PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT

FIRST SESSION

THURSDAY, 24 MARCH 2022

hansard.parliament.vic.gov.au

By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU AC

The Lieutenant-Governor

The Honourable JAMES ANGUS AO

The ministry

Premier	The Hon. DM Andrews MP
Deputy Premier, Minister for Transport Infrastructure, Minister for the Suburban Rail Loop and Minister for Commonwealth Games Delivery	The Hon. JM Allan MP
Attorney-General and Minister for Emergency Services	The Hon. J Symes MLC
Minister for Training and Skills, Minister for Higher Education and Minister for Agriculture	The Hon. GA Tierney MLC
Treasurer, Minister for Economic Development, Minister for Industrial Relations and Minister for Trade	The Hon. TH Pallas MP
Minister for Planning	The Hon. EA Blandthorn MP
Minister for Child Protection and Family Services and Minister for Disability, Ageing and Carers	The Hon. CW Brooks MP
Minister for Police, Minister for Crime Prevention and Minister for Racing	The Hon. AR Carbines MP
Minister for Public Transport, Minister for Roads and Road Safety, Minister for Industry Support and Recovery and Minister for Business Precincts	The Hon. BA Carroll MP
Minister for Energy, Minister for Environment and Climate Action and Minister for Solar Homes	The Hon. L D'Ambrosio MP
Minister for Tourism, Sport and Major Events and Minister for Creative Industries	The Hon. S Dimopoulos MP
Minister for Ports and Freight, Minister for Consumer Affairs, Gaming and Liquor Regulation, Minister for Local Government and Minister for Suburban Development	The Hon. MM Horne MP
Minister for Education and Minister for Women	The Hon. NM Hutchins MP
Minister for Corrections, Minister for Youth Justice, Minister for Victim Support and Minister for Fishing and Boating	The Hon. S Kilkenny MP
Minister for Commonwealth Games Legacy and Minister for Veterans	The Hon. SL Leane MLC
Assistant Treasurer, Minister for Regulatory Reform, Minister for Government Services and Minister for Housing	The Hon. DJ Pearson MP
Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business and Minister for Resources	The Hon. JL Pulford MLC
Minister for Water, Minister for Regional Development and Minister for Equality	The Hon. H Shing MLC
Minister for Multicultural Affairs, Minister for Prevention of Family Violence, Minister for Community Sport and Minister for Youth	The Hon. RL Spence MP
Minister for Workplace Safety and Minister for Early Childhood and Pre-Prep	The Hon. I Stitt MLC
Minister for Health and Minister for Ambulance Services	The Hon. M Thomas MP
Minister for Mental Health and Minister for Treaty and First Peoples	The Hon. G Williams MP
Cabinet Secretary	Mr SJ McGhie MP

Legislative Council committees

Economy and Infrastructure Standing Committee

Mr Finn, Mr Gepp, Dr Kieu, Mrs McArthur, Mr Quilty and Mr Tarlamis.
Participating members: Dr Bach, Ms Bath, Dr Cumming, Mr Davis, Ms Lovell, Mr Meddick, Mr Ondarchie, Mr Rich-Phillips, Ms Vaghela and Ms Watt.

Environment and Planning Standing Committee

Dr Bach, Ms Bath, Dr Cumming, Mr Grimley, Mr Hayes, Mr Meddick, Mr Melhem, Dr Ratnam, Ms Terpstra and Ms Watt.
Participating members: Ms Burnett-Wake, Ms Crozier, Mr Davis, Dr Kieu, Mrs McArthur, Mr Quilty and Mr Rich-Phillips.

Legal and Social Issues Standing Committee

Ms Burnett-Wake, Mr Erdogan, Dr Kieu, Ms Maxwell, Mr Ondarchie, Ms Patten and Ms Taylor.
Participating members: Dr Bach, Ms Bath, Ms Crozier, Dr Cumming, Mr Gepp, Mr Grimley, Ms Lovell, Mr Quilty, Dr Ratnam, Mr Tarlamis, Ms Terpstra, Ms Vaghela and Ms Watt.

Privileges Committee

Mr Atkinson, Mr Bourman, Mr Davis, Mr Grimley, Mr Leane, Mr Rich-Phillips, Ms Shing, Ms Symes and Ms Tierney.

Procedure Committee

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

Joint committees

Dispute Resolution Committee

Council: Mr Bourman, Ms Crozier, Mr Davis, Ms Symes and Ms Tierney.
Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula and Mr R Smith.

Electoral Matters Committee

Council: Mr Erdogan, Mrs McArthur, Mr Meddick, Mr Melhem, Ms Lovell, Mr Quilty and Mr Tarlamis.
Assembly: Ms Hall, Dr Read and Mr Rowswell.

House Committee

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

Integrity and Oversight Committee

Council: Mr Grimley.
Assembly: Mr Halse, Mr Maas, Mr Rowswell, Mr Taylor, Ms Ward and Mr Wells.

Pandemic Declaration Accountability and Oversight Committee

Council: Ms Crozier and Mr Erdogan.
Assembly: Mr J Bull, Mr Eren, Ms Kealy, Mr Sheed, Ms Ward and Mr Wells.

Public Accounts and Estimates Committee

Council: Mrs McArthur and Ms Taylor.
Assembly: Ms Connolly, Mr Hibbins, Mr Maas, Mr Newbury, Mr D O'Brien, Ms Richards and Mr Richardson.

Scrutiny of Acts and Regulations Committee

Council: Mr Gepp, Ms Patten, Ms Terpstra and Ms Watt.
Assembly: Mr Burgess, Ms Connolly and Mr Morris.

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan

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

Parliamentary Services: Secretary: Ms T Burrows

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT—FIRST SESSION

President
The Hon. N ELASMAR (from 18 June 2020)
The Hon. SL LEANE (to 18 June 2020)

Deputy President
The Hon. WA LOVELL

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

Leader of the Government
The Hon. J SYMES

Deputy Leader of the Government
The Hon. GA TIERNEY

Leader of the Opposition
The Hon. DM DAVIS

Deputy Leader of the Opposition
Ms G CROZIER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	McIntosh, Mr Thomas Andrew[9]	Eastern Victoria	ALP
Bach, Dr Matthew[1]	Eastern Metropolitan	LP	Maxwell, Ms Tania Maree	Northern Victoria	DHJP
Barton, Mr Rodney Brian	Eastern Metropolitan	TMP	Meddick, Mr Andy	Western Victoria	AJP
Bath, Ms Melina Gaye	Eastern Victoria	Nats	Melhem, Mr Cesar	Western Metropolitan	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	Mikakos, Ms Jenny[10]	Northern Metropolitan	ALP
Burnett-Wake, Ms Cathrine[2]	Eastern Victoria	LP	O'Donohue, Mr Edward John[11]	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Cumming, Dr Catherine Rebecca	Western Metropolitan	Ind	Patten, Ms Fiona Heather	Northern Metropolitan	FPRP
Dalidakis, Mr Philip[3]	Southern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Davis, Mr David McLean	Southern Metropolitan	LP	Quilty, Mr Timothy	Northern Victoria	LDP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ratnam, Dr Samantha Shantini	Northern Metropolitan	Greens
Erdogan, Mr Enver[4]	Southern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas Christopher[5]	Western Metropolitan	DLP	Shing, Ms Harriet	Eastern Victoria	ALP
Garrett, Ms Jane Furneaux[6]	Eastern Victoria	ALP	Somyurek, Mr Adem[12]	South Eastern Metropolitan	Ind
Gepp, Mr Mark	Northern Victoria	ALP	Stitt, Ms Ingrid	Western Metropolitan	ALP
Grimley, Mr Stuart James	Western Victoria	DHJP	Symes, Ms Jaclyn	Northern Victoria	ALP
Hayes, Mr Clifford	Southern Metropolitan	SAP	Tarlamis, Mr Lee[13]	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne[7]	South Eastern Metropolitan	ALP	Taylor, Ms Nina	Southern Metropolitan	ALP
Kieu, Dr Tien Dung	South Eastern Metropolitan	ALP	Terpstra, Ms Sonja	Eastern Metropolitan	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Limbrick, Mr David[8]	South Eastern Metropolitan	LDP	Vaghela, Ms Kaushaliya Virjibhai[14]	Western Metropolitan	Ind
Lovell, Ms Wendy Ann	Northern Victoria	LP	Watt, Ms Sheena[15]	Northern Metropolitan	ALP
McArthur, Mrs Beverley	Western Victoria	LP	Wooldridge, Ms Mary Louise Newling[16]	Eastern Metropolitan	LP

[1] Appointed 5 March 2020
[2] Appointed 2 December 2021
[3] Resigned 17 June 2019
[4] Appointed 15 August 2019
[5] LP until 24 May 2022
Ind 24 May–2 June 2022
[6] Died 2 July 2022
[7] Resigned 23 March 2020
[8] Resigned 11 April 2022
Appointed 23 June 2022
[9] Appointed 18 August 2022
[10] Resigned 26 September 2020
[11] Resigned 1 December 2021
[12] ALP until 15 June 2020
[13] Appointed 23 April 2020
[14] ALP until 7 March 2022
[15] Appointed 13 October 2020
[16] Resigned 28 February 2020

Party abbreviations

AJP—Animal Justice Party; ALP—Labor Party; DHJP—Derryn Hinch's Justice Party;
DLP—Democratic Labour Party; FPRP—Fiona Patten's Reason Party; Greens—Australian Greens;
Ind—Independent; LDP—Liberal Democratic Party; LP—Liberal Party; Nats—The Nationals;
SAP—Sustainable Australia Party; SFFP—Shooters, Fishers and Farmers Party; TMP—Transport Matters Party

CONTENTS

Thursday, 24 March 2022

The PRESIDENT (Hon. N Elasmar) took the chair at 10.04 am and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT (10:05): On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the First People of Victoria. I acknowledge and pay respect to the elders of the Aboriginal nations in Victoria past, present and emerging and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament.

Petitions

Following petition presented to house:

ELECTIVE SURGERY

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council that the Government must stop blanket bans on elective surgery.

Elective surgery is not necessarily optional or non-urgent surgery and is often critical to the health, physical and mental wellbeing of Victorians.

Blanket bans on elective surgery are extending waiting lists for Victorians suffering pain and severe limitations to their lives. Victorians are, as a result of delayed treatment, potentially facing more complicated, acute and debilitating health issues.

Blanket bans on elective surgery are also unnecessarily ignoring the capability within the Victorian health system to provide relief to suffering Victorians without undermining hospital care.

The petitioners therefore request that the Legislative Council call on the Government to cancel the blanket bans on elective surgery and to not resort to such measures in the future.

By Mr ATKINSON (Eastern Metropolitan) (513 signatures).

Laid on table.

Committees

LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Victoria's Criminal Justice System

Ms PATTEN (Northern Metropolitan) (10:07): Pursuant to standing order 23.29, I lay on the table a report from the Legal and Social Issues Committee on the inquiry into Victoria's criminal justice system, including appendices, extracts of proceedings and a minority report. I further present transcripts of evidence and a summary booklet, and I move:

That the transcripts of evidence lie on the table and the report and summary booklet be published.

Motion agreed to.

Ms PATTEN: I move:

That the Council take note of the report.

As members of Parliament we get some really special opportunities to investigate matters of great importance, and I would have to say that this inquiry into the criminal justice system has been one of those privileges but also one of those challenges. As members can see, it is an enormous report. It is an enormous body of work, and it certainly consolidated my view, and I suspect the view of many of the members of the committee, that we need to improve the way we deliver justice in Victoria. In doing that we need to ensure community safety, but we need to find modern solutions to reduce

offending and reoffending. As members can see, this report stretches over two volumes. There are over 100 recommendations for change. The committee held over 50 public hearings on this, and we involved over 90 representatives from different organisations as well as individuals.

We made it a priority to involve many individuals with lived experience of the justice system, and during this inquiry we heard some really heart-wrenching, tragic evidence from victims of crime who have survived just unimaginable loss and grief. I am really grateful to a number of them who are here today. I would really like for the chamber to note Ms Cathy Oddie, Thomas Wain, Dianne McDonald, Tracie Oldham and Lee Little, who are joining us today and who have been part of this crucial inquiry. Their contributions can be seen in this report. They were influential in this, and I hope that the government listens to what they have to say today.

I want Victorians to be safe always, and we must make inroads into achieving that goal. But I do not believe—and certainly the evidence showed us this—that building more prisons will do that. In fact it may do absolutely the opposite.

The government's priority should be on supporting victims of crime, rehabilitating offenders, circumventing recidivism, ending over-representation of Aboriginal people in our jails and ensuring early intervention for those who are disadvantaged. That was one of the saddest facts that we found in this—that socio-economic disadvantage is so closely linked to increased risk of engagement with the criminal justice system. While the vast majority of people do not come across the criminal justice system, different forms of social disadvantage compound to increase that risk of criminalisation and victimisation.

The committee has made a number of recommendations for a strong focus on early intervention. We must identify individuals at risk and provide those social supports to divert them away from the system. I believe this includes changing the minimum age of criminal responsibility. It also needs to look at the way cautions and court-based diversions are used. They are a key mechanism to divert people away from the system, but currently their application is inconsistent and often at the discretion of the attending officer.

The Victorian government is currently developing a new victims of crime financial assistance scheme, and I encourage it to review the 31 thoughtful and considered recommendations regarding victims of crime that are captured in this report. These include the urgent need to embed trauma-informed practices into the design of the criminal justice system. It needs to be more accessible and a less adversarial process for victims of crime.

We need to take a stronger look at the bail system. We have seen unsentenced prisoners now accounting for 87 per cent of prison receptions. The purpose of bail is to keep the community safe from high offenders, but denying bail has had negative effects on so many people who have been charged with an offence, and it has disproportionately impacted women, Aboriginal Victorians, children, young people and people living with disabilities. The same goes for parole. We are now releasing people without parole, and that does not necessarily make the community safer.

So I am very pleased to present this report on the criminal justice system in Victoria. I hope that it influences the government to work towards a more modern, rehabilitation-focused justice system. This is what all stakeholders want, and it would have a significant positive influence on the lives of individuals and the safety of our community.

I would like to thank the secretariat staff for this extraordinary body of work: inquiry officer Alice Petrie; the research assistants, Caitlin Connally, Samantha Leahy, Jessica Wescott and Meagan Murphy; and administrative officers Cat Smith and Sylvette Bassy, under the management of Matt Newington and Lilian Topic. I would also like to thank my committee colleagues for all of their great and substantial work on this report.

Dr KIEU (South Eastern Metropolitan) (10:13): This report investigates the current state of the criminal justice system in Victoria and makes recommendations to support a better functioning justice system. The report has covered a lot of ground. It is a long report with many recommendations, which reflects how complex the criminal justice system is. We had 170 public submissions, eight days of public hearings and dozens of witnesses, organisations and individuals.

The government has been active in reforming the criminal justice system and, following this report, I have no doubt that work will continue. Some of the key achievements of the Andrews Labor government include implementing all recommendations of the Royal Commission into Family Violence, the *Youth Justice Strategic Plan 2020–30,* establishing a victims financial assistance scheme, creating a witness intermediaries scheme to support vulnerable witnesses to give their best evidence in court, delivering new Drug Courts in Melbourne, Shepparton and Ballarat and signing Victoria's fourth Aboriginal justice agreement.

Something we found in this inquiry is that the best way of preventing crime is to address the root causes of the behaviour. Our government has included free TAFE, historically low unemployment rates, Home Stretch for young adults in out-of-home care, three-year-old kinder, the Big Housing Build and a royal commission into mental health.

During the inquiry to inform us the committee called on the knowledge and expertise of community members, including victims of crime, who have lived experiences navigating the Victorian criminal justice system. The committee recognises the toll of revisiting such traumatic experiences during a parliamentary committee hearing, and we express our sincere appreciation to those who shared their stories. I would also like to thank the committee members and the hardworking and dedicated committee secretariat staff.

Ms BURNETT-WAKE (Eastern Victoria) (10:15): I rise today as a member of the Legal and Social Issues Committee to speak on our recent inquiry into Victoria's criminal justice system. The inquiry was incredibly broad and each chapter really could have been an inquiry in its own right. We received written submissions, spoke with people at public hearings, reviewed research and deliberated over numerous meetings; I believe it was a total of 23 hours—a lot. The Victorian justice system is multifaceted and lately the various elements of that system have not been working together as effectively as they could. We looked at ways to overcome this. The committee worked together despite points of difference, although I do think these points of difference are worth noting in the chamber.

The first finding, about data collection by Victoria Police, is concerning. Victoria Police considered taking demographic details in 2006 but never implemented it as they were not sure if it would increase transparency or create more harm. We had various concerns over the accuracy of police assuming someone's ethnicity, which is detailed in our minority report. We acknowledge the growing prison population in Victoria; however, we believe any changes to bail or parole laws should be informed by clear, objective, expert advice that does not diminish community safety. We heard evidence about the impact of strip searches on prisoners and solitary confinement; however, we did not hear evidence on the health and safety impacts of removing these searches or ceasing solitary confinement. The Liberals believe that before making a recommendation for review full evidence is required.

This is overall a comprehensive report, and I would encourage the government to not only look at the recommendations in the main report but also our minority report. I would like to finish by thanking all the stakeholders who took the time to make detailed submissions that have formed the basis of this report and to recognise the victim-survivors who bravely spoke out about their lived experiences and provided evidence to the committee.

The PRESIDENT: Before I call Ms Maxwell, I would like to wish Ms Taylor a happy birthday.

Ms MAXWELL (Northern Victoria) (10:17): It gives me great pleasure to speak to this report tabled today for the Legal and Social Issues Committee inquiry into Victoria's criminal justice system. This is something that I have intended to do since the day I was elected to this Parliament. Firstly, I

would like to thank the chair and committee members as well as Lilian Topic, Matt Newington and other committee staff for their support throughout this enormous inquiry. The physical size of the report, as you have seen, is an indication of the work required, including background research, compiling information from the 170 submissions and evidence from 50 public hearings through to supporting the deliberations and drafting of the final report and recommendations.

I pay tribute to the many victims that contributed to this inquiry, both through written submissions and in hearings, and I welcome some of them who are in the gallery today. The sharing of their experience demonstrates the deep and enduring suffering that comes from the impact of crime. My referral to the committee was born from these experiences, and I stand here today to say: I hear you, and this report is for you. Sorry, I am so emotional about this. I also thank the organisations who work across the broad justice space, who dedicate themselves to difficult and important work.

When I brought my motion to the Parliament back in June 2020 to refer this inquiry to the Legal and Social Issues Committee I noted that significantly driving down crime has to be the goal that we all share—that and supporting victims of crime. With more than 50 per cent of people incarcerated in Victoria going on to reoffend, we simply must stop this. I wanted the committee to investigate the drivers of recidivism—how we safeguard our community against these serious violent offenders but also ensure our corrections system is sufficiently corrective in its actions and outcomes. We have considered the opportunities for reform to break what is often a downward spiral of offending for those caught up in crime but also how to limit the lifetime of suffering for those victims and survivors.

Motion agreed to.

Papers

PAPERS

Tabled by Clerk:

West Gate Tunnel (Truck Bans and Traffic Management) Act 2019—West Gate Tunnel Project Agreement Third Amending Deed, under section 12 of the Act.

Production of documents

WEST GATE TUNNEL

The Clerk: I lay on the table a letter from the Attorney-General dated 23 March 2022 in response to the resolution of the Council of 17 June 2020 on the motion of Mr Davis and further to the government's initial response of 21 July 2020 relating to the West Gate Tunnel soil.

