Southern Metropolitan) (17:35): (453) My adjournment this evening is to the Minister for Agriculture. This morning the parliamentary inquiry into recreational native bird hunting handed down its final report, which recommended a ban on duck shooting in Victoria. Duck shooting is a barbaric practice that has been given the green light by Victorian Labor for far too long. The government should now act swiftly to end the slaughter of our native birds. We know that Victoria is in the midst of an extinction crisis and we know that thousands of waterbirds are already under extreme stress, so to continue to allow duck shooting is nothing short of inhumane.

Duck shooting has been banned in states like New South Wales, Queensland and Western Australia for decades, and yet despite decades of activism by brave rescuers, by community members, we are still yet to see a ban on this cruel sport in Victoria. Minister, with the release of today's report the government has no more excuses for delay and in fact has a wonderful opportunity to bring Victoria into line with other states. Will you stand up to the shooting lobby and their allies and immediately implement the committee's recommendation to ban duck shooting in Victoria?

Sunshine train station

Trung LUU (Western Metropolitan) (17:36): (454) My adjournment matter is for the Minister for Planning, and the action I seek is for the minister's assurance that the government stands unwavering in its promise to deliver the entire $143 million for the commencement of the first phase of the Sunshine station master plan. The Sunshine station development is a matter of great concern to me and many of my constituents in Brimbank city. The announcement of the master plan was accompanied by a financial commitment of $143 million for the initial phase of this plan, but in the 2023–24 budget the details of the financial commitment are unclear. The figure is simply listed as 'to be confirmed'. The reason for this ambiguity is said to be ongoing procurement processes, the outcomes of which are pending. Can the minister assure us that the government will deliver the entire $143 million that they promised? We also want to know whether the project time line and execution are shielded from any impact arising from the review of the infrastructure pipeline by the Commonwealth government.

As a representative of the opposition it is my duty to hold the government accountable for their commitments. When public funds are involved we have the responsibility to ensure that the interests of citizens are safeguarded and that transparency is maintained. I look forward to the minister's response and the promise he has provided, which I hope will provide my community with the answer that they are seeking.

International Overdose Awareness Day

Aiv PUGLIELLI (North-Eastern Metropolitan) (17:38): (455) My adjournment tonight is to the Minister for Mental Health, and the action I seek is that she finally release the Ken Lay report. Today is International Overdose Awareness Day, a day to remember those who have lost their lives to overdose and a day to fight to end overdose deaths in our community. In Victoria over 500 people a year are dying from overdose – 500 lives. Some of these are preventable, and it is time. We need the

Labor government to commit to action. The Melbourne CBD needs a safe injecting centre. Honestly, other places in Victoria need access to safe injecting services as well. We need to make pill testing or drug checking available and a range of other interventions to reduce drug harm. And instead, overdoses are on the rise.

We have just seen the release of the latest national annual overdose report by the Penington Institute, and the data is grim. Across our country there is a fatal overdose every 4 hours. It is devastating. Over the past two decades overdose deaths have well outpaced our population growth. Yes, it is a complex problem with complex solutions, but one of these – one that is clearly supported by evidence – is medically supervised injecting rooms. A safe injecting centre in the Melbourne CBD is widely supported by addiction specialists, healthcare providers, legal centres and many others. Seventy-eight CEOs and leaders from community organisations signed a joint letter in support of a supervised injecting service in the City of Melbourne, because everyone has a right to life-saving health care, and providing resuscitation support to people who use drugs save lives. It means that less families and communities have to mark International Overdose Awareness Day.

Minister, we are still waiting to see the Ken Lay report and hoping to hear your commitment to a safe injecting centre in Melbourne. It has been 71 days since I last asked you to release this important report. You have had it for around three months now. This is urgent. We need a supervised injecting centre in Melbourne. Please, Minister, release the report.

Country Fire Authority

Ann-Marie HERMANS (South-Eastern Metropolitan) (17:40): (456) My adjournment is to the Minister for Emergency Services. The action I seek is for the minister to write to me and clearly outline the status of the government's much-heralded program to upgrade the tanker fleet for the CFA. On 15 January 2022, Minister, you announced that the government was spending $23 million on 48 new heavy tankers and two new light tankers for the CFA, which were to be operational by September 2023, which is in fact tomorrow. The important questions that have been raised with me that I request the minister to answer in her response are as follows: (1) how many of these 50 new vehicles have actually been delivered; (2) when will the rest of these tankers be delivered; (3) what is the actual cost of these new tankers; and (4) when will the actual cost of these new tankers be made publicly available?