The letter states, in summary, that as the wording of the resolution was particularly broad the government adopted a narrowed scope of the order that was consistent with the order's purpose and the parliamentary debate relating to the order. The government has identified 135 documents within the scope of the order. A claim of executive privilege has been made over five documents in full.

I further lay on the table the 130 documents provided, together with schedules of the identified documents.

I note that a copy of the Attorney-General's letter, the documents produced and the schedule will be available on the tabled documents database shortly. As the files are very large, publishing these may take some time.

Business of the house

NOTICES

Notices of motion given.

ADJOURNMENT

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (10:30): I move:

That the Council, at its rising, adjourn until Tuesday, 5 April 2022.

Motion agreed to.

Members statements

ROAD SAFETY

Mr ONDARCHIE (Northern Metropolitan) (10:30): Do you remember when you were younger and you used to go for a drive on holidays perhaps into New South Wales, and then when you were transported back into Victoria you would notice the roads were so much better and New South Wales roads were not that good? Well, it has clearly flipped, because the roads of Victoria are atrocious, and the best way the government has been able to deal with our country roads being in such a state of disrepair is not to fix them, it is to lower the speed limit to 80 kilometres an hour. What a ridiculous proposition.

We have already lost 62 lives on our roads this year, up 17 per cent. Road trauma and injuries are beyond what they should be in this state because our roads are in such a state of disrepair. We need to keep safe on our roads, and last week I was pleased to join Victoria Police and the road safety council of Melbourne's north-eastern community—for Banyule, Nillumbik and Whittlesea—and their fantastic coordinators, Sue, Chantel and Sandy, who did a good job at the local shopping centre talking to people about road safety, about motorcycle safety and about generally being better on our roads. With the autumnal rains now upon us and then winter, it is an important message to all Victorians to please, please, please be safe on our roads.

LATROBE VALLEY

Ms SHING (Eastern Victoria) (10:31): Today I want to talk about the long-term efforts that are being undertaken and that will need to be continued for transition and development across the Latrobe Valley. Since Engie and Mitsui announced with only six months notice that production at the Hazelwood power plant would discontinue we have seen an unprecedented investment from the state government of more than $2 billion across the Latrobe Valley region. This has been necessary not only to provide assistance with retraining, assistance with recognition of existing skills and access to pathways for training and education but also in building up community facilities, making sure that we can upgrade and indeed build new schools, as well as making sure that early learning and development are taken care of and that we are also looking after the most vulnerable members of our community across the Latrobe Valley.

The work goes on, but it is also important that while we acknowledge the efforts of the Latrobe Valley Authority, established by Gippslanders for Gippslanders, we seek to ensure that the commonwealth government, those sitting in Canberra, also pull their weight. It has been an absolute disgrace and indeed a disservice to people of the Latrobe Valley that the commonwealth government has failed to put its money where its mouth is and has failed to invest in a long-term future for the Latrobe Valley, and I would seek that everyone uses the best pressure that they can possibly use to make sure that we get the funding that this region deserves.

AUSTRALIAN NATIONAL VETERANS ARTS MUSEUM

Mr GRIMLEY (Western Victoria) (10:33): I rise to speak on a great announcement by the federal defence ministers—a feasibility study into the future users of 310 St Kilda Road. The premises is a former repatriation clinic used by defence until 1995. The Australian National Veterans Art Museum, or ANVAM, have been working tirelessly for over nine years to convert St Kilda Road into, you guessed it, an arts museum for veterans, equipped with a cafe and mental health support services. After

all, it is in such a fantastic location. Derryn Hinch was pivotal in communicating the hopes and dreams of ANVAM to the federal government when he was a senator and in particular directed them to then PM Malcolm Turnbull, who loved the idea. Since Derryn unfortunately lost at the last federal election there have not been too many fighters outside of ANVAM for the project, because everyone sees the costs of remediating to build it. Regardless of the politics and the frustrating paths this building has had, I am glad to see that the federal government will, hopefully properly, look into the repurposing of 310 St Kilda Road for our veterans and for the broader Victorian community. My congratulations to Mark Johnston and the ANVAM for their tireless work in making this happen, and I have my fingers and toes crossed for a great outcome. How good was it to see, and it is still to see, in Queen's Hall the *Persona* exhibition over the past few days. Well done to all involved.

VICTORIAN WINE SHOW

Mrs McARTHUR (Western Victoria) (10:34): Last night I was so happy and so proud to celebrate the success of long-time great friends of mine. Tom and Sarah Guthrie of Grampians Estate winery at Great Western were in this wonderful building to be given belated congratulations and adulation for winning the Premier's trophy for the 2019 Victorian Wine Show champion wine. Their St Ethel's 2017 Great Western shiraz was the prized drop. What an extraordinary achievement. My family shares a farming background with the Guthries. We also share sadder tidings, with both families losing a son, each in their prime with so much more ahead of them.

This award for being the best is just so apt. The Guthries are the best not just for their wine but for their ability to rise above and seek excellence despite the odds. Those odds also came in the form of flames in 2006. A massive wall of fire flattened all but 5 per cent of the property in the Mount Lubra fires of January that year. They could not stop it or fight it. Tom and Sarah and their winery were all but destroyed. It is why last night's award was truly like the phoenix rising. Last night embraced another Western Victorian winner, with the Taltarni winery accepting the Premier's trophy for last year's award with their 2019 old vines shiraz. We should always celebrate hard work and excellence.

JACK BROWNLEE AND CHARLIE HOWKINS

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (10:36): I rise today to commemorate the fourth anniversary this week of the tragic Delacombe trench collapse. On 21 March 2018 Charlie Howkins and Jack Brownlee went to work and never came home. The trench that they were working in on a worksite at Delacombe collapsed, tragically killing them both.

I want to pay my deepest respects and sympathies to Dave and Janine Brownlee and Lana Cormie, whose lives changed forever that day. I want to acknowledge their tireless and brave advocacy in the immediate aftermath of the tragedy and to this day. They have displayed enormous generosity and bravery, sharing their story and grief to make workplaces safer in Victoria. Together with the union movement they advocated passionately for workplace manslaughter laws, which this government was proud to pass in 2019.

At the foundation of our occupational health and safety framework is the notion that no matter who you are or what you do for work, you deserve to be safe; you should come home from work safely each and every day. I must say I was extremely saddened to see in the last week that rubbish had been callously dumped at the memorial that has been dedicated to Charlie and Jack. Today we remember Charlie and Jack and the tireless advocacy of their families, and we commit to doing everything we can to make our workplaces safer.

COVID-19 VACCINATION

Dr CUMMING (Western Metropolitan) (10:37): The Pfizer vaccine was approved for children five to 11 years old. Six New York State public health scientists analysed over 365 502 children aged between five and 11 between December last year and January this year, and the results are shocking. The vaccine offers virtually no protection against infection, even within a full month of immunisation.

Thirty days of protection from infection is all the vaccine provides. Do we really want to vaccinate our children every 30 days? The researchers also found that the vaccine's effectiveness against hospitalisation also dropped to half.

Now, we are told our children have to wear masks in schools because vaccination rates are low, but what is the point when the vaccines are not effective? Why is this government promoting and pushing parents to vaccinate their children? Why are we being told to mask our children, especially when there are side effects that could hurt our children? What is the rationale for promoting a mass vaccination of healthy children with a vaccine that does not prevent the spread of the virus? Children are suffering side effects. Thirty days protection—that is it. Do we really want to vaccinate our children every 30 days?

CULTURAL DIVERSITY WEEK

Mr TARLAMIS (South Eastern Metropolitan) (10:39): In Victoria we embrace and celebrate multiculturalism better than anywhere else. Last Saturday night at the Victorian multicultural gala dinner 1400 people came together to celebrate this diversity and kick off Cultural Diversity Week. It was wonderful to gather with so many members of our community from diverse cultures, faiths and backgrounds under one roof to embrace and celebrate each other's culture. I wholeheartedly thank the Victorian Multicultural Commission and all involved for organising this wonderful event.

Events like the gala dinner and Cultural Diversity Week are great opportunities for all Victorians to recognise the extraordinary efforts of so many community and multifaith groups that have gone above and beyond to help those in need through what have been very difficult and challenging times. We all have a role to play in making our world one that is free from injustice, discrimination and prejudice. I would like to make special mention of the Afghan people and our Afghan-Australian community, who are one of many communities that contribute to our wonderful diversity and are suffering extremely difficult and painful circumstances.

RUSSIA-UKRAINE WAR

Mr TARLAMIS: Also I would like to acknowledge the people of Ukraine, our Ukrainian-Australian community and all who are affected by the unjustified acts of violence that are being perpetrated against them. They are enduring a difficult and dangerous situation at the present time. The footage of the destruction and heartbreaking scenes of innocent people being injured and killed by the senseless Russian attacks and shelling as well as the displacement of so many civilians, including women and children, has inspired worldwide condemnation—and rightfully so. War should never be an option, and a peaceful resolution cannot come soon enough. My thoughts are with all those affected by this unnecessary conflict in both Ukraine and Australia, and I stand in solidarity with them. The fighting spirit of the Ukrainian people is an inspiration to freedom-loving people all over the world.

MULTIPLE BIRTH AWARENESS WEEK

Mr BOURMAN (Eastern Victoria) (10:41): I rise to speak about Multiple Birth Awareness Week, and I would like to share some of the wonderful and challenging experiences I have come to know over the past few years about twins and HOMs, higher order multiples. This year's theme is 'Educating the educators'. As you may know, my adviser Monique had twin boys, Toby and Sammy, in late 2019 right before the world as we know it changed. Lockdowns were hard for most of us, but take a moment to think about how those long months of isolation, travel and purchase restrictions and panic buying impacted the new parents of two or three or more babies.

AMBA, the Australian Multiple Birth Association, is the only national charity in Australia focused on the betterment of the lives of the multi families and is run by volunteers who are also parents of multiples. It is amazing. AMBA offers outstanding support to the multis community, from information sessions for expectant parents to workshops on feeding and sleeping multiples and preschool preparations, as well as specialist transport, support for dads, perinatal health, twin-to-twin transfusion

syndrome and bereavement support. During COVID, when the usual mothers groups and play sessions were suspended, the tireless efforts of the local AMBA communities rose to the challenge to stay engaged and connected with their new multi parents going through tough times. They provided webinars and online engagement for parents and infants, offering music and singalong events, meet the animals on Zoom and much more. I would also like to acknowledge the fantastic work of the Multiple Birth Volunteer Support Foundation for providing much-needed hands-on and in-home help for struggling multi families.

NEWROZ

Mr ERDOGAN (Southern Metropolitan) (10:42): 21 March marked Newroz, the arrival of spring in the Northern Hemisphere but also the Kurdish New Year. For over 2600 years the holiday has been an occasion for people to come together and celebrate the new year. After a two-year break it was heartwarming that the Newroz festival could be held in person this year, and it was held at Coburg Lake Reserve last Sunday. It was very well attended and organised by the Kurdish Democratic Community Centre of Victoria. The annual celebration includes traditional food, music, dance and other cultural performances. It was very well attended, and there were well over 1000 guests. Most importantly, it was an opportunity for family and friends in Victoria's Kurdish community to commemorate the joint occasion together.

In addition this year, last night Samantha Ratnam and I were able to co-host a Newroz reception here at Parliament House. We were joined by Ms Terpstra, Ms Lizzie Blandthorn and Dr Tim Read, and we had a number of apologies from members as well—Mr Bruce Atkinson was unable to join. It was a fantastic event where we had some cultural folk dancing performances, and it was an opportunity to hear from the community about their concerns and their aspirations as well. I thought it was fitting that 21 March also coincides with Harmony Day, given that both days celebrate numerous cultures and share an emphasis on diversity. Happy Newroz, everyone. Newroz piroz be.

NGV CONTEMPORARY

Ms TAYLOR (Southern Metropolitan) (10:44): I recently attended the launch of the design of NGV Contemporary. It will be Australian designed and Australian made, creating thousands of local jobs and becoming an iconic reference for our great city on the global stage. When I was sitting there getting ready for the launch and seeing the design, it made me reflect on what visiting an exhibition is all about and how you cultivate that love of the arts. I was thinking about the NGV itself and how as a child my parents would take my brother and me there. The first thing we would do was throw a coin in the pond and we would make a wish and then we would see the beautiful waterfall at the front. Those kinds of experiences stay with you, so it is not only going inside and seeing a beautiful exhibition; it is that whole experience. Then you might have afternoon tea after.

That is why it is so important that governments like our Andrews Labor government invest in this magnificent building and design and area for the future of our great city. NGV Contemporary is part of our Labor government's landmark $1.7 billion investment in the Melbourne arts precinct transformation, which includes extensive restoration of the State Theatre. I was fortunate enough to be sitting next to Angelo Candalepas—his company had the winning design at the end of the day—and I felt teary as it came on the screen. It bodes well.

HOME OWNERSHIP

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (10:45): I want to draw the chamber's attention to the data from the Property Council of Australia today showing that 70 per cent of voters fear young people will never be able to buy a home in this country. The figures in Victoria are very strong too. Sixty-seven per cent of Victorians surveyed believed that opportunities for home ownership were receding in this state and did not believe that those who currently do not own a home will necessarily be able to buy one, remembering too that home ownership and housing affordability are closely linked, and housing unaffordability is driven by increasing costs. The property council

figures are from 2018, before the windfall gains tax and before the government's housing tax of $20 000 that they are intending to bring back and put on family homes in metropolitan Melbourne. The property council has calculated almost $182 000 of the average house price and $125 000 of a unit's price is state government taxes and charges. That is a huge hit, and it is making homes increasingly unaffordable. I say that Victorian families, and young people in particular, should have the opportunity to get into their own homes. Supply needs to be brought forward, costs need to be kept down and big, fat new taxes on housing are not a good idea. The Premier is plainly out of touch when he just dismisses the great Australian dream, which is so important to young people—he is very out of touch on that. I know most young people want a home.

Business of the house

NOTICES OF MOTION

Ms TAYLOR (Southern Metropolitan) (10:47): I move:

> That the consideration of notices of motion, government business, 683, 691 and 730, be postponed until later this day.

Motion agreed to.

Bills

JUSTICE LEGISLATION AMENDMENT (TRIAL BY JUDGE ALONE AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed on motion of Ms TIERNEY:

> That the bill be now read a second time.

Ms BURNETT-WAKE (Eastern Victoria) (10:48): I rise to speak on the Justice Legislation Amendment (Trial by Judge Alone and Other Matters) Bill 2022. As indicated by its title, this bill has a number of purposes. The most significant change posed by this bill is the extension of trials by judges alone without juries. The bill proposes to allow indictable offences to be heard by judges alone for another 12 months provided a pandemic order is in place. Judge-alone trials were first introduced in Victoria in July 2020. The bill amending the Criminal Procedure Act 2009 was introduced as a temporary change to avoid unnecessary backlog in the courts while Victoria adjusted to the pandemic and restrictions on people gathering, yet here we are debating the extension of changes that were only ever intended to be temporary.

The right to trial by jury is one of the few things guaranteed by the Australian constitution. This is testament to the fundamental importance of having criminal charges decided by a jury of peers rather than a singular member of the judiciary. The right to trial by peers goes way back to before the days of Magna Carta. Juries uphold the notion of democracy by allowing the conscience of everyday citizens to be heard on issues at trial in a way that judges cannot always do. They allow for decisions that are representative of the community, and they go some way towards eliminating the unrecognised bias of judges.

The last few years have thrown up challenges to many aspects of life, including our justice system, that we of course need to adapt to. I fully understand the intention of introducing judge-alone trials temporarily to allow hearings to continue in the safest possible way and to address the issue of court backlogs. However, given the history and significance of juries, I do not think that any decision to extend judge-alone trials should be taken lightly. My concerns are somewhat mitigated given this extension is tied to pandemic orders. Under this bill judge-alone trials can only be ordered while a pandemic declaration is in place, and for me that is of significant importance. Given we are again extending something that was meant to be temporary, I do not want this to be the beginning of the end for juries. This extension should be seen as a temporary measure to deal with the ongoing impacts of

this pandemic, and any permanent changes to jury trials are not something I would support. Juries are a foundational part of our justice system. They exist for good reason, and they should stay.

I am also pleased that this bill has kept a number of protections, including that the accused must consent to the trial being heard by a judge alone and must have obtained legal advice prior to giving that consent. Everyday Victorians have not had the privilege of studying law, like many of us in this place have; they are not well versed in the rule of law, the constitution or the benefits of a jury trial. This lack of knowledge could be used to their detriment if it were not for the requirement to obtain legal advice. Again, I am glad this has been included in this bill.

This bill also seeks to allow for special hearings to be heard by judges alone. The purpose of a special hearing is to determine whether an accused person is guilty or not guilty because of mental impairment. Typically the jury would hear evidence about the offending, review any medical evidence and come to a conclusion about the person's mental state and guilt. These special hearings involve vulnerable individuals, and there is obvious benefit in these hearings continuing. For the same reasons that I do not oppose the extension of judge-alone trials, I do not oppose the extension of special hearings relating to mental impairment.

Another part of this bill that I wish to touch on is the delay of the de novo appeal reforms. The Andrews Labor government boasted back in 2019 about how these reforms would make Victoria's appeal system more efficient and transparent while better supporting victims. As it stands, when a person is found guilty by the Magistrates Court or Children's Court and appeals that decision, the County Court must hear all evidence again and reach a new decision. It is said to place a considerable burden on victims and witnesses, who are required to go and give evidence a second time, and it also consumes a large amount of the County Court's time. Under these reforms the County Court would hear the appeal based on the material that was led in the initial court. The idea was that this would speed things up and create higher quality cases in the Magistrates Court and protect victims from reliving their trauma. We were told these reforms were about delivering more effective justice, so it is baffling that the government have now decided to put off the introduction until mid-2025, particularly at a time when courts need all the help they can get when it comes to efficiency. We were advised in the bill briefing that the government need more time to ensure that courts have the adequate resources to implement the change. It is astounding that three years is not long enough for the Andrews government to implement their own changes.

And finally, I wish to mention the amendments to the Occupational Health and Safety Act 2004. Under the Occupational Health and Safety Act any breach of a pandemic order or public health direction is taken to be an immediate risk to health and safety. Once something is classified as an immediate risk to health and safety, WorkSafe Victoria inspectors have the power to issue prohibition notices and shut down workplaces under section 112. This means, essentially, that if a worker were to be wearing their mask below their nose, as they so often do, their employer could be hit with prohibition notices. The bill before the house today seeks to extend this power by six months; it was originally due to end on 26 April. I do not support legislation that provides major penalties for minor breaches. Other areas of the law have penalties that depend on the type of offence; they are not lumped into a one-size-fits-all category where minor breaches attract the same penalties as major breaches—nor should they be. A blanket approach leads to disproportionate penalties for minor breaches.

Overall this bill feels a bit like a bandaid approach. Extending judge-alone trials will not fix the deep-rooted issues of criminal backlogs in our justice system. It may assist, but it will not fix it. Delaying reforms to de novo appeals means changes and efficiencies are even further away. If we are going to recover and rebuild, the government need to be doing more to address these issues for good.

Ms TERPSTRA (Eastern Metropolitan) (10:55): I rise to make a contribution on the Justice Legislation Amendment (Trial by Judge Alone and Other Matters) Bill 2022. Effectively the bill will extend temporary measures that were designed to assist the justice system in continuing to respond to

the challenges presented by the COVID-19 pandemic. The bill has effectively five aspects, so I will just quickly go through those five elements.

Firstly, it will reintroduce judge-alone criminal trials and special hearings on a temporary basis, which will ensure more criminal trials and special hearings can proceed. This will assist the courts in responding to the challenges presented by the COVID-19 pandemic and minimise further disruptions and backlogs in the court system. Secondly, it will defer the commencement date for de novo summary appeal reforms, which will allow the courts and other justice stakeholders adequate implementation time to ensure these reforms achieve their intended benefits while not diverting resources from backlog reductions at this critical time. Thirdly, it will extend part 16 of the Occupational Health and Safety Act 2004, which will provide certainty both for inspectors when considering issuing directions or prohibition notices under those provisions and for duty holders. I will go to a bit more detail about that later in response to Ms Burnett-Wake's contribution, just on that bit on masks, because clearly that is not accurate. Inspectors will have discretion in regard to those matters, but I will go into that later in my contribution in a bit more detail. Fourthly, it will extend the provisions requiring adult accused in custody to attend a summary contested hearing or a committal hearing by audiovisual link by default to reduce the need to transfer an accused person to court and for them to then complete transfer quarantine upon their return to prison. Lastly, it will extend provisions under the Children, Youth and Families Act 2005 to continue allowing attendance at a youth justice unit or reporting to occur by audiovisual link or audio link.

In regard to the reintroduction of judge-only trials, the previous scheme was that in April 2020 the Andrews Labor government introduced reforms aimed at ensuring that the justice system could respond effectively, as I said earlier, to challenges that the COVID-19 pandemic posed, and this included the introduction of judge-alone criminal trials. These reforms also applied to special hearings. A special hearing is similar to a criminal jury trial, but it is for people who have been determined to be unfit to stand trial under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 due to serious mental health issues or cognitive impairment.

The introduction of judge-alone trials was aimed at assisting the courts to continue to hear criminal trials and special hearings while there were significant constraints on conducting in-person jury trials due to the pandemic. These measures operated effectively for 12 months, from April 2020 to April 2021. During this period there were 60 applications for judge-alone trials in the County Court, of which 51 were granted, and six applications were made in the Supreme Court. After the expiration of the scheme it was not considered necessary at that time to further extend the provisions as a return to in-person jury trials was expected to eliminate the need. However, the continued effect of public health restrictions caused this decision to be re-evaluated.

The courts are working hard to ensure that criminal jury trials can continue to operate in a COVID-safe manner. Even right now we know there is another variant that is coming and we are seeing some cases that are popping up again, so it is obviously a good measure to make sure that we have these options to allow the effective operation of our criminal justice system. Jury trials resumed in the Supreme Court in October 2021 and in the County Court in November 2021, and both courts resumed jury trials for 2022 in January. Both courts have protocols in place to hold jury trials safely, including social-distancing arrangements and rapid antigen testing requirements. Substantial work was completed in 2021 to accommodate physically distanced juries as well.

Late last year the government made legislative changes to provide the juries commissioner with the discretion to defer jury service on health and wellbeing grounds, including vaccination status, to help ensure that the courts can run jury trials safely. Despite these measures, however, there remains a risk that criminal jury trials will continue to be disrupted due to the pandemic as COVID cases remain prevalent in the Victorian community. Some criminal juries have been discharged for COVID-19 reasons, and some have been adjourned.

In addition, potential jurors are seeking exemption from jury duty due to the pandemic. The courts are also facing a large backlog of criminal jury trials because of the challenges they have faced over the last two years in running them during the pandemic. This has been challenging not only for our court system but for other areas as well. It is appropriate to reintroduce judge-alone trials as a temporary measure to give the courts an additional option to continue to hear criminal trials alongside jury trials and to help them drive down the backlog that has arisen from restrictions as a result of the COVID pandemic. Allowing the courts to order trials by judge alone will give the courts and parties an alternative to jury trials in appropriate cases and allow more criminal trials to run. This will reduce delays in the court system and benefit parties as well.

The judge-alone scheme will be substantially the same as the judge-alone scheme that was adopted in early 2020. The provisions operated effectively and the courts and the professions are now familiar with their operation, and there is now case law which gives guidance on the provisions, including the test that it can be in the interests of justice that a judge-alone trial proceed. The court can order a trial by judge alone for any indictable Victorian offence if the following criteria are satisfied: the accused person consents to be tried by judge alone, the court is satisfied the accused has sought and received legal advice on whether to consent to a judge-alone trial and the court is satisfied it is in the interests of justice to order a judge-alone trial. The courts can order a judge-alone trial either on their own motion or on application by the prosecution or the accused. The prosecution does not need to consent to the judge-alone trial, but the judge is required to take into account the prosecution's view in deciding whether to order a judge-alone trial.

As was the case with the previous model, parties will be able to appeal verdicts made by judges sitting alone in the same way as a jury verdict. Parties will also be able to appeal a decision of a court to order or not order a trial by judge alone. The scheme is a temporary response to the COVID-19 pandemic, as I said earlier, and the provisions will sunset after 12 months and an application for a judge-alone trial will only be able to be made if a pandemic declaration is in force. This new requirement is an additional safeguard and reinforces the temporary nature of these reforms. Criminal jury trials will also remain the cornerstone of our criminal justice system, and the government remains committed to undertaking consultation with stakeholders and the broader community before considering any permanent judge-alone trial scheme. These are temporary reforms that are being reintroduced only to assist the justice system to safely continue to determine more criminal trials while COVID-19 continues to affect jury trials.

In terms of de novo appeals, I will just move to this aspect and I will explain what de novo means for those who might be playing along at home as well.

Ms Stitt: There is nobody playing.

Ms TERPSTRA: No, there is nobody. Maybe people in the chamber might like to know. Currently, if a person is found guilty by the Magistrates Court or the Children's Court and then appeals, the court must hear all of the evidence again and reach a new decision. Essentially appeals are new, or de novo—so it means from the start, new. A de novo hearing is new or from the start. This system places significant stress on victims and witnesses who are required to repeat their evidence during the appeal proceedings. It also places significant cost and resource pressure on the County Court. Reforms introduced by the Justice Legislation Amendment (Criminal Appeals) Act 2019 replaced de novo appeals with new processes for conviction and sentence appeals, streamlining the appeals process. These reforms were originally scheduled to commence in July 2021 but have already been delayed to 1 January 2023. These delays are due to the ongoing effects of the COVID-19 pandemic on the court system and the significant time and resources required to implement these significant reforms.

I did want to deal with the issue that was raised by Ms Burnett-Wake, so I might just skip to that in terms of health and safety aspects. I am sure that others may want to comment on these aspects as well. In terms of part 16 of the Occupational Health and Safety Act 2004, this bill will be extending the operation of part 16 of the OH&S act until October 2022. This part was introduced as a temporary

measure and is currently due to lapse in April 2022. These provisions have been a vital part of the Victorian government's COVID-19 response and are necessary to ensure WorkSafe Victoria inspectors can continue taking decisive enforcement actions in response to duty holder non-compliance with pandemic orders and related COVID-19 directions.

This extension makes no change to the provisions but will assist WorkSafe to ensure that employers and other duty holders under the OH&S act are providing a safe place of work and mitigating exposure to COVID-19 in the workplace. It is important to note that, as always, WorkSafe inspectors have discretion when they take appropriate enforcement action, and I want to thank them for their dedication and hard work in ensuring workplaces are as safe as they can be. WorkSafe also provides duty holders with guidance on how to achieve compliance with obligations imposed by the OH&S act, and the Department of Health also provides guidance regarding compliance with pandemic orders and related COVID-19 directions, so there is plenty of support available for employers and duty holders in this space.

This extension is vital to ensuring that WorkSafe has the tools it needs to keep our workplaces safe as we continue to move through the COVID-19 pandemic. WorkSafe inspectors have always had discretion in this space regardless, and again there is lots of guidance and there are measures available to assist duty holders to make sure that they are clear on their obligations. As I said earlier, there are plenty of options for discussion around these matters. We are well into the pandemic now; we have had plenty of experience, and I think duty holders are well across their obligations.

Ms Stitt interjected.

Ms TERPSTRA: I might just note—thank you, Minister Stitt—a mask under the nose is not an example of something that might present a concern in terms of fines and provisional improvement notices and the like; that is not an appropriate example. WorkSafe inspectors would be looking for something much more than that. What I would expect certainly is that if somebody in the workplace was not complying with the directive to wear their mask, their employer would actually point that out in the first instance. It would not be something where a PIN would be issued immediately as a consequence of that, and I can say that as someone who worked in industrial relations for quite a significant number of years—WorkSafe inspectors do not operate like that. So I just want to dispel that myth.

I might also just state that in the last state budget we announced a $210 million funding boost to help drive down the COVID-19 backlog and bolster resources in the courts across the state. This package incorporated $34.8 million for extra resources in our courts, including bringing forward the appointments of two County Court judges; $40.9 million for the online Magistrates Court, including two magistrates and additional hearing rooms; $56.7 million for VCAT to move more of its hearings online; and $55.3 million for Victoria Legal Aid, Victoria Police, the Office of Public Prosecutions, Corrections Victoria and victim services to ensure that they have the resources they need to play their part in reducing the backlogs. That funding, which I just laid out there, in the last state budget also comes on top of over $80 million previously invested to help the courts cope with COVID-19 and address the backlog.

I might also in the 2 minutes that I have left quickly just touch on some reforms in regard to the Children, Youth and Families Act 2005. This bill will extend the temporary COVID-19-related provisions under the Children, Youth and Families Act 2005 to continue allowing attendance at a youth justice unit or for reporting to occur by audiovisual or audio links. I touched on this earlier. Currently these measures are due to expire in April 2022, so it is important that we make sure we have important supports to allow these things to continue.

Just briefly, there has been a significant transformation of services—which was done rapidly and effectively—and some of the changes I might just quickly note in the minute that I have left. At the commencement of the pandemic youth justice rapidly scaled up its technology capability in custody

and the availability of audiovisual links to the courts. Twenty-eight funded community service organisations, including Aboriginal-led organisations, were provided with an extra $11 000 per organisation to support young people. This funding has helped families purchase technology to help children and young people participate in virtual education as well as to address other practical needs for children during the periods of restrictions. Active work occurred at the start of the pandemic with the Department of Education and Training to supply laptops to children under community-based supervision, and youth justice also supported people to participate in home learning and supervision using brokerage funding.

There is lots more that I could say on this—there is a load of work that the government has been doing in this space—but the clock is against me right now. I will conclude my contribution there, and I commend this bill to the house.

Dr BACH (Eastern Metropolitan) (11:10): I also commend most elements of this bill to the house. It is good to rise to follow my friend Ms Terpstra. I only wish to make some brief comments about this bill, because Ms Burnett-Wake's contribution really hit upon both the elements of the bill that I do not find objectionable and one or two elements of the bill that on this side of the house we do oppose, in particular the extension of the Occupational Health and Safety Act 2004 deeming provisions.

Ms Terpstra spoke about some proposed changes through this legislation to the Children, Youth and Families Act 2005, and those are elements of the bill that on this side of the house we do not oppose. We also did not oppose the Children, Youth and Families (Child Protection) Bill 2021 when it came to this house months and months and months ago. That bill seeks to make important changes such as putting in place the legislative framework for Home Stretch, a really important program with bipartisan support seeking to give better care to care leavers. That bill also seeks to give more power to Indigenous-led organisations—Indigenous-led organisations need even more authority and autonomy. The provisions in that bill—still listed at number 5 on the notice paper—are important. Also that bill goes some small way to seeking to enshrine early intervention and preventative practices in our practice framework here in Victoria.

When we had the debate, members might recall—I recall; I spoke on that bill—we got to the committee stage and then the government pulled it, and that was months and months and months ago. I spent some time yesterday with Minister Carbines, the Governor—I do not hang out with her often, but I was with her yesterday—and numerous other senior leaders in the child protection sector, and they have no idea why the government has pulled this important bill, and nor do I. Given that Ms Terpstra wanted to talk about the Children, Youth and Families Act 2005, I would ask through you, Acting President Melhem—and I do like your shirt and tie today—why is it that the government has pulled this very important bill?

As Ms Burnett-Wake said, whilst numerous elements of this bill are not opposed on this side of the house, it does not go anywhere near far enough to deal with our quite appalling court backlogs. I would refer the house to the excellent contribution of Mr Michael O'Brien in the other place, in which he went through in encyclopedic detail the extent of our court backlogs—the worst in the country. Of course, as with all things, according to the government the reason for these backlogs is COVID-19. We have heard from the government today, I do not know, at least 50 times that COVID-19 is a global pandemic. Thus I am sure the government would concede that there have been COVID cases in New South Wales, in the ACT, in South Australia and indeed in every Australian jurisdiction, and yet our court backlogs and our backlogs at VCAT are easily the worst in the nation. We had huge backlogs before COVID hit. I concede to Ms Terpstra that in the last budget the government finally made some funding announcements. However, far more needs to be done. For so many Victorians justice is being delayed, oftentimes for years. Justice delayed is justice denied, so whilst there are elements of this bill that the government says first and foremost seek to make inroads into our court backlogs—and therefore we do not oppose those elements of the bill—the government needs to do far more to even make a start. There are shocking backlogs at VCAT and huge backlogs in all our courts.

Ms Terpstra spoke about the deeming provisions. I want to be as clear as Ms Burnett-Wake was clear. We object on this side of the house to the six-month extension to the OH&S act deeming provisions for two simple reasons: firstly, they place businesses at risk of double jeopardy; and, secondly, there is no proportionality. Any breach, no matter how minor or temporary, is automatically deemed to be 'an immediate risk to health and safety' with all the consequences that flow from that. We are not convinced by the government, in this instance through Ms Terpstra, telling us that WorkSafe Victoria officers will surely conduct themselves in an appropriate way. To hand over such significant powers for another six months is not appropriate, and therefore on this side of the house we will not support that provision. More broadly we do not oppose this legislation.

Ms SHING (Eastern Victoria) (11:15): Welcome to the chamber of contradictions for a Thursday afternoon. We have heard from Dr Bach. We have heard from Ms Burnett-Wake. We heard—in excruciating detail, was it?—that Dr Bach referred to Mr O'Brien's contribution in the other place—

Dr Bach: Encyclopedic.

Ms SHING: Encyclopedic. My apologies. I misheard you and thought you had said 'excruciating' for a moment there, Dr Bach. Never would I seek to verbal you in that regard or indeed the contribution in very granular detail from Mr O'Brien in the other place.

What I want to do in the time that I have available today is to talk to the nature of the circumstances in which we find ourselves and to understand the basis upon which the opposition have indicated that they do not oppose this particular bill whilst also decrying the circumstances that have given rise to it. I have somewhat of an issue with this mix, this mess of contributions from those opposite, whereby they say on the one hand that other jurisdictions have had to deal with the pandemic, have had to make necessary adjustments to the way in which the court processes operate, and it is time for us effectively and essentially to open up, and then they say on the other that we cannot afford to actually compromise the judicial process whereby justice delayed is indeed justice denied, to quote Dr Bach right back at him.

What we see is an appreciable risk of court proceedings being delayed or indeed grinding to a halt because of challenges presented by the public health consequences of the pandemic. What we see here is a reality which those opposite are quick to ignore or indeed to downplay as it relates to the ongoing work that we are doing to reduce court lists, reduce wait times and improve the administration of justice—as recognised by Dr Bach in his contribution around the budgetary commitments and investments that were made in last year's budget.

We seem to have this glorious alternate universe concocted by the opposition to say that everything should be operating in a much smoother way, in a much more efficient way and without the hindrances presented by the public health issues that relate to the pandemic—a pandemic not of our making, a pandemic of global consequence and a pandemic which, despite the efforts of anybody in this community to deny its existence, continues to cut a swathe through various economies and jurisdictions around the world. We are not going to apologise for or indeed ignore the consequences of the pandemic as they relate to the administration of justice. We are not going to ignore the cold, hard reality faced by courts and tribunals that in fact dexterity is needed to accommodate these changes and these challenges and indeed to meet the obligations around the effective and efficient administration of justice without undermining any of the rights associated with those very duties, obligations and considerations which exist within the Charter of Human Rights and Responsibilities.

I am always a bit flabbergasted when it is that those opposite take a sudden interest in the Charter of Human Rights and Responsibilities. We have seen it time and time again as it relates to the pandemic. We see this time and time again as it relates to the Pandemic Declaration Accountability and Oversight Committee, of which I am delighted to say that I am a member, and we see it time and time again where there is a cheap political point to be scored by those opposite as it relates to the arguments of proportionality or of impact upon individuals in the making and creation of law. Unfortunately for

those opposite, however, the human rights consequences—the arguments of justice delayed being justice denied, as Dr Bach put earlier in his contribution on this bill—are flexibly ignored when it comes to other considerations around the making of law. We see that in the conduct of those opposite the Charter of Human Rights and Responsibilities is not, to paraphrase the various positions that they have taken over the years, worth the paper it is written on—that in fact it warrants review, that in fact it warrants the consideration of irrelevance or obsolescence within the legislative framework or the regulatory framework here in Victoria and that in fact it has no purposeful work to do. This is a matter of particular consequence when we are talking about the impact of these laws, which will sunset after 12 months, which are directly tied to the response to the pandemic and which are directly tied to the impositions, disadvantages and indeed propensity or indeed possibility of perverse outcomes as a consequence of interference in judicial and legal processes by pandemic-related matters.

Standalone judicial consideration of matters in a way which seeks to substitute the lack of availability of a jury trial is not a matter which this government takes lightly. It is not a matter which any government should take lightly, precisely because the tenets of an effective, efficient and fair judicial system rest upon the right to a fair trial. Now, those opposite and indeed a few others in this chamber and a few others in this Parliament are quick to say that judges are not in a position to reflect community attitudes or indeed to administer justice in a way which acquits their obligation as a member of the judiciary and that that is at odds with what the Parliament expects and is at odds with what the community expects. That is where we see the great rub in the opposition's argument here—that in fact the positions, the protestations, which are outlined in their various contributions relate as much to a lack of confidence in the judiciary as to anything else. That is the basis upon which there have been strident comments and indeed arguments of opposition from those opposite, which ignores the reality of the way in which judicial processes operate with a judge-only trial; ignores the reality of what occurs in the administration of justice where judge-only trials are made available; and ignores the reality which has been put in the course of a lot of research from the Victorian Law Reform Commission, trials and indeed considerations and research in New South Wales and volumes of analysis around the way in which trial outcomes are achieved and the distinction between jury consideration, judicial consideration and community views around anticipated or expected outcomes, particularly as they might relate to sentencing.

Reforms that are in fact introduced by this bill are intended to make it clear that wherever possible the administration of justice will occur in a speedy time frame; that it will, without compromising the quality of assessment, analysis or the right to a fair trial, be executed with the greatest degree of efficiency possible. That comes of course with the caveat of the operation of a pandemic and the fact that too many people—so many people—within our workforces, within our communities, have been furloughed as close contacts, have had to isolate due to experiencing COVID themselves and have had the consequences of a diminished capacity to participate in paid work following a recovery from at least the initial stages of COVID and indeed the adjustments associated with a different way of living and of connecting and of accessing services and outcomes.