All Victorians are concerned to ensure that the CFA is properly equipped to respond as required to what is being touted as a concerning summer and therefore a pending fire season. The CFA volunteers do an outstanding job every year protecting life and property and deserve to be properly equipped and supported in their work. Many of the rural CFA brigades are forced to conduct local fundraising efforts to provide funds to enable them to purchase vital equipment that assists them to continue their fantastic voluntary work in our rural communities. It is incumbent on the government to strongly support these volunteers in any way they can, including providing modern trucks and equipment. I must say that I have been to CFA stations and I have seen that some of them have got 30-year-old trucks where you still have to sit on the outside of the truck, which is absolutely archaic and appalling, not to mention that they have their diesel trucks in locations where they can still breathe in all of those fumes, which is an occupational health and safety hazard. It is absolutely appalling that this government is not doing more to replace or to extend a lot of these CFA buildings, or to purchase new properties for them where they can have their new trucks and service regional Victoria. So I look forward to hearing from the minister regarding this important issue.

Building practitioner fees

Wendy LOVELL (Northern Victoria) (17:43): (457) My adjournment matter is directed to the Treasurer, and it concerns the exorbitant increases in registration fees for building practitioners in Victoria over the last two years. The action that I seek from the Treasurer is for the Treasurer to review and reduce these unfair increases in annual registration fees for practitioners across the building industry in Victoria, including builders, designers and surveyors. They are increasing the operating

costs of businesses in the construction industry, which in turn means higher costs for customers. The legacy Premier Daniel Andrews and Treasurer Tim Pallas will leave to future generations of Victorians is record levels of government debt. Due to Labor's financial incompetence this government will be forever remembered as being the government that truly sent Victoria broke. And while people joke that under Cain and Kirner the capital of Victoria was 20 cents, it is worse now because under Andrews and Pallas the state does not have even two bob to rub together.

On Tuesday it was reported that under the Andrews Labor government's watch Victoria's net debt is estimated to reach an unbelievable $226 billion by the 2026–27 financial year. To put that debt figure in perspective, that equates to $86,923 for every one of Victoria's 2.6 million households and is a debt increase of 85 per cent in just five years. In true Labor fashion the Treasurer has accumulated this debt while expecting Victorians to pay more, introducing over 50 new or increased taxes, levies or fees since being elected in 2014. Labor's only answer to their own financial incompetence is to tax their way out.

I was recently contacted by a building designer based in Shepparton who wanted to convey the extent of the disgraceful increases in the cost of his registration fee imposed by the Andrews Labor government over the last two financial years. In 2021–22 the cost of an annual registration as a building designer or architect was $61.30. This registration fee increased in 2022–23 to $294.40, which is a 380 per cent increase in just one year. In 2023–24 the same registration fee has risen to $673.60 if the fee is paid three months prior to the renewal date or $1052.40 if it is paid within three months of the renewal date. Even at the lower cost, that is an increase of 998 per cent in just two years. For a local building designer to register with the Victorian Building Authority to be legally able to operate his business, these exorbitant increases are unsustainable and unfair. It is not just designers and architects that have been lumbered with these fee increases but all positions across the building industry, including domestic and commercial builders, draftspersons, surveyors and project managers. These are exorbitant and unacceptable increases, and I call on the Treasurer to review and reduce the registration fees.

Economy

Joe McCRACKEN (Western Victoria) (17:46): (458) My adjournment matter is for the Treasurer, and it relates to Victoria's staggering debt levels. The action that I seek is an assurance that our debt will not be added to in the future. $226 billion by 2026–27 – that is interest of $22 million a day, and I tell you, I have got an interest in interest. Imagine what we could do in a week.