This is something which is easy to ignore, which is easy to downplay, which is all too easy to use for the purposes of a pretty predictable narrative from those opposite. And yet the opposition is not opposing the changes proposed by this bill. The opposition has indicated that it thinks that these reforms, begrudgingly, are necessary. We have an issue being taken by the opposition as it relates to OH&S provisions in the bill, and I am looking forward to the way in which those matters might be further considered. But the upshot of the changes that are proposed, the guts of what is in this bill, is not a matter of contention for those opposite, save for the confected outrage that we might hear from across the way.

In a perfect world we would not have any changes to the administration of justice, if you are talking about it from a conservative political perspective, until and unless those in government, those from the conservative side of politics, wanted there to be change. It would ignore the reality of a pandemic. It would ignore the constant changes that have been necessary even in a system as large a machine and

as complex as the judicial system here in Victoria and indeed in any other jurisdiction around Australia and indeed in any other jurisdiction around the world. It is the head-in-the-sand approach to lawmaking throughout this pandemic that has been nothing short of an embarrassment for those opposite.

We have seen a capacity within governments and with oppositions to embrace a collaborative approach to the running of government and to the functions of all three arms which exist within the separation of powers and which exist as part of a proper and well-functioning society. It is a great shame that those opposite have not seen fit to engage in a collaborative way and continue to this point in time to either embrace at the last minute the progressive and responsible reforms and changes such as those set out in this bill and make cheap political hay out of such reforms or indeed leap upon the back of them to say that this indeed, in a rewriting of history, is the sort of thing that they have always sought and indeed supported. It will be a curious rewriting of history if we indeed see the opposition continue its claims that progressive reforms have always been their idea and that practical accommodation of pandemic response in various facets of our regulatory and legal framework have not been an overreach but have in fact been necessary and proportionate.

It will in fact be a curious rewriting of history to hear those opposite and indeed those in the other place, with all of their granular detail and all of their legal expertise, suddenly come to the party to make that political hay as we head towards the second half of the year in pursuit of a narrative that this government has not been responsive, that this government has not been in touch and that this government has not sufficiently allocated resources to the administration of justice. Yet Dr Bach, when he got to his feet earlier, conceded Ms Terpstra's contribution and the point that she made about budgetary allocations—budgetary allocations which are not standalone in the way in which they operate to address the worst impacts of the pandemic and which are reflected across the entire budget, across the entire allocation. You would have to be wilfully ignorant to ignore the allocation of funding which has been dedicated toward pandemic response and the allocation of resources which has been directed toward minimising the impact of the pandemic and the outcomes which are impacted and affected by it. Those opposite are all too quick to say in fact that it is not good enough, it is not near enough, it is not soon enough and it is not enough. Then they go ahead and support what it is that we are trying to do.

You cannot have it both ways, and yet those opposite would continue to protest at the inelegant approaches that we have taken to such reforms and would continue to protest at the quality of the bills which we put before this house, and when it comes down to it we see that it is on very few occasions that the opposition will oppose measures like this which are intended to alleviate the waiting lists and which are intended to provide the requisite level of support for our court system to do its job.

The Attorney-General has been very clear about the ongoing resources that are needed by and are being provided to our courts and tribunals to enable them to do their valuable work. She has been unapologetic about the need to have these conversations, these uncomfortable discussions, about what is needed so that indeed she can advocate for such improvements and resources to be allocated throughout budgets, and she has succeeded. On that basis this bill is an important reform that reflects the reality of the world in which we live, and I commend it to the house.

Dr CUMMING (Western Metropolitan) (11:30): I stand to speak on the Justice Legislation Amendment (Trial by Judge Alone and Other Matters) Bill 2022. This bill is to provide temporary arrangements for trials or special hearings by judge alone while a pandemic declaration is in force and to delay changes to some acts. While our justice system has operated on the basis of jury trials to ensure that the rights of the accused are safeguarded, this has not always been possible during COVID. I am glad to see that the option of having a trial by a judge alone can only be done at the request or with the consent of the accused. This is a very important safeguard, but it is still a path that I hope we do not keep any longer than is required. However, I have to question the delay of the changes to the other acts by two years. These reforms were meant to make the process faster and to ensure that all parties put their best case forward rather than relying on the appeals process, so why are they being left for two years?

I will just go back to the main intent of the bill, which is really to try and clear the backlog. The Productivity Commission released their *Report on Government Services* in January, and it provided statistics of the backlogs in the courts around Australia. These were alarming, particularly when you compare us to New South Wales. The criminal case backlog of longer than 12 months in the District Court, or County Court, is 14.4 per cent in New South Wales. It is 30.7 per cent in Victoria, which is more than double. In the same courts the backlog of longer than 24 months—two years—is 5 per cent in New South Wales. It is 11.3 per cent in Victoria, again more than double. The civil case backlog of more than 12 months in the District or County court is 19.5 per cent in New South Wales. It is 36.8 per cent here in Victoria. In the same courts the backlog of longer than 24 months—two years—is 4.2 per cent in New South Wales. It is 13 per cent in Victoria, more than three times that of New South Wales. The criminal case backlog of longer than six months in the Magistrates Court is 21.8 per cent in New South Wales. It is 56.5 per cent in Victoria, more than double again. In the same courts the backlog of longer than 12 months is 4.7 per cent in New South Wales. It is 28.3 per cent in Victoria, six times the amount of New South Wales. The civil case backlog of longer than six months in the Magistrates Court is 20.1 per cent in New South Wales. It is a whopping 49.5 per cent in Victoria, more than double again. In the same courts the backlog of longer than 12 months is 3.7 per cent in New South Wales. It is 30.5 per cent in Victoria, over eight times that of New South Wales. I could go on. Figures in the Children's Court, the court dealing with our most vulnerable, are equally as appalling. This government needs more than this bill to fix the backlog of the courts. They need to develop a solid plan.

I will make one more comment on the bill. Clause 10 is very sneakily sliding an amendment to the Occupational Health and Safety Act 2004 into this bill. This clause extends the operation of COVID-related fines. Rather than part of the act being repealed in April, it extends it for another 12 months.

I am concerned about notices being given for very minor breaches of COVID-related rules that have happened in the past two years. While I would prefer that this clause was removed entirely, it should at least be amended to specify certain serious breaches. This government could drop all COVID-related fines that are blocking up our courts currently: the minor fines for masks; the fines that they created, fanciful ones, for small business; the ones they created for churches; and so-called COVID breaches during the lockdowns that we did not need. Is this government going to drop all of the COVID-related fines, the very minor ones around masks, to stop this backlog?

We can now see that the virus is spreading through the vaccinated. Why does this government still have this on their books and continue to threaten people if they do not wear a mask on public transport, or fine children $20? This government should, if they want to improve our court system and the backlog, drop all the COVID-related fines now.

Mr GRIMLEY (Western Victoria) (11:36): I rise to speak to the Justice Legislation Amendment (Trial by Judge Alone and Other Matters) Bill 2022. I do not intend to take too long with my contribution. In fact I only intend to speak about the amendment, which I would like to circulate now.

Derryn Hinch's Justice Party amendments circulated by Mr GRIMLEY pursuant to standing orders.

Mr GRIMLEY: Regarding the majority of this bill, we are generally pretty happy with it. Whilst I have sent extensive information on this amendment to all members, I will briefly speak to it here for *Hansard* and also for any victims or other supporters who may be watching.

This amendment, like others I have put forward in this place before, acquits a recommendation from the 2016 Victorian Law Reform Commission (VLRC) report *The Role of Victims of Crime in the Criminal Trial Process*, specifically recommendation 25. It recommends that:

> Division 2A of Part 2 of the *Evidence (Miscellaneous Provisions) Act 1958* … should be amended by:
>
> (a) requiring the prosecution to notify the victim of their right to appear and the availability of legal assistance in relation to an application to subpoena, access and use their confidential communications …

(b) requiring the court to be satisfied that the victim is aware of the application and has had an opportunity to obtain legal advice

(c) prohibiting the court from waiving the notice requirements except where the victim cannot be located after reasonable attempts or the victim has provided informed consent to the waiver

(d) providing victims with standing to appear—

and removing the requirement that victims seek the court's leave to appear, which is on page 145—

(e) permitting victims to provide a confidential sworn or affirmed statement to the court specifying the harm the victim is likely to suffer if the application is granted.

These recommendations were reiterated in the VLRC's 2021 report *Improving the Justice System Response to Sexual Offences*. In that they state:

> The issues identified in our Victims of Crime report are still with us today. The protection of confidential communications is undermined by the challenges complainants face in participating in the decisions made about their records.
>
> We reaffirm the recommendations in our previous inquiry.

There were two inquiries there—many, many years apart—and the issue is still the same.

I can say this with clarity because the government did implement a suite of changes in 2018 in response to the first report but this recommendation was not one of them. Five years later the same commission made the same recommendation, with a focus on the need for legal representation for these applications.

I cannot be much clearer about what these amendments do than pointing towards these recommendations specifically. My office has worked closely with the Office of the Chief Parliamentary Counsel to ensure that we get the implementation of this right, as well as putting in protections to ensure that this does not amount to any considerable time delays on individual cases or the court backlog generally.

For further background on why this is needed I will take you to some of the practices that are still exhibited in some Victorian courts. I say this knowing that the attitudes are shifting and courtrooms are getting better at dealing with sexual offences, but they are certainly not perfect. Derryn Hinch's Justice Party have heard from victims over our tenure in this place about awful cross-examinations and perceived breaches of privacy. When a case is brought against an alleged perpetrator for sexual offences, the victim's confidential records can be subpoenaed or requested by the perpetrator and/or defence. These are often used to discredit or bring into question the victim's state of mind or cross-examine their statement, for example. This contrasts with the various protections offered to an offender, such as the inadmissibility of prior convictions.

Some examples of how victim information can be exploited or questioned in court can be: use of antidepressant medication being a reason for a victim to be unreliable; a history of mental health issues being the reason why sexual assault was alleged; or requesting medical records that date back decades before a rape allegation. This can be humiliating, embarrassing, hurtful and unjustified, and it can certainly be retraumatising. Whilst this is to some extent a necessary part of the adversarial legal system that we have, there should be additional protections in place for victims' confidentiality, which can be and often is exploited in court, as well as the ability for victims to participate in the legal system.

The VLRC's inquiries were very fruitful, but in a bad way. The report exposed many things regarding confidential communications, including that victims are not notified about their communications being accessed or even being sought, that victims are not told that they have a right to appear before the court, that the court still has discretion over hearing the victims' pleas as to why, that there is a clear lack of legal help for victims who choose to pursue defending access to their personal records and that the courts still have the ability to say no when a victim or their lawyer wants to defend access to that

victim's records. This does not mean records must not be used. The judge still has the ability to make that decision independently, but it allows the victim to make a submission to be heard.

We can fix all of these things. We can fix them without making a victim a party to proceedings, without causing undue delays to the legal system, without removing complete discretion from the courts where victims choose not to participate and have communicated with their prosecutor or cannot be found. We have also retained in our amendments the 14-day notification time frame that currently exists under the law, for instance, if hearings are already scheduled within this time frame—all of this just by creating a system of checks and balances for victims.

Currently victims can appear before a court to explain why they object to certain records being obtained or used; however, many do not know about this right to appear, and further, they cannot access publicly funded legal help to represent their best interests, as the police and the Office of Public Prosecutions are unable to undertake this role. I could therefore talk all day about why we need to expand the victims legal service, but I will leave that for another time. So the solution to this issue is to include a process in the act whereby victims are notified about their rights to appear and to make a submission about requests for their confidential communications, as well as requiring the court to check that such inquiries have been made.

The VLRC report came to some important conclusions about how Victoria's current laws are lacking in terms of confidential communications. Firstly, Victoria Police suggested in its submission to the commission that there is no obligation to serve the notice on the victim or for the victim to be informed that the application has been made. I will just reiterate: Victoria Police suggested in their submission to the commission that there is no obligation to serve the notice on the victim.

In response to this section 7.67 of the VLRC report states:

> Victoria Police, the Centre for Rural Regional Law and Justice, the DPP and Victoria Legal Aid and some support workers agreed that measures should be taken to ensure that victims are effectively notified about applications to use their confidential communications.

Requiring victims to seek leave of the court to make a submission is at odds with recognising the victim's interests in the proceedings and specifically their interest in protecting their privacy from unjust interference. The Supreme Court of Victoria agreed with this in their submission to the commission. One could certainly argue that the Magistrates Court and the Supreme Court are very different and hold very different roles, but why should a victim of rape experience the court process differently from a victim of another serious sexual assault just because it is the court's jurisdiction? The commission states on page 144 of its report that:

> … the current statutory obligation alone has not served to ensure that the victim has been notified.

This means that victims' entitlements need to be strengthened and a system of checks and balances needs to be implemented, and this is what these amendments do. Should these amendments pass, victims will still be able to allow the prosecution to convey their views on behalf of them. These amendments do not interfere with this process. They only strengthen the mandate to advise victims of such applications and offer the right to appear, including without seeking leave of the court.

I will mention that the sky will not fall in if these amendments pass. I know this because what we are seeking is virtually replicated in New South Wales. Their notification system is more aligned with the rights of victims. There is an obligation in New South Wales for the court to oversee notifications about confidential communication applications. In New South Wales the judge must be satisfied that the victim has been notified about the application and has had the opportunity to obtain legal advice should they wish.

Lastly, I can imagine that the government will seek to vote against these amendments, and one reason may be that it is an attitudinal shift that needs to take place instead of a legislative change. I will respond that the courts, as has been seen over successive amendments in this place, have needed some

encouragement to ensure that no victim slips through the cracks. We have seen this with many of the other recommendations the government has acquitted from the same 2016 report in regard to victim impact statements, intermediary programs, witness protection screens and the like. This system of checks and balances ensures that victims are notified and that the courts are aware of the impact of sharing victims' confidential communications.

These amendments are about mandating the notification process, because the current statutory obligations are simply not working. If you are serious about supporting and protecting victims of crime from additional harm and trauma, then your support of these amendments will achieve that.

Ms TAYLOR (Southern Metropolitan) (11:48): I am glad that the opposition are broadly supporting the bill and are going to ensure its passing. I am a little bit disappointed, however, that they are not supporting, I believe, a certain OH&S element. I thought I would speak to that a little bit, and then I will go to some other elements of the bill.

I think the concern that they have raised—and I believe it has already been discussed to some extent here—is that the relevant provision increases uncertainty for small business as it allows WorkSafe Victoria to close down businesses for a minor breach of a pandemic order. Can I just make it absolutely clear that this is incorrect. The opposition are concerned about the use of prohibition notices, but perhaps there is a misunderstanding on their part that prohibition notices are only issued in relation to a particular activity. I can also relate to what Ms Terpstra was saying earlier about having represented workers and knowing what it takes in order to bring about the issuing of a provisional improvement notice et cetera. It would be good in this debate to be able to allay the concerns that have been raised, having been in that role and witnessed where PINs et cetera have been issued. They do not act to shut down an entire workplace where the risk is only confined to a particular activity. In limited circumstances where a single activity comprises the entire business a prohibition notice may require all activity at that workplace to cease, such as a manufacturer with only one machine, but this is extremely rare, so I do not think it is helpful in this debate to inflate the probability, in a way, or for want of a better word embellish it when in fact that just is not the reality.

It appears that the opposition seems to be suggesting that WorkSafe inspectors do not know how to do their jobs—something that we absolutely reject as well. I want to thank every one of them for their tireless work over the last two years, because we know they are well trained and they are zoning in on issues and matters which need to be addressed in an appropriate manner. This is also a point from Ms Terpstra that I will reiterate: the WorkSafe inspectors still retain discretion as to whether they use these powers. After an inspector establishes that there has been a breach of the pandemic order, they can make further inquiries with a duty holder and form a view as to which enforcement tool is appropriate, so maybe cut them some slack; that would be good. They are professionals in their jobs, and certainly they are implementing the various mechanisms that they have to ensure that workplaces are conducted appropriately and safely, and that means that they do have to take reasonable steps to ensure that safety standards et cetera are maintained, but it is not about the pedantry that perhaps is being put on the table here.

With this bill we are merely extending the provision of this vital tool for WorkSafe inspectors to continue taking decisive enforcement actions in response to non-compliance with pandemic orders and related COVID-19 directions made pursuant to the Public Health and Wellbeing Act 2008. This will assist WorkSafe to ensure that employers and other duty holders under the Occupational Health and Safety Act 2004 are providing a safe place of work and mitigating exposure to COVID-19 in the workplace. I think if we see the reality of this provision and what it actually means, then I think that is the most reasonable step to take in this debate. I hope that does not come across in a pejorative manner per se—I am not meaning it to—but I am, I suppose, seeking a reasonable approach to the measures that are inherent in this legislation.

It is also important to note that when WorkSafe inspectors visit any Victorian business, whether it is small, medium or large, they will always focus on working collaboratively and educating where

necessary. That is the premise upon which they are required to operate. So, yes, maybe let us cut them some slack. Let them do their jobs well and trust that the legislation is appropriately drafted for maintaining safe workplaces as part of the professional roles that they undertake. Whenever one uses the word 'trust' there are always caveats, and of course there is an understanding that legislation is built very carefully and prudently, along with the associated regulations, such that the relevant caveats are put in and the fundamental responsibility that underpins the role of a WorkSafe inspector is anchored.

How will this judge-only scheme work? The scheme will be substantially the same as the judge-alone scheme that was adopted in early 2020. The provisions operated effectively. The courts and the profession are now familiar with their operation, and there is now case law which gives guidance on the provisions, including the test that it be in the interests of justice that a judge-alone trial proceed. I think that is a very important statement, not lip-service. It is one to be taken very seriously when we reflect on the importance of having fair and just outcomes in judicial proceedings.

The court can order a judge-alone trial for any indictable Victorian offence if the following criteria are satisfied: the accused person consents to be tried by judge alone, so that is an important consideration; the court is satisfied the accused has sought and received legal advice on whether to consent to a judge-alone trial; and the court is satisfied it is in the interests of justice—notice that I have emphasised that point—to order a judge-alone trial.

The courts can order a judge-alone trial either on their own motion or on an application by the prosecution or the accused. The prosecution does not need to consent to the judge-alone trial, but the judge is required to take into account the prosecution's view in deciding whether to order a judge-alone trial. That is another important element when looking at the process of the judge-alone trial measure. As was the case with the previous model, parties will be able to appeal verdicts made by a judge sitting alone in the same way as with a jury verdict. Parties will also be able to appeal a decision of a court to order or not order a trial by judge alone.

I think another point that is very important to emphasise is that the scheme is a temporary response to the COVID-19 pandemic. The provisions will sunset after 12 months, and an application for a judge-alone trial will only be able to be made if a pandemic declaration is in force. These are important caveats and also a reflection of the seriousness of the circumstances which underpin the temporary nature of this scheme. The new requirement is an additional safeguard and reinforces the temporary nature of these reforms. I reiterate that point to offer some assurance regarding the overall objective with the scheme that is in place.

Criminal jury trials will always remain the cornerstone of our criminal justice system. The government remains committed to undertaking consultation with stakeholders and the broader community before considering any permanent judge-alone trial scheme. These are temporary reforms that are being reintroduced only to assist the justice system to safely continue to determine more criminal trials while COVID-19 continues to affect jury trials.

We can wish that COVID-19 were not here, but the fact of the matter is that the pandemic is still circulating as disease states do, and this is not certainly something that our government has created. Obviously the pandemic is like any other disease state. Human beings are vulnerable to different illnesses, and so therefore we have to adapt. We have to be realistic about the circumstances under which we are operating, and we cannot just pretend it is not there. We have to have these appropriate measures in place, factoring in the circumstances which we are all having to operate under right now.