Let us just start off this beautiful benevolent dictatorship of Joe's week. On Monday we would start off with car parks. We know we can do $2 million for 1000 car parks. Let us spend $22 million and do 11,000 car parks in Ballarat – why not? On Tuesday – we just spent $6 million on Fed TAFE – why not build a whole new different campus for Fed TAFE for $22 million? Wouldn't that be great? Wednesday is schools day, I think. We just spent $8.6 million on upgrading Woodmans Hill school in Ballarat East. Well, we could upgrade nearly three schools just on Wednesday in Ballarat. How good would that be? Thursday is sports day – not my speciality, but I am going to have a crack at it anyway. Just in the last budget we saw $1 million dedicated to the Brown Hill rec reserve upgrade. Jeez, $1 million to all the rec reserves, and I have got a list of them too. Alfredton, you get $1 million; Buninyong, you get $1 million; Pleasant Street, you get $1 million; Vic Park, $1 million; Burrumbeet rec reserve, $1 million; Trekardo Park, $1 million; Learmonth rec reserve, $1 million. And I have only gone through seven, with $15 million left. I am going to have to go into Ararat, Stawell, Maryborough, Geelong – I have just got so much money. Jeez, I know why they just spend it now. It gets addictive, doesn't it? Friday is roads day. I do not even think $22 million is going to hit the sides when it comes to roads, is it, Mrs McArthur? We are not going to get far at all.

You know, on the weekend maybe we could have a rest. I know in the latest state budget there was $42 million that was meant to be collected in the windfall gains tax, so how about over the weekend we just slash that out? I know I think about cutting taxes on the weekend, and I bet everyone else does

here as well. You know what we could do as well? I think if we spent $22 million in one day, we could buy about 44,000 tickets to Taylor Swift. I mean, imagine what that would do for the state. But of course none of this is possible because we have to pay it on interest repayments, not things that people would actually enjoy. What a disgrace. I would love to go to Tay Tay. You would too, Ms Shing; I bet you would. We could all go together and have a nice time as a Victorian community –

A member interjected.

Joe McCRACKEN: I know you do too. It would be great. But we cannot because we are stuck paying it on interest repayments. What a shame.

Emerald police station

Renee HEATH (Eastern Victoria) (17:49): (459) My adjournment is for the Minister for Police, and the action that I seek is that the minister will commit to extending the opening hours of the Emerald police station so the area has a 24-hour police presence. I was recently contacted by a constituent that lives just outside of Emerald. She is very concerned about the increase in crime in the area in the last 12 months. She named a few incidents that have sparked her concern. She mentioned that the chicken shop has been broken into, the petrol station was robbed, Mitre 10 was vandalised, there have been multiple attempts at arson recently and there have been youth involved in brawls. She said that every two or three weeks she has to call the police because of out-of-control parties or other issues. She said that the police have to come from Pakenham, which means that there is 30 to 40 minutes between when she calls and when they arrive. The people in Emerald do not feel safe. Some are concerned that if there is a serious emergency help will not arrive on time. I ask the minister to address this issue.

Fitzroy North Primary School

Evan MULHOLLAND (Northern Metropolitan) (17:50): (460) My adjournment is for the Minister for Education, and the action I seek is for her to provide a clear time line for the completion of the extension of Fitzroy North Primary School, which has been underway for the last couple of years. Multiple parents and members of the school community have reached out to me. They have told me their children have had to take classes, and are still taking classes, in the hall, which is filled with interruptions and is distracting them from proper learning. They have told me a fair chunk of the school is off limits to students, and parents have told me they are clearly over the lack of progress. It seems to be going at a snail's pace. Much like most of the Big Build, these communities and these parents are being left in the dark as to what is going on at Fitzroy North Primary School. It seems to be indicative of a common theme of the Andrews government: a lack of transparency.

I am really keen for the minister to provide a clear time line. We know across school building projects – and my colleague Dr Bach knows this only too well – we have seen delay after delay after delay. Fitzroy North Primary School is a great school. It is a great school in my electorate. I have been very pleased to meet with parents and chat with them about the issues facing their school. I humbly and in a constructive manner seek the action of the minister to provide, through me, my constituents with a clear time line of when the school building project will be completed at the great Fitzroy North Primary School.

Education system

Matthew BACH (North-Eastern Metropolitan) (17:52): (461) My adjournment matter is also for the Minister for Education, and it is on a slightly different matter. The action that I seek is for the minister to release in full the taxpayer-funded study into schools and their approach to teaching reading that was recently reported in the media. This study concerned six state primary schools. I know that the minister is incredibly excited about the recent NAPLAN results, despite the fact that they show that a quarter – fully a quarter – of Victorian students have dreadful reading skills.

David Davis: Standards have fallen.