I think another very relevant element is consultation with stakeholders. The reintroduction of the judge-alone trials responds to feedback from legal stakeholders—I think that is a very, very important element—including the Law Institute of Victoria, the Criminal Bar Association and Victoria Legal Aid. In a media release the LIV president, Tania Wolff, said:

> … the LIV supports this decision to extend the option of judge-alone trials for a further 12 months.

Therefore you can see that our government has undertaken appropriate consultation with those eminent organisations who would be at liberty to express otherwise if they thought to do so, but as we can see, they have actually backed these measures. Therefore we are confident in bringing forth this legislation.

If we look at data on acquittals and other features of judge-alone trials, we know that all of these elements have been taken into consideration with this legislation.

Business interrupted pursuant to sessional orders.

Questions without notice and ministers statements

EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY

Ms BATH (Eastern Victoria) (11:59): My question is to the Minister for Emergency Services. Last August Stephen Ruff phoned 000 at the direction of his GP because he was experiencing excruciating abdominal pain. ESTA dispatched paramedics; however, halfway through assessing him they were told by ESTA to leave him for another call. In significant distress, Stephen's wife drove him to the hospital, where he spent the next seven days. Minister, why are seriously ill Victorians like Stephen being told to drive themselves to hospital if the system is up to standard, as you claim?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:00): I thank Ms Bath for her question about her constituent's experience in August. Ms Bath, as you have articulated to the house, when you call 000 for an ambulance the dispatch decision is made by a qualified ambulance dispatcher. They are in a separate team to call takers. Call takers answer the call and get the basic information and form a view as to whether they can deal with the call, or if it needs an ambulance it goes to the appropriate triaging situation, and they are then responsible for dispatch because they know where ambulances are and when they can get to people. It is really important to make sure that category 1 cases are dealt with with lights and sirens and given priority, but if a more pressing case becomes available then that, as I understand it, is when resources can be diverted to the most appropriate and highest need incidents. So the advice that was given to your constituent was from those that are best placed to make those decisions; that sounds like what happened in this case. It would not be for me to provide you with a clinical response, because I am not trained. The people who deal with the people who call 000, who answer the calls and who make the decisions about dispatching ambulances are qualified to make those comments, not me. As you would appreciate, everyone that calls 000 does not always need an ambulance. In the instance that you have described it would have come down to them making a clinical decision. I am glad to hear that he got to hospital and has recovered.

Ms BATH (Eastern Victoria) (12:02): I thank the minister for her response. Five weeks after Stephen was released from hospital he experienced serious chest pains. Because the paramedics that were called to attend his earlier incident had educated him on your policy about when to dial 000, his wife hesitated to phone for an ambulance. Instead she drove him to hospital to discover he was having a life-threatening heart attack. The lack of clarity and confusion around your policy, Minister, nearly cost Stephen his life. Why do you continue to tell people like Stephen that Victoria's emergency response system is one they can rely on when your policy is endangering their lives?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:03): That is a complete misconstruction of anything I have ever said. If you are in need of an ambulance, call 000—absolutely. It is outrageous to suggest otherwise.

Members interjecting.

Ms SYMES: No. If you need an ambulance, call 000. I cannot be any clearer than this. It is just an outrageous misconstruction of anything I have ever said.

VICTIMS OF CRIME

Mr GRIMLEY (Western Victoria) (12:03): My question is for the Minister for Training and Skills, representing the Minister for Victim Support in the other place. The final report *Improving Victims' Experience of Summary Proceedings* was tabled in Parliament on 16 November 2021. Recommendations 1 and 2 of the report talk about how agencies involved in summary proceedings should provide accessible co-designed information resources to victims of crime. Further, these resources should be made available in a single place. Recommendation 3 of the report expands on this, saying that agencies involved in summary proceedings should consider improving existing IT systems or developing new systems to allow easier communication of court dates, progress of matters and court outcomes to victims about the case relevant to them. The report suggests that this might be through the establishment of a victims portal that would link support services to Victoria Police and court information relevant to the victim. Can the minister provide a time line for the implementation of this victims portal?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:04): I thank Mr Grimley for his question and his ongoing interest in this area, and I will refer this matter to the relevant minister, Minister Hutchins.

Mr GRIMLEY (Western Victoria) (12:05): Thanks, Minister. Appendix C of the same report gives data from an Engage Victoria survey about victims' experience with summary proceedings. The results point to low levels of compliance by prosecuting agencies with the requirements of the Victims' Charter Act 2006. Here 63 per cent of respondents said they did not get the opportunity to prepare a victim impact statement. The Office of Public Prosecutions, which handles part of the summary proceedings case load, reports a high level of compliance with the Victims' Charter Act. In summary proceedings Victoria Police, however, are often the prosecuting agency, and it would seem that Victoria Police may be the source of the poor victim experience, as evidenced in the report. A system to better coordinate victim case management is clearly needed. In November 2020 the Centre for Innovative Justice, in its review of victims services, suggested that Victoria Police look at adopting both an integrated case management system and a portal for victims of crime. Minister, will you advocate to the Minister for Police so that Victoria Police can take steps to adopt an integrated victim response system such as the OPP system to better manage victims' experience with summary judicial proceedings?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:06): Again I thank Mr Grimley for his supplementary question, and, similarly to the answer I provided in respect of the substantive, I will refer the matter to Minister Hutchins.

MINISTERS STATEMENTS: HIGHER EDUCATION STUDENT SAFETY

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (12:06): Yesterday the results of Universities Australia's 2021 National Student Safety Survey were released. It is deeply concerning and an indictment on our society that sexual harassment and gender discrimination still occur at universities throughout Australia. The results reinforce the distressing fact that students, especially women and LGBTQIA+ communities, are at risk and that their time at universities will be damaged.

It is time that we all unite and say 'stop'. As leaders in our communities we must all ensure that we make it clear that all forms of harassment and violence are unacceptable. We all have a role to play in creating safe, equal and respectful futures, and I am determined to work with Victorian universities and all education providers to eliminate harassment and assault. The report clearly demonstrates that universities need to do more. I have asked the Victorian vice-chancellors to provide me with details of their approach and action to tackle this serious problem. It is top of the agenda for the Victorian vice-chancellors forum in April.

The Andrews Labor government has shown leadership. We have implemented the world-leading Educating for Equality to help universities prevent gendered violence in collaboration with Our Watch; we have funded a flagship gender equality and family violence research program at Monash University, which builds on the experience of survivors to develop better responses and prevention measures; and last year we introduced the Australian-first Respect and Equality in TAFE program. There is a lot of work to be done, and this government is absolutely committed to ensuring a safe, equal and respectful future for all Victorians.

FIRE RESCUE VICTORIA

Ms BURNETT-WAKE (Eastern Victoria) (12:08): My question is to the Minister for Emergency Services. Minister, isn't it a fact that Fire Rescue Victoria has one chief fire officer, six deputy chief fire officers, 57 assistant chief fire officers and 237 commanders to manage 3698 operational staff while Victoria Police has one chief commissioner, six deputy commissioners, 16 assistant commissioners and 13 commanders to manage over 18 000 operational personnel? Minister, how do you explain this by-product of the Premier's secret deal with Peter Marshall in return for support prior to the 2018 state election?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:09): I am just having a look to see if there is anything in my folder that has the detail of the operational positions within FRV. I might have to have a look at that. I will have to take your word for it on police, because that is not my responsibility. However, I will not be making any apology for the hardworking staff and the investment that this government makes to keep Victorians safe. In relation to FRV and firefighters, they do a fantastic job, supported by CFA and the volunteers there. This government has made investments in both agencies and no doubt will continue to do so. Under our government we have increased firefighter numbers because you need to respond to community risk. You need to ensure that people can respond appropriately to incidents that happen in the community.

A member interjected.

Ms SYMES: Pretty much. And I would not really say that the organisations are that comparable. They respond to really different things, so I do not think you could say that one particular agency should have the same make-up as another agency—the way they are structured, the way their different areas are structured, they do not have the same geographical areas of command, they cross over differently. I just do not think the comparison is very fair. But I guess the crux of your question is that you are concerned about the investment that we make in fire services, and we are not.

Ms BURNETT-WAKE (Eastern Victoria) (12:11): Minister, will you seek to have the number of management positions at Fire Rescue reviewed? Is it a fact that a ratio of one management position per 12 firefighters compared to one management position per 508 police officers is okay?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:11): Ms Burnett-Wake, I answered this question in response to your substantive in that I do not agree with the position that you can compare these agencies in any way. Again, if you are concerned about having too many highly qualified people protecting the state, then that is on you.

HORSE-DRAWN VEHICLES

Mr BOURMAN (Eastern Victoria) (12:11): My question is directed to the minister representing the minister for transport in the other place. Sometime ago Melbourne City Council banned the parking of horse-drawn carriages in the CBD, forcing them to stage outside the city. There appears to be further effort to entirely remove horse-drawn carriages from the city. I have been made aware of allegations that Melbourne City Council by-laws officers have been following the carriages in the area, effectively waiting for them to make mistakes so they can be fined. It is further alleged that the minister for roads

has been enlisted to help out with the removal of the carriages. My contact with the council has resulted in them telling me that all the issues are being driven by the state government and that there is a plan, apparently prepared by the state government, outlining the path forward, but I am told neither the council nor the operators have yet seen this plan. My substantive question is: will the minister or a senior adviser reach out to the carriage operators and supply them with a copy of any plan regarding them that exists and properly consult with them to ensure that procedural fairness is given?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:12): I thank Mr Bourman for his question and his interest in this issue, which is obviously a complex intersection between road safety, tourism experience and animal welfare. I think the minister you are after is Minister Carroll on this particular question, but you are absolutely spot on. This is an issue that traverses multiple areas of government responsibility, because in the inner-city areas where these carriages are most of the roads are council roads; only a very small number of them are VicRoads-managed roads. I will take that question on notice in accordance with our standing orders and seek a response from Minister Carroll for you.

Mr BOURMAN (Eastern Victoria) (12:14): I thank the minister for her answer. The carriage operators want to continue their business, but like all tourism-related businesses, COVID restrictions have decimated the operators, and even though we are starting to come out of the pandemic there seems to be some sort of concerted effort to finish this particular business off. My question is: in the event that regulation or legislation is enacted that further restricts the operation of the horse-drawn carriages to the point they are not able to run a viable business, will the government commit to ensuring that a fair and reasonable compensation package is given to the carriage operators?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:14): Thank you, Mr Bourman, for your supplementary question. I will seek a response to the issues that you have canvassed from Minister Carroll.

MINISTERS STATEMENTS: SMALL BUSINESS MENTAL HEALTH SERVICES

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:14): The Andrews government is proud to be providing small business owners with free access to Mindarma, an evidence-based online mental health support tool. Mindarma is being made available to Victorian small businesses and their employees to help with daily challenges and the ongoing uncertainty due to the pandemic. Supported by the Black Dog Institute and the University of New South Wales, Mindarma is an education program developed by leading researchers. Through 10 short interactive sessions accessible on a computer, tablet or smartphone, users learn mindfulness and cognitive techniques for resilience and to manage workplace stresses.

Sally Wallace, from Melbourne's Rome2rio travel business, recognised her staff needed additional wellbeing support during the pandemic. Mindarma tailored a program specifically for their 40 staff members, with an emphasis on resilience, practical skills and strategies. This program forms part of the Labor government's $26 million commitment to providing timely and needs-based support through the Wellbeing and Mental Health Support for Victorian Small Businesses initiative announced back in August 2020. Other initiatives include the Partners in Wellbeing helpline, a free and confidential service that provides support for small business owners and their employees, with wellbeing coaching, financial counselling and business advisory services available seven days a week; and the small business edition of the WorkSafe WorkWell Toolkit, supporting small business owners and sole traders to create mentally healthy workplaces. In addition, Business Victoria is still accepting applications for the mental wellbeing of business communities grants program, which offers eligible local trader groups and business chambers free mental health training plus grants of $15 000 to deliver a related project.

With the remaining time available to me, I would like to express my profound admiration for our small business community and their determination to look after the wellbeing of their employees and indeed themselves and their families through what has been an extraordinary and unprecedented set of circumstances. We are proud to work with them to enhance what is available to support them to do that.

PROBUILD

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:17): My question is to the Minister for Small Business and concerns the Probuild collapse and administration and its impact on small business. Probuild was responsible through its subsidiary WBHO Construction for the western roads package, a $1.8 billion state roads package and construction program in the western suburbs. Probuild has finished this project, which is now administered through an ongoing 20-year PPP arrangement. However, concerningly, WBHO has not paid all the construction and building firms that built the project. This is inconsistent with state government commitments on security of payment for state works, and I ask: what steps will the small business minister take to ensure hardworking contractors who have completed this project do not go broke, effectively being left to whistle Dixie?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:18): Thank you, Mr Davis, for your question. The government has been monitoring closely the situation with Probuild, and I can provide an update to the update that I provided in the last sitting week, a fortnight ago. My department continues to be in contact with Probuild since their announcement last fortnight. Let me say at the outset that I offer our full support for affected workers through the Workers in Transition program and Jobs Victoria. I want people to know that they have that support. But the current state of affairs is that it is our expectation that the company will honour all of their legal obligations to workers and subcontractors. We will also provide Probuild with appropriate business facilitation services as the administrator, which is Deloitte, pursues the options of a new owner.

The Victorian government has no direct contracts with Probuild at this time, and I know that Mr Davis's question did go to a whole bunch of other areas of ministerial responsibility; obviously there are a number of portfolios that are impacted by this significant event. Probuild have advised that they are working with the administrator on plans to protect clients, subcontractors and employees, and my department's engagement with those who are impacted by this, whether they are small businesses, large businesses, independent contractors or individual self-employed people, will continue.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:19): I thank the minister for her answer, but the truth of the matter is that a copy of the minutes of the liquidator Deloitte's meeting on 4 March contains the names of Victorian firms involved in the WBHO construction of the western roads package that have not yet been paid. Will the minister therefore insist that each and every contractor is paid in full for the work they have done on the state government's western roads package?

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (12:20): Mr Davis has asked about the actions that occur when things are being liquidated. What I have outlined is the process that Deloitte is working through, the endeavours to find a new purchaser and the support for workers who are impacted by what has happened with Probuild. Whilst I—

Members interjecting.

Dr Cumming: On a point of order, President, I am really struggling today with some of the comments that I have been hearing from the government around inappropriate behaviour. As somebody who has been abused by an alcoholic, I am absolutely disgusted at some of the things that I have been hearing out of these gentlemen's mouths.

Members interjecting.

The PRESIDENT: Dr Cumming! You have raised your point of order. Members, please, we all know we should behave very well in the chamber and outside the chamber.

Ms PULFORD: I think in the circumstances people are being restrained. Mr Davis has made his apology, and I would concur, President, with your comments about the standing of members of Parliament both in and out of the chamber and when we are at public events.

But this is an important question that Mr Davis has asked, and I might, with your forbearance, just take a couple of seconds so I can finish the answer to that question. I will ask that my department engages with the Department of Transport around the contractual arrangements in the western roads upgrade project to make sure that people who are in this situation are provided with appropriate support. I undertake to do that.

COVID-19

Dr CUMMING (Western Metropolitan) (12:22): My question is for the Premier in the other place. Can the Premier confirm that QR codes were reintroduced without any health advice to do so? On 25 February the New South Wales Premier, Dominic Perrottet, delivered his first State of the State in front of a packed room in Sydney, hosted by CEDA. Premier Perrottet was asked a question regarding collaborating with the other state premiers, such as Mr Andrews. In his response he went to say that it was important that New South Wales and Victoria had similar settings to avoid media criticism. He gave the example of reintroducing QR settings, saying that there was no need for them to be reintroduced as contact tracing was no longer being carried out.

Ms Symes: There wasn't a question.

Dr CUMMING: The question was at the start. Would you like me to repeat the question? Can the Premier confirm that QR codes were reintroduced without any health advice to do so?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:23): I will pass Dr Cumming's question on to the Premier for a response.

Dr CUMMING (Western Metropolitan) (12:23): I look forward to the Premier's response. Can he confirm that the decision to reintroduce rapid antigen testing to schools at the beginning of this year was not supported by health advice? Premier Perrottet went on to speak about the return of children to classrooms, another instance of the two premiers making a joint decision. He said that there was a concern that:

> … the media would rush to find the scariest epidemiologist who was out there saying every child across New South Wales would die.

Both premiers decided to buy millions of RATs and issue them to schools and childcare centres. He went on to say that 'health completely disagreed with this approach' but it was done to instil confidence, minimise the negative media coverage, appease the teachers and appease the parents.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (12:24): Whilst I am happy—well, that is one description—to put your question to the Premier, it involves more likely the health minister and the education minister. But I will bundle it up and see what comes back for you.

MINISTERS STATEMENTS: REGIONAL VETERANS

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (12:25): On Labour Day I was very lucky to be in the beautiful location of Jamieson for the official opening of the Matthews Reserve avenue of honour. The Jamieson community planted the avenue of honour of Japanese maples in the 1920s to acknowledge the 51 local residents who served during World War I. Some work had been done in recent times and there was a bit of a relaunch of this particular avenue of honour, and I am pleased that our government through the Victoria Remembers program funded 51 bespoke brass plaques. The plaques display the name of

each World War I veteran handwritten by the children at Jamieson Primary School, with some names written by the descendants of the veterans. Craig Eury, a local artist, crafted the plaques, and they are fantastic. I thank the Jamieson community for welcoming me.

I also travelled to East Gippsland and dropped into the Bairnsdale RSL—or 'Barnsdale', whichever side of the street you are on—and caught up with Alan Patten, a very good man. There are 400 veteran members at that particular RSL, and I had a great meeting with them around a number of issues, including the royal commission into the defence force.

Then I was lucky enough to go to the Carry On Cafe and launch their new veterans wellbeing hub in Morwell, a magnificent facility which holds a food bank service, a veterans social space, a multipurpose room for group exercise and also some one-on-ones in terms of advocacy for Department of Veterans Affairs welfare claims. I congratulate David McLachlan and his team for the magnificent work they do right across the state.

SICK PAY GUARANTEE

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:27): My question is to the Minister for Workplace Safety. Minister, how much will be spent on advertising and promotion of the government's businesses employing casuals scheme that was announced?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:27): I thank Mr Davis for his question about what is a very, very important initiative of our government, and that is to tackle the scourge of insecure work in our labour market. One in four Australians occupies casual or insecure employment, and that is something that is a significant problem because it means that one in four workers—

Members interjecting.

Mr Davis: On a point of order, President, it was a very simple question about the advertising.

The PRESIDENT: I understand that, but she was only going for 5 seconds before the interjections started.

Ms STITT: Thank you, President. The point I was making is that these workers across our state who occupy casual and insecure employment are often facing significant financial disadvantage. We have heard a bit in this chamber this week about what people's views are about disadvantage, and I can tell you that our view about disadvantage and inequality is that we are going to tackle them, and we are doing so through this scheme.