Matthew BACH: Standards have fallen, as Mr Davis says. Indeed they have been falling for the last 20 years. The minister in the other place, every time she has the capacity to stand up and do a ministers statement, likes to quote from my opinion pieces. She enjoys reading my opinion pieces. I also enjoy reading my opinion pieces, but I read other people's opinion pieces too, and I read a very interesting one two days ago in the *Age* newspaper, one of my favourites.

One Jo Rogers, a teacher herself, had an opinion piece in the *Age* two days ago, interestingly partly entitled 'state government is creating a generation of kids who can't read'. It would have been even better if it had been entitled 'Kids who can't read good'. Nonetheless, that was the title, and what Ms Rogers – who is something of an expert, unlike Ms Hutchins – spoke about is that it is not the fault of our kids that they have, for example, reading skills similar to those of most trained monkeys. That is a quote of mine that the minister wanted to recapitulate in the other place the other day. It is not the fault of our children or our amazing teachers – I used to be a teacher myself – but rather the fault of the state government and its faulty curriculum.

The state government continues to push what are called whole-word approaches to reading. In short, what you do is you give kids a book and you just ask them to guess words. For the last 20 years we have known that this approach has no evidence behind it. For the last 20 years we have known that phonics is the evidence-based approach to reading, and that is what Ms Rogers had to say. Indeed she picked up the minister, as I have done, for the victory lap that she has been doing recently regarding our dreadful NAPLAN results. It is interesting that the minister is suppressing this important report, a report into fabulous state primary schools that say no to the government's faulty approach to reading and instead embrace phonics. What this report shows, it is reported, is that schools who embrace phonics, surprisingly, do far better. The kids at these schools do far better.

Of course I am not surprised that the minister has suppressed this report. She should release it. She should release it so that best practice can be shared right across our state, so that more teachers can finally learn something that they never learned going through our university system, and that is the skills that they are up to learning absolutely to help our children improve, because as Ms Rogers said, the state government curriculum is creating a generation of kids who cannot read.

The Vineyard Restaurant and Bar

David DAVIS (Southern Metropolitan) (17:55): (462) I will be brief given the hour. My matter for the adjournment tonight is for the attention of the Minister for Environment, and it concerns a piece of land, state government owned land, in St Kilda in my electorate. It is at the end of Acland Street. To describe to the community and the minister exactly where this piece of land is, it is at the end of Acland Street. It is right next to the St Kilda Triangle. It is a very significant piece of land on which the Vineyard is placed, and Johnny Iodice, the well-known musician – and many in the music industry gather and meet there – has had a long-term lease there. It is true that the City of Port Phillip is the committee of management under the arrangements with the minister, but it is actually Crown land for which the Minister for Environment has direct responsibility.

That important site and venue has actually been very important for the music industry for a long time. We need to make sure that the links there are preserved, and I am just somewhat perturbed. I have been perturbed by what I have heard, and the government has not understood that this is a site that needs to be protected and is important for the music industry. There is a question of the long-term lease. There is a question of the impact of COVID. Of course many small businesses in the hospitality sector really did suffer quite badly through COVID. Whatever the support they had from state and federal governments, they actually did suffer quite severely, and it has taken some of them quite a while to come up and come off the mat, as it were. But the importance of this site is that it is important – iconic, I would say, the Vineyard – for the music and entertainment industry. It is a gathering place. It is a place that is loved by local people in the community.

Obviously a balance needs to be struck. Venues like these need to work with local communities and with local councils, and the council – the City of Port Phillip as a manager of the committee of

management of the land – needs to work with the venue too so there is an important future for the site. There is a question of reinvestment. There is a question of how this is managed into the future, but not harsh or extreme actions. The minister needs to work carefully to make sure that we do not overly pressure important venues of this type. This is the goose and the golden egg. I ask the minister to look carefully and make sure that an outcome is achieved with a new lease that protects the music industry.

Responses

Harriet SHING (Eastern Victoria – Minister for Water, Minister for Regional Development, Minister for Equality) (17:58): There have been 15 matters on the adjournment this evening. It is pleasing to see that three members stayed behind to hear the conclusion of today's events. I am delighted to confirm to the house that I will ensure that those matters are passed to the relevant ministers for their responses.

The PRESIDENT: The house stands adjourned.

House adjourned 5:59 pm.