In relation to the $245 million investment that our government has made in the two-year trial, we will be setting aside $1.5 million to ensure that both employers and workers understand the rules and the obligations under this scheme. There will be a hotline that is set up at the department to ensure that people who are affected by the scheme and who want to ensure that their rights are upheld can get professional advice from the department. There will be obviously digital, print and TV components which will ensure that people are aware of the ability to apply for sick pay in the event that, if they are in one of the targeted industries, they can access up to five days a year of sick pay. We make no apology as a government for ensuring that the community understands these very important initiatives that our government is pursuing.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (12:29): The point here is that the minister has indicated a significant advertising campaign, and I ask: will the minister provide a guarantee that none of the millions of planned advertising will be sourced from the $245.6 million the government has initially allocated for this scheme? Will it be extra?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:30): I thank Mr Davis for his question. I am not sure what he is proposing here. Is he proposing that it is not an important initiative to tackle insecure employment and to ensure for the very people

who are often at the margins in our community that we are reaching those communities that are the hardest to reach? If we cannot take the learnings from the pandemic over the last two years that often people are not plugged into mainstream media and we need to take different approaches to make sure they understand their rights and obligations, then we are missing a huge opportunity. Our government is absolutely committed to making sure that this $245 million scheme tackles the inequality in our labour market, and that is exactly what we will be doing.

PUBLIC LAND ACQUISITION

Mr HAYES (Southern Metropolitan) (12:31): My question is directed to the minister representing the Minister for Energy, Environment and Climate Change. The Legislative Assembly Environment and Planning Committee's recent inquiry into the environmental infrastructure requirements for growing populations raised some significant issues. Victoria's environmental infrastructure is considered fundamental to the livability of urban Melburnians, particularly in times of COVID, for outdoor open space, physical activity and a wide range of health benefits. Will the minister be embracing these recommendations, particularly those relating to the sale of surplus government land which could be instead used for public open space, increased funding for Parks Victoria and a consistent reporting framework for tree canopy targets?

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (12:32): Thank you, Mr Hayes, for the question. That was a question directed to the minister for the environment, and I will make sure she gets your question and you get your response in line with what is prescribed in the standing orders.

Mr HAYES (Southern Metropolitan) (12:32): Thank you, Minister. Rapid population growth in inner and outer Melbourne continues to be an ongoing challenge. As the population grows, so does the demand for existing open space grow. The Department of Environment, Land, Water and Planning submission raised concerns about urban areas where only fragments of native vegetation and natural habitat remain, stressing the importance of our parks, gardens, waterways and urban forests to support our remnant biodiversity. The real loser of this urban sprawl has been our green wedges and western grasslands, which remain under urban development pressure. I am interested to find out from the minister if she will consider recommendations 34, 35 and 36, which ask the government to consider bringing forward the acquisition of land required to establish the western grasslands and to develop a tree protection policy for adoption in all growth areas.

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (12:33): Once again, thank you, Mr Hayes, for your supplementary. I will ensure that the question, which is directed to the minister for the environment, is sent to her and that you get a response in line with the standing orders.

MINISTERS STATEMENTS: HOBSONS BAY KINDERGARTEN FUNDING

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (12:33): I rise to update the house on how the Andrews Labor government is providing families in Hobsons Bay with more and better kindergarten facilities. Earlier this week we announced the signing of a new Building Blocks partnership with Hobsons Bay City Council that will deliver a co-contribution of up to $5.8 million towards three new and expanded kinders as part of our landmark three-year-old kindergarten reform. We know how important it is for Victorian children to get the best start in life, and we are delivering the facilities to do exactly that.

The first stage of this partnership will provide an extra 168 funded kinder places by 2025 across Newport, Altona and Seabrook, and I want to give a shout-out to the members for Williamstown, Melissa Horne, and Altona, Jill Hennessy, for their tireless advocacy on behalf of their communities. They both understand the critical role that early childhood education plays in setting children up for lifelong learning. There is also in-principle support for a further state government contribution of up to $2 million for one more new kinder in the City of Hobsons Bay to be delivered from 2026. The

projects will deliver more than 270 funded kinder places in total in the City of Hobsons Bay by 2029. This is the third Building Blocks partnership we have signed, and I want to encourage every council to engage in this process so we can deliver even more bigger and better kinders across Victoria.

WRITTEN RESPONSES

The PRESIDENT (12:35): Regarding questions and answers today: Mr Grimley to Ms Tierney, two days, question and supplementary; and Mr Bourman to Ms Pulford, two days, question and supplementary. While Dr Cumming's supplementary was not related to the question, I thank the Leader of the Government for taking both on notice. Also Mr Davis to Ms Stitt, one day for the supplementary; and Mr Hayes to Mr Leane for energy and environment, two days, question and supplementary.

Constituency questions

EASTERN VICTORIA REGION

Ms BURNETT-WAKE (Eastern Victoria) (12:36): (1710) My constituency question is for the Minister for Health and concerns the Angliss Hospital maternity ward closure. I was recently contacted by a constituent who lives in the Dandenong Ranges. She is expecting a child in August 2022. On 3 March Eastern Health ceased all maternity services at the Angliss Hospital in Upper Ferntree Gully due to a broken lift. Expectant mums are now required to get to Box Hill for appointments and to give birth. Up until this announcement this constituent was booked in at the Angliss. This would have been a 10- to 15-minute drive. She is concerned that if she goes into labour during peak traffic times it could take her well over an hour and a half to get to Box Hill. My question on behalf of this constituent is: will maternity services be resumed at the Angliss Hospital by August 2022?

NORTHERN VICTORIA REGION

Mr QUILTY (Northern Victoria) (12:37): (1711) My constituency question is for the Minister for Health. I had a constituent contact me with the following question:

> Can someone please help me out?
>
> There were 58,000 people on Wednesday night and 72,000 Thursday night at the MCG, over 40,000 on Sunday night at Marvel Stadium, to enjoy a game of sport, but my 8-year-old daughter still has to wear a mask at school.
>
> I'm struggling to understand "the science" behind the decision making and explain it to her. I really need some assistance on this one.

It is difficult to see why children must wear a mask to learn but you do not need one when sitting in a crowd at the football. Minister, why can 70 000 people gather unmasked at the football in Melbourne but we cannot have a classroom unmasked in regional Victoria? It is time to ditch the mask requirements. We are as prepared as we are ever going to be. Kids hate the masks as much as anyone else, and they are safer than everyone else when it comes to COVID. It is time for the government to let it go.

NORTHERN METROPOLITAN REGION

Mr ONDARCHIE (Northern Metropolitan) (12:38): (1712) My constituency question today is for the Minister for Transport Infrastructure. Residents in my area of Northern Metropolitan Region do not like the raised intersection speed humps on Dalton Road and Epping Road. In the past I have surveyed those residents and they have told me as much—that they want them removed. I remember witnessing a large volume of crushed rock that had come out of one of the local trucks as it went through the Dalton Road intersection—it probably came off that truck as a result of these speed humps. I also witnessed at the time a truck carrying scaffolding hitting the speed humps, and that load jumped all over the place. It was lucky it did not come off—and I thank God it did not come off—and hit a car

that was travelling behind it. Minister, in response to a similar question regarding the raised intersection speed humps, you said to me:

> As always, these decisions are made on the very best safety advice from our expert teams.

I asked for that safety advice, but it never, ever came. I wonder if it really exists. Minister, the question I have for you is: will you commit in the upcoming budget to funding the removal of those speed humps so my residents travelling along Epping and Dalton roads can travel along safely?

WESTERN METROPOLITAN REGION

Dr CUMMING (Western Metropolitan) (12:39): (1713) My question is for the Minister for Health in the other place. Will the minister please ensure that constituency questions are answered and commit to doing so in a more timely manner in the future? Constituency questions are an opportunity for the people of Victoria to have any matter of concern raised for them. Standing order 8.08 states that a constituency question must be answered within 14 days. It is therefore very disappointing to see the total contempt that the minister has for the concerns of Victorians when so many of the questions that I have asked in this house remain unanswered. At the end of last sitting week I had 17 constituency questions unanswered by the minister dating back to 5 May 2021. Will this government answer constituency questions?

EASTERN VICTORIA REGION

Ms BATH (Eastern Victoria) (12:40): (1714) My constituency question is for the Treasurer. The much-awaited Cape to Cape Resilience Project is set to be released by the Department of Environment, Land, Water and Planning. It was originally gazetted in August 2020. The project extends from Cape Paterson to the beautiful Cape Liptrap, along the Bass Coast. The project has had significant community consultation, and experts have identified the many hazards and the at-risk areas along the coastline. There is a sense of urgency around this project, and it needs to be funded in this next May budget. Minister, will the state government commit to the essential funding for the management and adaptation resources that are outlined in the expert reports that have formed part of the Cape to Cape Resilience Project in the upcoming state budget?

NORTHERN METROPOLITAN REGION

Ms PATTEN (Northern Metropolitan) (12:41): (1715) My constituency question is for the Minister for Resources and relates to the proposed quarry in Beveridge in my electorate. I have recently sat down with local community members who highlighted their concerns that the quarry will bring dust, noise, congestion, pollution and vibrations and be a significant eyesore. They say it will irrevocably tear a hole right in the heart of their community. I note that the minister recently confirmed in this chamber that this issue very much falls within her responsibilities as she has the resources portfolio. So my constituents ask: will the minister provide information that confirms that the community's concerns have been heard and authentically considered and that the quarry will be rejected?

WESTERN METROPOLITAN REGION

Mr FINN (Western Metropolitan) (12:42): (1716) My constituency question is to the Minister for Energy, Environment and Climate Change. Yesterday Sunbury suffered its first major spill from a truck carrying sludge from the West Gate Tunnel Project. We do not know if the sludge was contaminated by carcinogenic PFAS material, but even if it was not, it is a sign of things to come. It is not just residents near the toxic soil dump who are endangered by this material but motorists, pedestrians, residents and traders right along the route between the tunnel and the Sunbury Road toxic soil dump. More than 800 extra trucks per day will be a threat on wheels to the health and wellbeing of tens if not hundreds of thousands of people in Melbourne's west. This is an intolerable situation. We should not be put in such a position. Minister, this is a major threat to the environment that my constituents live in. What are you going to do to protect the people of the west from this threat?

SOUTHERN METROPOLITAN REGION

Mr HAYES (Southern Metropolitan) (12:43): (1717) My constituency question is to the Minister for Fishing and Boating. Residents of Hampton have been lobbying the government now for over 18 months regarding their 150-year-old historic Hampton Pier, which remains unrestored and unopened. The pier is a valuable and much-loved community asset, but it seems to be one of 19 piers and jetties around Victoria that are currently closed or partially closed due to lack of government priority and investment. My question is: why is the government failing to meet its own targets on maintaining the state's piers and jetty infrastructure, and what time frame can the minister commit to getting Hampton Pier reopened?

EASTERN METROPOLITAN REGION

Dr BACH (Eastern Metropolitan) (12:43): (1718) I have a question this afternoon for the Minister for Ambulance Services. What new actions will the minister urgently undertake to prevent ramping at Eastern Health? I recently undertook a community survey across the electorate of Box Hill, and I received so many responses regarding our health crisis—many about the 000 crisis that has led to numerous Victorians ultimately dying after being left on hold for up to 20 minutes and numerous concerns about ongoing ramping in our region. I want to put on record again my utter admiration for the wonderful staff of Eastern Health. They are being let down, however, by this government. Victorians cannot decide when they need an ambulance. I needed an ambulance last year to take me away from this place, and I was treated, by the way, by an outstanding paramedic from Box Hill. My constituents deserve to know that when they are unwell, when they are critically unwell, they will get the care they need from our wonderful nurses and doctors. New action needs to be undertaken in order to protect the health and wellbeing of my constituents. What is the minister going to do?

EASTERN METROPOLITAN REGION

Mr BARTON (Eastern Metropolitan) (12:44): (1719) My question is for Minister Stitt. I have been contacted by a constituent who supports the Victorian government's commitment to providing three-year-old kinder. However, they are concerned about the infrastructure available to the City of Knox being insufficient to meet the leap in demand. My understanding is that funding available to address this infrastructure gap covers only 9 to 16 per cent of the cost of building projects to increase the number of kindergarten places. There is a concern here that eligible children may miss out, so the information I seek is: has the government completed any modelling that compares existing kinder places to the projected demand after offering three-year-old kinder to all families in Knox?

WESTERN VICTORIA REGION

Mrs McARTHUR (Western Victoria) (12:45): (1720) My question is for the Attorney-General and concerns the backlog of cases at VCAT. I have raised in the past the damage done by court waiting lists to victims of crime and also to those accused. As the phrase goes, justice delayed is justice denied. But the explosion in building costs means VCAT delays are having huge financial consequences too for both public and private development. As the Warrnambool *Standard* reported this week, a $4 million project by Heatherlie Homes to build 13 housing units in the city for older people faces an increase in cost of 20 per cent every two months. If the VCAT delays continue, it could cost more than $1 million beyond the original budget. This scenario is repeated right across regional Victoria. When, Minister, will you increase capacity, schedule additional hearings and clear the backlog which is costing millions and crippling development?

WESTERN METROPOLITAN REGION

Ms VAGHELA (Western Metropolitan) (12:46): (1721) My constituency question is directed to the Honourable Lisa Neville MP, the Minister for Police and Minister for Water. My question relates to the portfolio responsibilities of police. Thousands of people are choosing Wyndham Vale and surroundings suburbs as the place to build their homes and families. The community is growing immensely, and the infrastructure needs to catch up. There are several constituents who are concerned

about rising crime in their local area and the need for a police station. While the government has upgraded the existing Werribee police station, it is still not meeting the demand of the growing community. There remains the need for a police station in Wyndham Vale. Action must be taken to address the safety concerns of the local residents. People deserve to feel safe in their homes and when they are out and about in their neighbourhoods. My question to the minister is: can the minister advise me when the government will commit to building a police station in Wyndham Vale, Manor Lakes or the surrounding suburbs with growing populations in Western Metropolitan Region?

NORTHERN VICTORIA REGION

Ms LOVELL (Northern Victoria) (12:47): (1722) My question is for the Minister for Health. One of my constituents has been suffering from kidney stones for more than 20 years. In March 2020 his GP referred him to a urologist at Goulburn Valley Health. He went on the public health system waiting list for an appointment and was advised it was a three-year wait, which is an unacceptable amount of time. Worse still, my constituent checked his appointment status just last week only to be told that the wait time had blown out to four years and one month, with a likely appointment in April 2024. My constituent has been diagnosed with a collection of stones in his right kidney and is in unbearable pain. This time frame is completely intolerable for any patient and particularly for a patient who is constantly in considerable pain. Will the minister take immediate action to decrease the unacceptable wait times for consultations with medical specialists such as urologists being experienced by patients of Goulburn Valley Health?

The PRESIDENT: That concludes constituency questions. On that, I might give just a little advice to members. Constituency questions are related to your electorate. I know Dr Cumming has raised what I still believe is not a constituency question, but I will come back to this. I think it should have been raised as a point of order, but I will get back to that.

Mr Ondarchie: On a point of order, President, I completely agree with you that constituency question are related to one's constituency, and as a matter of fact I have four matters that have not been answered within due time. My constituency questions are very important to my residents, because they want answers to these immediate problems they have. Question 1602 is now 43 days in arrears, 1624 is 32 days in arrears, 1640 is 31 days in arrears and 1649 is 30 days in arrears. It is not acceptable for the government to avoid answering my constituents.

The PRESIDENT: Thank you for raising that, Mr Ondarchie.

Bills

JUSTICE LEGISLATION AMENDMENT (TRIAL BY JUDGE ALONE AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed.

Ms TAYLOR (Southern Metropolitan) (12:49): I know there were some concerns—and I understand them—regarding the court backlog. I do want to say that the government has, contrary to assertions that I believe were made by Mr Michael O'Brien in the LA and I know by Dr Bach as well—if I can allay their concerns—delivered significant investment in the courts to support them in driving down backlogs. In the last state budget we announced a $210 million funding boost to help drive down the COVID-19 court backlogs and bolster resources in courts across the state. This package incorporated $34.8 million for extra resources in our courts, including bringing forward the appointments of two County Court judges; $40.9 million for the online Magistrates Court, including two new magistrates and additional hearing rooms; $56.7 million for VCAT to move more of its hearings online; and $55.3 million for Victoria Legal Aid, Victoria Police, the Office of Public Prosecutions, Corrections Victoria and victim services to ensure they have the resources they need to play their part in reducing backlog.

This funding comes on top of the over $80 million previously invested to help the courts cope with COVID-19 and address backlogs. We fully acknowledge that there are backlogs and challenges, but there is no lack of will or effort in terms of investment and in terms of undertaking specific and targeted actions to ensure that the backlogs are addressed. I hope that goes some way to allay some of the concerns that have been raised by the opposition, because I think there was an inference that maybe we were not somehow aware or that we were not taking specific action. But members can see that there has been a significant investment to ensure that we can really tackle those backlogs head-on, and that activity is very much underway.

Finally, just to round off the discussion, I should say, coming back to what I started with, that the bill is extending the operation of part 16 of the Occupational Health and Safety Act 2004 until 26 October 2022. Again I do not see the concern from those opposite. We can see the sky has not fallen in, and we really should have confidence in this legislation moving forward.

Sitting suspended 12.53 pm until 2.03 pm.

Mr MELHEM (Western Metropolitan) (14:03): I rise to speak on the Justice Legislation Amendment (Trial by Judge Alone and Other Matters) Bill 2022. Basically the bill will reintroduce or extend temporary measures. It is designed to assist the justice system to continue their response to the challenges presented by the COVID-19 pandemic. The bill has five key points. The first is the reintroduction of judge-alone criminal trials and special hearings on a temporary basis, which has been in place for a while now. The second is the deferral of the commencement date for the de novo summary appeal reform. The third point will address the extension of part 16 of the Occupational Health and Safety Act 2004. The fourth is the extension of the provisions requiring an accused adult in custody to attend a summary contested hearing or a committal hearing by audiovisual link by default to reduce the need to transfer the accused person to court. The last point the bill deals with is the extension of provisions under the Children, Youth and Families Act 2005 to continue allowing attendance at a youth justice unit or reporting to occur by audiovisual link.

If I can address some of these points in some detail, and I know previous speakers have gone through some of the aspects of the bill, really this bill is to deal with technical issues—issues we had to introduce as a result of COVID-19 and the pandemic. It is quite interesting hearing some of the speakers, particularly from the other side, criticising this bill and what we are doing and forgetting the purpose of this bill. When we faced the pandemic back in January 2020, two and a bit years ago, no-one predicted that we were going to be dealing with a massive pandemic, where the cases now go into the thousands—10 000 cases and still counting—and now we have got the son or the grandson of omicron and winter is coming. God knows what we can expect going forward in the coming winter. The good thing is that whilst we have a high level of cases, life is getting back to some normality in Victoria and the other states. A lot of the restrictions have been lifted. The number of cases presenting to hospital is around 200 or under 200, which is a good thing. Unfortunately a lot of people are still dying from that horrible disease, even though in the last few days I do not think we have lost any lives as a result of it. I have not checked or double-checked the figures for today, but it is great news if we have not lost any lives in the last few days. But unfortunately the anticipation is that that horrible virus is going to be with us for a while yet.

In order to deal with it we need to make sure we have got an efficient justice system operating in a very productive manner, make sure we are delivering justice to victims and giving a fair trial to people who are facing the justice system, and make sure that everyone is given a fair go. We also need to take some pressure off the court system and judges and all the people working in the legal system. In my view they have done a tremendous job, considering what we have been through in the last two years. The ability to move from face-to-face trials to online trials I think is a credit to the people working in the justice system, and I want to commend the Attorney-General for the good work she has done in that space and the huge investments she has made on behalf of the government to make sure we have got an efficient justice system in the state of Victoria, which is under strain because of COVID-19.

Judge-only trials, as I said, were introduced in April 2020, and they are going really well. They are basically not dissimilar to a lot of cases. There are a lot of civil cases and other cases that are tried by a judge alone instead of a jury. The current system requires consent from the parties to accept a trial by a judge only. There have been a number of precedents that can now guide the judiciary going forward in relation to how these criminal cases in particular can continue to occur or be done by a judge only. There is a lot of experience there.

My understanding is that there were about 60 applications for judge-alone trials in the County Court, of which 51 were granted, and six applications in the Supreme Court. So things are going reasonably well, and I want to commend the judges and the practitioners, whether they were representing defendants or the prosecution, who have been working cooperatively to make sure we continue operating an efficient and a fair trial system in Victoria.

The second point, which I have touched on, is in relation to the de novo appeals. Maybe I will go through that briefly. Currently if a person is found guilty by a Magistrates or Children's court and then appeals that conviction, the court must hear all of the evidence again and reach a new decision. Essentially appeals are a new—or de novo—hearing, basically going through the whole thing again and again. This system places significant stress on victims and witnesses who are required to repeat their evidence during appeal proceedings. It also places significant cost and resources pressures on the County Court. The reforms that were introduced by the Justice Legislation Amendment (Criminal Appeals) Act 2019 replace de novo appeals with new processes for conviction and sentence appeals which streamlines the appeals process. These reforms were originally scheduled to commence in July 2021 but have already been delayed to 1 January 2023.

Again, the reason for the delay is because of COVID-19. We had no choice but to delay the changes. Getting feedback from the various stakeholders, there was a need to basically look at reviewing that decision again to make sure that when we implement these changes everyone is ready to actually operate under the new changes. A further delay until 5 July 2025 will allow the court and others in the justice system to maintain their focus on managing the impacts of COVID-19 and addressing the backlog of cases in the system, and this is a priority we want time and resources to remain focused on. I think everybody understands why that delay is taking place, and that is based on the feedback from the stakeholders in the justice system.

The opposition talked about how we should have put more resources into the justice system, which we have, so it is not about resources. It is about making sure we deal with the current cases in an efficient manner as people are getting used to a new system. Can I just say for the record: in the last budget alone the government invested $210 million. That is $210 million in addition to the current investment to actually deal with that. That comes on top of over $80 million previously invested to help the court cope with COVID-19 and address the backlog as well. So if you do the sums, 210 and 80, that is nearly $300 million that we have put into the system. Various other changes have been put in place as well to assist the courts to actually do their job. I will leave my contribution on that issue there.

The other one is the Occupational Health and Safety Act, and this bill also will extend the operation of part 16 until 26 October 2022. Again, that was introduced as a result of COVID-19 and was due to lapse in April 2022. Now, I have heard some comments from the opposition in relation to why we are doing that. First of all, the reason we actually introduced these changes was to allow WorkSafe Victoria inspectors to do their job in light of COVID-19 restrictions. A lot of the things cannot be done face to face, so they will be able to get things done online and to do things electronically to make their lives easier and to make sure there is full compliance with health and safety in workplaces, whether they are small, big or medium, and to protect not just the workers in industry and the operators but also protect consumers and the general population. That was the whole purpose of giving WorkSafe inspectors the additional powers—not powers as such, because they had these powers already, but really clarifying that inspectors can deal with issues relating to COVID-19 enforcement, similar to any other regulations or laws we have in place which relate to health and safety in the workplace.

That is what this bill, simply, is doing. It is clarifying that. The truth is that COVID-19 is still here, and it looks like it is going to be with us for the rest of this year at least and is not going to disappear anytime soon. That is the purpose of that, and I cannot believe that even the opposition is making noise about, 'We don't want to extend that'. Where they would like to see WorkSafe is basically having no powers whatsoever. Going back, it is almost this ideological argument, and it comes from the opposition, that is conservative in relation to self-compliance. If they get their way, we will not have WorkSafe. We will not have any people enforcing occupational health and safety laws. They would say, 'Oh, okay. Well, all employers are good people'—which they are; most of them are good people—'and they can do self-compliance and we don't need anyone to enforce'. Well, I have got news for you: that does not work in real life. We need to have enforcement, and it is the WorkSafe inspector's job to do that, and we have to make sure that they have the right tools to be able to do their job and make sure that all the obligations imposed by the Occupational Health and Safety Act are complied with. The Department of Health provides guidance regarding compliance with pandemic orders and related COVID-19 directions that everyone in the state, whether you are a small business, a medium-sized business or a large business, must actually comply with, because you have got that obligation to comply with the health department's direction.

Some comments were made about, 'Oh, they're going to issue fines; they're going to send them broke'. Well, I have dealt with a lot of health and safety inspectors over the years. Safety inspectors, their first line if there is a problem is, 'How can we fix it? How can we put things in place to make sure that place is safe?'. Even if they find that something is unsafe, the first discussion with the employer is, 'Can we fix this and make it safe?'. There is cooperation and then a process put in place to fix the problem. They do not just simply put a notice there and say, 'Okay, we're going to shut you down because you've got a particular part of your business that's not safe. We're going to shut you down and issue you a fine'. Issuing a fine is the last resort. It has been used by WorkSafe since its inception, so trying to scaremonger that it is going to give WorkSafe more tools to basically send businesses to the wall is absolute rubbish.

The other two points, in my last 10 seconds, I will not go through as they have been covered by previous speakers, but with these comments I commend the bill to the house. I hope the bill will pass, because it is important that we continue these arrangements while we are still under COVID-19 conditions.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (14:20)

Mr GRIMLEY: I do not have any questions, but I want to talk about the amendments that we circulated previously. I want to say a few words about them before we get into anything else so we can be clear as to where our intentions are coming from. Currently under the Evidence (Miscellaneous Provisions) Act 1958 police are required to notify a victim of an application to access their confidential communications. As I have said before, the Victorian Law Reform Commission's 2016 inquiry into the role of victims of crime in the criminal trial process and the 2021 inquiry into improving the way the justice system responds to sexual offences were told by victim support groups and Victoria Police that this was simply not happening. The VLRC report says that no—as in zero—victims consulted by the commission were actually aware of their entitlement at all.

How this looks in the real world can be highlighted in an article that was written by Benita Kolovos in the *Guardian* today. The article talks about a woman named Tabitha, who told the 2021 VLRC

inquiry that her mental health history was subpoenaed and 'used against' her. During the inquiry, Tabitha went on to say:

> I had disclosed a previous sexual assault to my psychologist for the first time just two days before the assault which was the subject of the trial.

She continued:

> The defence lawyer kept questioning me about this as if it was no coincidence but rather, an attempt to get more attention/sympathy. It felt like I was going through the assault all over again, but this time I was being mocked.

She continued:

> There was no one standing up for me and asking about the relevance of my mental health history. Surely, given the prevalence of mental health issues in our society, many people with these issues are assaulted … I felt like I was the criminal and I was the one on trial.

The amendments that we put forward today sought to go some way to addressing this issue in real life, and that was through mandating victim notification of the application as well as notifying victims of their right to appear at the application hearing and make a submission should they wish to do so, removing the ability for courts to waive notice to the victim in most circumstances and also creating a system of checks and balances whereby the court must check that the prosecution has fulfilled its duty in notifying the victim of their rights.

Since speaking with the Attorney-General about this amendment an assurance has been made that it will be implemented within the stealthing legislation coming before this place hopefully in August. As this commitment has been made by the Attorney-General, we seek to withdraw these amendments.

Ms SYMES: I will just say a few remarks in relation to the collegial dealings I have had with Mr Grimley in recent days about his well-intended amendment. At the outset this is a bill, as we know—we have had several speakers—that is around judge-alone trials and issues dealing with the courts to support the courts to deal with pandemic-related backlogs, and I do appreciate that there appears to be unanimous support for those measures and support for the courts to do their good work.

Mr Grimley sought to bring in an amendment that was out of scope. I had a few concerns about the process of that, because it does not really fit with the bill and meant that we had to try and work out whether it could be implemented, and we did not really have the time to do that. But through conversations with Mr Grimley I have indicated that this is work that we have already been looking at and we can work together to come up with a suitable outcome, because of course we do recognise that there is more to be done to improve how victims experience the criminal justice system, particularly victims of sexual offences. That is the very reason that we had the VLRC review on the justice system response to sexual offences, and we are currently considering those recommendations. I have pre-announced legislation that it will be our intention to pass later this year to adopt an affirmative consent model and make it explicit that stealthing is a crime.

To formalise, or put in *Hansard*, the agreement that I have reached with Mr Grimley, I do intend to include in that bill provisions to deal with the concerns around applications for victims' confidential information and the distress that can cause, with appropriate consideration of the detail as well as the broader system impacts and after proper consultation with the courts, the Office of Public Prosecutions and other stakeholders. I do certainly appreciate the support and intent of Mr Grimley's amendments, but it is important that they are progressed in a considered and coordinated way alongside other victim-related reforms, including those that I have discussed in response to the VLRC's report on the justice system's response to sexual offending.

Conveniently I think Mr Grimley and I have got a scheduled meeting to go through some of these issues, and I guess it would be good to go through this and some of the other issues that he wants to see progressed through legislation, because, as he has previously recognised, he is limited in his ability

to draft amendments and draft bills et cetera—he has limited spots and time. As the government it is our role to introduce legislation to this place, and where I can pick up, as I said, well-intended good policy outcomes that are well considered, they are going to deliver better outcomes.

I think Mr Grimley and I working together on this particular amendment will produce a better outcome and meet the intention that he is seeking to meet down the track. With that I do want to thank Mr Grimley. I do acknowledge his continued advocacy for victims of crime, and I do appreciate his considered approach to withdrawing his amendment at this time with the full commitment that it is my intention to deliver the same outcome in this term of Parliament.

Dr BACH: On this side of the house we wish this bill an expeditious passage, notwithstanding our opposition to just one element of it. And for that reason I only had one question that I was keen to ask the Attorney. As you have outlined, there is bipartisan concern—and you have been very clear on your part regarding this matter, Attorney—to seek to reduce the amount of cases that currently are backlogged in our courts and in VCAT, hence one of the key reasons for this bill. Would it be possible, Attorney, to have some updated information regarding the scale of those backlogs in VCAT and across our courts? I would fully understand if you did not have that information currently to hand. If that is the case, if that could be provided on notice, then that would be much appreciated.

Ms SYMES: Thank you for your question, Dr Bach. These are issues that should be well canvassed publicly—I agree with that. The backlogs are a direct consequence of the pandemic, and courts and tribunals have certainly responded with innovative approaches to justice delivery with a focus on enabling people to engage with the courts in new ways. But of course it is no secret that the pandemic has caused significant challenges for the operations of the courts, and there is a lot of work to do to get on top of pending caseloads.

The courts are working hard and continue to focus on working to return the pending caseloads to prepandemic levels through a range of initiatives to address case clearance rates and continue to adjust their operations, including an increase in in-person hearings in light of eased public health restrictions. That is happening, which is great to see. The courts have made real progress already in relation to the backlog. Data over the past year has shown that with the investment that we have been making the system is starting to recover and pending cases are stabilising or decreasing across most courts. In relation to your request for data, I might see what I have currently got, and I am certainly happy to follow up on notice as well.

I do not have to take it on notice. As of February 2022 there were 5503 cases pending in the Supreme Court and 10 484 cases pending in the County Court. I do not have on hand the Magistrates Court data, but I am more than happy to provide that as well. There has been investment and concerted effort between government and the courts, and as I said, this is a real joint focus on ensuring that we can get through these cases, because of course we all understand that these cases involve people. You want to make sure that victims are given that opportunity to access justice and that perpetrators are held to account and indeed matters can be resolved.

Clause agreed to; clauses 2 to 9 agreed to.

Committee divided on clause 10:

Ayes, 22

Barton, Mr	Leane, Mr	Shing, Ms
Bourman, Mr	Maxwell, Ms	Stitt, Ms
Elasmar, Mr	Meddick, Mr	Symes, Ms
Erdogan, Mr	Melhem, Mr	Tarlamis, Mr
Gepp, Mr	Patten, Ms	Taylor, Ms
Grimley, Mr	Pulford, Ms	Terpstra, Ms
Hayes, Mr	Ratnam, Dr	Tierney, Ms
Kieu, Dr		

Noes, 11

Atkinson, Mr	Crozier, Ms	Ondarchie, Mr
Bach, Dr	Cumming, Dr	Quilty, Mr
Bath, Ms	Finn, Mr	Rich-Phillips, Mr
Burnett-Wake, Ms	Lovell, Ms	

Clause agreed to.

Clause 11 agreed to.

Reported to house without amendment.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (14:38): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (14:38): I move:

That the bill be now read a third time.

Motion agreed to.

Read third time.

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

CONSERVATION, FORESTS AND LANDS AMENDMENT BILL 2022

Second reading

Debate resumed on motion of Ms TIERNEY:

That the bill be now read a second time.

Ms BATH (Eastern Victoria) (14:38): Can I put on record, on behalf of the Liberals and The Nationals, that we support our sustainable native timber industry. We will continue to support our sustainable native timber industry, and when we are elected on 26 November this year we will ensure that it is sustainable and it is retained and that the government's shocking policy to ban this fantastic industry will be out the door forever.

What the Victorian environment minister, a string of agriculture ministers and the Andrews government have done to our public forests and our native forest industry is nothing short of scandalous, appalling, disrespectful and ignorant of science. If the government's policy, as the minister's second-reading speech claims in this bill, is to provide more clarity and protections for the native timber industry, she would have embedded into this bill the closure of the loopholes that are enabling third-party litigators—green lawfare—to take coupes to court to have them injuncted.

She would have closed it. Indeed in a short period of time I will move amendments on behalf of The Nationals and the Liberals to close this loophole, and I ask for the house's investigation of those amendments and support of those amendments. Minister D'Ambrosio should have laid before this house such clauses in this bill—parts to this bill that would see this vexatious litigation no longer able to terrorise the lives of our native timber industry workers and staff, curtail the terrible crisis that we

have in terms of timber and wood supply and stop these vexatious litigations. It is absolutely terrible what we have seen.

Over the past seven years Labor has walked away from its obligation to actively manage our forests. If there was one thing I heard throughout the inquiry into ecosystem decline in Victoria, something the Greens brought to this house, it was scientists over and over again—real scientists—talking about the need for a landscape-wide assessment of threatened species and active management of our forests, and that means forests under wood production and forests that are locked in land reserves and national parks. But through the government's poor policy and mismanagement of threats such as mega bushfires and weeds and predators we have seen our beautiful environment actually be under more threat than it was when The Nationals and Liberals left this state to the hands of the Andrews government. What we also know is that there are many talented people, talented staff and talented scientists that work in the agencies, in the Department of Environment, Land, Water and Planning and in VicForests, who are constantly frustrated and constantly thwarted from doing proper work and their good role. We also see the fact that over 51 per cent of the staff from DELWP—remember DELWP looks at the environment—are situated in the CBD of Melbourne. How can you have properly managed forest and landscape when you have overwhelmingly got your staff having think tanks in the centre of Melbourne rather than having boots on the ground? I congratulate those staff who work so very hard in the right vein.

The quantum of footprint: let us look at what the actual forestry industry has—the footprint in this state. We have approximately 7.5 million hectares of public land estate—forests and the like—and 94 per cent of that is locked up. It is locked up in forest reserves. It is locked up in national parks. It is locked up—94 per cent of this forest reserve. Of that there is 6 per cent available for harvesting and regeneration, for harvesting and replanting. On an annual basis that is 0.04 per cent, or four in 10 000 trees that are harvested and then replanted under the auspices of the business arm of the government called VicForests—and I will go into that shortly. VicForests has statutory requirements up to its eyeballs. It has significant requirements in legislation under which it operates.

The other thing that is important to note is that trees since time immemorial have been carbon sinks. They take in carbon dioxide. We talk about the importance of reducing carbon dioxide emissions in the air. They take in carbon dioxide, and they trap it in their wood, in their structure. Indeed the fourth assessment report of the Intergovernmental Panel on Climate Change in about 2019 states:

> … a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fibre or energy from the forest, will generate the largest sustained mitigation benefit.

It is no shock to those who understand forestry, or at least a portion thereof—those who live in the bush, those who work in this area—that trees capturing carbon and storing carbon in some of the most fabulous wood products is a positive for the environment. It is run, as I said, by VicForests, and it has multiple, we will say, layers of requirements and regulation. One of them happens to be the Code of Practice for Timber Production, and it has had a revamp, we will say, in recent times. Deb Kerr, the CEO of VFPA, the Victorian Forest Products Association, said this of regional forest agreements—that is, agreements between the federal government and the state government:

> Regional forest agreements (RFA's) are the means … to bolster protections for Victoria's unique forest biodiversity and threatened species, and they govern commercial forestry on public and private lands.

Now, as I said, there are multiple layers. That quote came out of the minority report that The Nationals and the Liberals put forward at the end of the Environment and Planning Committee inquiry into the decline in ecosystems.

We have a timber code of production, the management standards and procedures for timber harvesting, timber release plans, allocation orders; we have special protection zones, buffers, special exclusion zones. They are all set in place to ensure that the right balance is struck between conservation of biodiversity values and sustainable timber production. This is the ideal. There should be that balance—

noting that, as I said, 94 per cent of the forest estate in this state is never going to be touched for timber production.

Victorians have certainly seen under Daniel Andrews and Minister D'Ambrosio an open season on timber harvesters, on timber contractors, on mill workers and on their business arm, VicForests. We have seen the systematic destruction of the industry at the hands of the minister. I remember very clearly that it was in November 2019 that the plan came down that they would shut down the industry and bring on this somehow magical *Victorian Forestry Plan*. If you go out anywhere in Gippsland, in East Gippsland, in the Central Highlands—anywhere where we have timber production and our timber towns—and you say that word, people will say it is a swear word; people will see it as a flawed failure to replace the native timber industry and compensate industry workers. They know, like we on this side understand, that plantation timber has an absolute place in this state. It has been around for a long time and it will continue to serve this state, but plantation timber will never replace native timber. It will not do that work.

Indeed, back in about 2017 the then Minister for Agriculture announced $110 million to create this change and form new plantations. We know that there is still no new net plantation land—no plantation seedlings, trees in the ground, on new land. They might have replaced some, but there is no new net land. So some years down the track—we are now in 2022, five years down the track—there are no new net trees in the ground to replace native timber. It is not going to happen.

Recently Geoff Dyke from the CFMEU, at our Latrobe Valley parliamentary inquiry—this is a public document on the parliamentary website—said:

> I think it is a disgrace to shut down the timber industry … We have—

in his words—

> 7.1 million hectares of native forest, we have got some of the best timber in the world, and we are importing timber and we are going to put timber workers out of work.

We know that Michael O'Connor of the CFMEU has been rallying against the Labor Party on this issue—

Mr Finn: For years.

Ms BATH: Absolutely, for years, and we have been in lockstep on that. What we also know is that the government very attentively listens and even has the chief of staff having coffee in the upstairs dining room in Parliament House with various groups, with various—we will call them—scientists and lobbyists. But do they talk to the other side? Do they talk to Forestry Australia? There are professionals. There are professors of science. And are they talking to them? I do not think so.

Now, in anticipation of some of the comments the Greens might make in this debate, the last VicForests annual report says that VicForests spent $5.5 million fighting court cases against green lawfare litigators—$5.5 million. 'VicForests made a loss', they will say. They will come out—I can absolutely read minds—and say that VicForests made a loss of $4.9 million. Simple mathematics will tell you if you had not spent $5.5 million defending an industry that is acting lawfully against these third-party lawfare litigators then you would have made a profit. It is always disingenuous when we hear part of the truth, not all of the truth.

I note too the minority report from that inquiry into declining ecosystems, and I will quote it:

> VicForest has not had a single prosecution of illegal harvest operations upheld against it in the past three years as evidenced in Ms Pulford's answers to questions in parliament in relation to the debate on the Forest Legislation Amendment (Compliance and Enforcement) Bill 2019 …

in this house. Indeed I think it was Mr Rich-Phillips who was prosecuting those questions, and Ms Pulford said:

> So in 2019–20 investigations completed by the conservation regulator—

a couple of other words in between—

> … no prosecutions.
>
> For 2020–21 there were … no prosecutions.

Environmental groups have not been successful in any litigation case. Some of the court injunctions that they are seeking to put up kind of defy logic. I went to East Gippsland. Behind Forestec there are two coupes, and these litigators thought it was wise to shut down these two coupes. One was called Lior, and one was called Tiger. These coupes are provided by VicForests to the TAFE sector, to TAFE Gippsland. The trainer has won awards on how to train safety, how to a fell a tree safely for people doing the work and also for those around in cases of fire. They train first responders. They train participants how to spot threatened species or species of any form. They train them to look for habitat. This group decided that it was a sensible idea to shut down the training coupes. These are the sorts of mind-blowingly crazy things that are happening in our state system because these groups are being enabled to seek court injunctions and take these issues to court. VicForests in that case had to scramble to find some alternate coupes.

If you go out into the regions, into Gippsland, there will be people who know people who work in VicForests, and indeed I do too. Some of the work they are doing about species surveys is in the middle of the night on long transits across the hills and the mountains. They do an amazing job, and I respect the work that they do. Others will feel frustrated with VicForests. Well, on my gather, VicForests feel frustrated with VicForests because they are being tied in knots by the Andrews government.

VicForests has not stayed still. From my understanding, from when I came in about seven years ago, they have been evolving models. They are looking to improve their practices. They have evolved to an adaptive harvesting model. They certainly, as I alluded to, upskill their staff to assess coupes. Contractors work with highly skilled machinery and operations who are contracted to VicForests. They check for habitat. You look on their iPads and you see lines and squiggles making sure that they stay away from the buffer and exclusion zones. It is a high-tech industry, and people take it seriously. Indeed one of the Meyers—I think it was Brad Meyer—only recently on 3AW, when someone was challenging him about litigation and locking up and threatened species, said threatened species like the greater glider are never out of his mind. He watches for them every part of the day. Also VicForests is still certified in terms of the Responsible Wood certification scheme.

In the context of this code of practice, the background of this code is that it was developed, I believe, probably about 40 years ago now, in the 1980s. A key part of this code is in the context that it was prepared with the recognition that timber production has an undeniable environmental impact but that it occurs in designated areas that are not expected to be pristine bastions of conservation value. The code is designed to enable practical and economical workable timber production in a way that minimises its environmental impacts. As such the code is a workable compromise between the needs of conservation—very important—and the practicalities of cost-effective production of timber. If the government starts to pull and push the code over time, a code skewed towards conservation by aiming to totally prevent environmental impacts will upset this balance and eventually make timber production unworkable or unviable, and really that is what we are seeing come to fruition at the moment. We are seeing that it is being twisted and contorted.

Looking to the Conservation, Forests and Lands Amendment Bill 2022, it is a fairly slim bill, and it has two main functions. One is that the code will now 'apply, adopt or incorporate any matter contained in any document, standard, rule, specification or method'. And two, the code will now bestow discretionary authority on the minister or the secretary of the department and 'leave any matter or thing to be from time to time approved, determined, dispensed with or regulated by the minister or the secretary'. So in effect it is giving more power to the minister.

The bill's intent is to provide clarity for all groups around the precautionary principle, and I believe particularly the timber industry has been calling for more clarity. Whether this is achieved in this bill

or not needs to be seen. The application of the precautionary principle means that if there is a threat—this is the background of it—of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental damage. The minister's second-reading speech mentions the precautionary principle clause in the code. However, it neglects to mention that the code applies, as we have said before, to a very minor proportion of the state's 7.8 million hectares of public forest. Therefore the timber production operations that are subject to this code are of such a proportionally minor scale—an important scale, but minor—that there is virtually no chance of them creating a threat of serious or irreversible environmental damage that justifies invoking the precautionary principle. The mooted addition of compliance standards into the code could be used therefore to protect VicForests and used in a court by a judge during that litigation. They need clarity, and we have seen in the past where indeed some judges have actually been quite frustrated in their discussion around a case where the government is providing court cases as a means of understanding, rather than providing that real clarity in the code.

Some of our concerns are in relation to whether the bill will actually achieve the aim it sets out to achieve. The establishment in legislation and common law makes it very clear that environmental protection hinges on this precautionary principle, but by its nature it is quite vague. The bill empowers the government to have effective discretionary authority in terms of binding guidance. What the bill lacks is any limit to power and any requirement to consult or review in relation to these measures or these new powers. While the government's intentions are reasonable, the bill as it stands does not address the constant threat of litigation that VicForests has been subjected to.

We on this side—in particular the new Shadow Minister for Environment and Climate Change, Mr James Newbury; the timber man, by name and nature, who is about to retire and who we have great respect for, Gary Blackwood; and the shadow for forestry, Mr Peter Walsh—regularly speak to the Victorian Forest Products Association; AFCA, the Australian Forest Contractors Association; AFPA, the Australian Forest Products Association; Forestry Australia, which has a wealth of knowledge and respected knowledge; and others, like Timber Towns Victoria. There is a quote that I would like to read in in relation to the Victorian Forest Products Association, and I will just find that quote. It says:

> The Conservation, Forests and Lands Amendment Bill 2022 comes into the Legislative Council … The bill gives the Minister for the Environment … unfettered … power … What it does not address is third-party litigation against the government's own harvesting company …

This is Deb Kerr, and I thank her for that.

Opposition amendments circulated by Ms BATH pursuant to standing orders.

Ms BATH: Our amendments provide the clarity that Victorians need and the industry deserves. It provides that clarity. Indeed these are based on the New South Wales Forestry Act 2012 in relation to third parties. I will just make mention of them. I will move them in the committee stage, but I will read them now: 'offence proceedings must not be taken by a person who is not authorised to take offence proceedings by this section'. In effect that is those that have authority to do so, the power to do so—the minister, and we know that the Office of the Conservation Regulator has oversight and broad-reaching powers. Those people that have the ability to do so should and can bring any cases forward for litigation. Those green lawfare people who exist in Victoria should not have that option. That is the basis for our amendments.

In summing up, this state is in a timber crisis. There is no doubt about it. There is a timber shortage for pallets. There is a timber shortage for construction materials across the state. We have a shortage in value-added high-end products. Indeed, in my electorate in Eastern Victoria Region, ASH, Australian Sustainable Hardwoods, are doing an amazing job. They are seeking to re-create themselves and find new ways, but eventually when there is no timber from our Victorian forests, then our whole system will diminish. It will diminish it and cost jobs. It is already causing huge mental stress on the people in the industry, on the workers and forest contractors who are being locked out. I

have had many conversations with people, forest contractors, who are scared that green lawfare people will jump out—I think they are called Black Wallaby Forest Action—from behind a tree and will actually injure or maim somebody. They are absolutely at frazzle point and in mental anguish that this government is not protecting them further.

In effect what this government is wanting to do is just shut it down, unless these amendments go through and we stop this, we shut this loophole, so that where there needs to be litigation it is done by those authorised to do so. There has not been a successful case. There has not been a case that has gone through the courts, meaning that our forestry industry is one of the best in the world. It sticks to the law, it has people who care to do the right thing and they are getting attacked time and time again. The Nationals and the Liberals are pleased to foreshadow these amendments that will go through in the committee of the whole. We feel that the government needs to stand and support the industry but also support common sense around this. If there is a need, it can be done through authorised officers, and to date there has never been a successful litigation by these third-party activists.

Mr HAYES (Southern Metropolitan) (15:07): I welcome anything that allows for greater ministerial and departmental oversight of VicForests. The minister has assured me that this bill, if passed, will not make it more difficult for environmental groups to take legal action against VicForests, and I very much hope that that is the case, because VicForests must be held accountable to the law and to this Parliament. Some of the problems with its past practices and behaviour have been well documented, so I do indeed hope that this bill will allow for greater ministerial and departmental oversight of this organisation without limiting the rights of concerned parties to pursue legal remedies.

While I support an ethical and accountable forest timber harvesting industry, we need to rapidly move to plantation timber harvesting. Last year in the Environment and Planning Committee inquiry into ecosystem decline we heard the many concerns expressed by a number of witnesses around the serious damage being done to our ecosystem and endangered species by current native forest timber harvesting practices. Something of great significance which I believe underlies the many problems which beset this industry is our lack of tariffs on imported timber, which could be used to protect our local industry. There are many reasons why we should be discouraging the importation of certain forest timbers, which are often harvested—and often illegally harvested—in a manner which is having astoundingly harmful effects on the world's climate and ecology.

The only way our local timber industry can compete with cheap imported timber is to clear-fell whole areas of forest, young trees and old, and to use a good part of that harvest for woodchips, pulp and fibre, a lot of which is exported. This is not the selective harvesting we could encourage, which would give our forests a chance to exist as a habitat for all in a sustainable manner. Mr Tom Crook of the East Gippsland Conservation Management Network gave the following evidence to the committee:

> It is supposed to be a sawlog industry, and there are certainly sawlogs coming out of the industry, but in terms of the revenue, the industry is extremely reliant on the revenue from the residual component or from the woodchipping part of it. So if you remove that, which you would if you went to a selective-based model and you did not have all those other trees lying around that were not going to get turned into floorboards, then the industry would struggle to be economically viable. … we are competing with countries who have invested more heavily in technology to make all sorts of dimensions of woods—laminated veneers and glulam and … those technologies. We are competing with them, and with free trade agreements that will not let us impose tariffs to provide a market incentive to buy local products, then it is very difficult for our industry to compete without the revenue from … pulp and fibre.

In November 2019 the Victorian government announced that 90 000 hectares of Victoria's remaining old-growth forest—note, old-growth—would be protected immediately. The Premier said the industry was not sustainable in the medium and long term. However, when this commitment was examined there was one important proviso. This was that trees would have to be assessed prior to logging. The Victorian National Parks Association has raised serious concerns about this assessment process, especially the field assessments, which are conducted by VicForests or contractors. That of course is

very concerning given VicForests' questionable record on conservation matters. The association in a paper released in December 2020 said:

> … many large *and* old trees—the most common defining characteristic of old-growth forest—are not protected in Victoria.
>
> Consequently, as a result of current government policies, neither old-growth trees nor old-growth forests are properly protected in Victoria. While the Victorian Government has made big announcements about old-growth, there are major flaws in old-growth assessment methods and large tree protection.
>
> We urgently need to protect the old-growth estate, rather than creating new technical loopholes to allow its continued logging.

Mr Crook of the East Gippsland Conservation Management Network also told the Environment and Planning Committee that:

> … where a tree was 80 to 120 years old—

a very old tree—

> it would have been classified as a mature tree and therein not counted as regrowth.

He said:

> The goalposts have been moved …
>
> …
>
> … on what is classified as a mature tree—

which has allowed—

> … greater access to those areas which would have been excluded under the old-growth definition previously.

It is obvious that the area of forestry is a particularly sensitive area for this government, and it is obvious because, as the *Weekly Times* reported on 9 February 2022:

> … long-term Labor loyalists have been appointed to key forestry policy and regulation roles within the Department of Jobs, Precincts and Regions and Department of Environment, Land, Water and Planning.

Only recently this house passed a motion put by Mr Somyurek which made mention of ALP activists stacked in the Victorian public service. This is completely contrary to the traditions of the Westminster system and, I would submit, contrary to the interests of the Victorian public. Are Victorian forests being administered in the interests of the environment and the Victorian people, or are they being administered in the political interests of the Australian Labor Party and the current government?

Whatever the answers are to these fascinating questions, the need to end native timber harvesting and transition to plantation timber is extremely urgent. It should have been done decades ago or at least started on a broad-scale basis ages ago, especially if we continue down the unsustainable path of running an economy based on high population growth and the construction of housing which inevitably follows to accommodate these ever-growing numbers of people. Where is all the timber for this continual construction boom supposed to come from without destroying more of our environment? Part of the answer, I believe, is for the government to work much more closely with the private sector and landowners.

The Environment and Planning Committee inquiry into ecosystem decline also heard some great evidence from the Otway Agroforestry Network about the work they are doing with farmers to grow more trees for harvest on their properties. Mr Andrew Stewart from the network told the committee that planting trees on farms helps increase biodiversity, and an incentive for farmers to plant these trees was to use some of them for harvest timber. I believe the government needs to be working much

more closely with groups like this to see how their success can be extended all across Victoria. Mr Rowan Reid from the network told the committee:

> … as landholders, family farmers are going to be interested in a whole range of different things, but production has clearly got to be part of that scenario to make the farm viable—and there is no reason why conservation could not also be a driver of profit through the use of native species as well … The Otway Agroforestry Network uses a farmer education program that we have developed and run around the world now—the Australian master tree grower program. We are really about informing and improving farmer decision-making about conservation initiatives. Just for our example, there are our two farms, but in our vicinity the majority of the farmers are now planting trees for some mixture of conservation and profit on their property—and the majority are funding these plantings themselves.

Of course, the profit Mr Reid refers to comes from the harvesting of that timber. A bigger emphasis by the government on involving landholders in growing timber for profit and better biodiversity outcomes would be a good idea. There need to be more partnerships with private landholders as we move away from native timber harvesting of our old-growth forests.

In conclusion I am supporting this bill because I accept the government's assurances that this bill will not reduce the ability of environmental groups to seek legal remedies for improper environmental practices, and I do take this matter very seriously. I expect the assurances I have received to be the case in practice and support the greater oversight and accountability of the VicForests organisation.

Ms TAYLOR (Southern Metropolitan) (15:16): I am pleased to speak on the Conservation, Forests and Lands Amendment Bill 2022. I certainly commend the Minister for Energy, Environment and Climate Change for bringing forward this bill and the Minister for Agriculture for her support as well. The Andrews Labor government is committed to delivering the *Victorian Forestry Plan*, with the phase-out of native timber harvesting to occur by 2030.

In December last year—and I think it is really important to note this for the chamber, although it should be broadly known as well—the Minister for Agriculture announced an additional $100 million for the plan, boosting government support to over $200 million. The further funding announced by the minister will support workers, communities and businesses with opt-out packages and increased redundancy packages, because when an industry needs to transition—I heard that word mentioned before, and we are very serious about this—Labor governments support workers. Workers need support from their government, and they also need certainty—I also heard that word in the chamber, and I am going to speak to that point in some detail. Certainty is what this bill will help deliver. We are introducing this bill to provide greater certainty to the forestry industry about how to comply with the precautionary principle in the Code of Practice for Timber Production. It is the first step of three to realise this reform.

Should the bill pass there will need to be a subsequent code amendment and then the development of the compliance standard, which will provide guidance relating to the precautionary principle. The precautionary principle is an internationally well-understood concept that was adopted by the United Nations Conference on Environment and Development in Rio de Janeiro in 1992. In 2021 our government confirmed our intent for the precautionary principle to be in the Code of Practice for Timber Production, following a case heard in the Federal Court and appealed to the High Court of Australia. In the 2021 amendment to the code of practice the government confirmed that the precautionary principle meant that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Further, government included a note stating that the historical interpretation of the precautionary principle, the so-called Brown Mountain standard, was the correct interpretation. I am being very

careful because I understand how significant these matters are that we are discussing today, so that is why I am being really careful in enunciating these elements of the debate. The note states:

> It is intended by this definition and section 2.2.2.2 that the **precautionary principle** and its application in section 2.2.2.2 be understood as it was by Osborn J in *Environment East Gippsland Inc v VicForests* [2010] VSC 335 (in relation to the **precautionary principle** as it appeared in the *Code of Practice for Timber Production 2007*).

We clarified our intent and restored certainty. The use of the precautionary principle is important in the aftermath of disasters such as the 2019–20 bushfires. In the wake of such a disaster there is often less clarity in the scientific information about the impacts on the environment than we would like, so caution must be used when undertaking timber harvesting. This is why the precautionary principle has an element of uncertainty about it—it is a broad requirement, and its application changes based on the circumstances. Given this uncertainty our courts are currently being asked to consider the appropriate application of the principle in our state forests. There are currently eight forestry cases before the courts, with five of these cases relating to the precautionary principle. The resolution of those cases will take a lot of time and cost a lot of money, and that is not ideal. But more importantly, these cases do not seem to be providing the sort of clarity that would help all parties. One recent case related to the precautionary principle went all the way to the High Court, and yet there are still new cases trying to get clarity about the application of the precautionary principle in the current context. This is bad for everyone involved.

Rather than let this process drag on potentially indefinitely, our government believe that it is our role to provide guidance on how to comply with this broad requirement, which is why we have introduced this bill into the Parliament with the intention of having compliance standards in place by midyear. Compliance standards will provide guidance on how to comply via a voluntary standard that VicForests can agree to. VicForests can continue to demonstrate their compliance with the precautionary principle in ways they have done to date. This reform is simply a new way that VicForests can demonstrate their compliance by following guidance developed by the Department of Environment, Land, Water and Planning.

Let me be clear, because there has been politicking by the opposition and, I have to say, the Greens on this matter: this bill and the subsequent changes that will allow government to provide guidance will not change the environmental standards in the code of practice. There will not be higher standards or lower standards of protection—there cannot be. This legislation does not give the minister the power to change the standards within the code of practice. It will simply reinforce the pre-existing standards and intentions, and should VicForests and its contractors comply with this guidance, we expect that there will be a reduction of litigation in the courts.

Whilst government is looking to reduce litigation in our courts, I am flabbergasted that the opposition are trying to move an amendment that will likely lead to an avalanche of court challenges. The opposition well know that there are not current provisions in the act relating to third parties. Third-party forest litigation in Victoria is being made not under legislation but under the inherent jurisdiction of the Supreme Court. Third parties rely on their rights under common law in Australia, as persons affected by native timber harvesting, to bring these proceedings. Neither the Sustainable Forests (Timber) Act 2004 or the Conservation, Forests and Lands Act 1987 contain explicit third-party rights which could be limited, so it is obvious that they are not grasping how our regional forest agreements work and the real risk of undermining our RFAs. If the RFAs are void, regulation of forestry reverts to the Environment Protection and Biodiversity Conservation Act 1999, an act that contains third-party rights.

Now, I note that the opposition circulated their amendments this morning. I did not think it was possible, but they are even more poorly drafted than I could have imagined. Their amendments refer to criminal matters. Cases in the courts are civil matters. The proposed amendments would have no effect on third-party litigation about breaches of the code, which would still continue as civil cases before the Supreme Court. The most efficient and effective way to reduce third-party litigation is to

ensure that the law is clear, and that is exactly what we are doing. It does appear to be rather flippant by those opposite on this matter when the reality is it has such serious potential consequences. I hope that that is abundantly clear in the chamber.

In the time that I have left I would now like to address some of the commentary that there has been about the head of power contained in the bill being a 'God power'. Let me just be really frank about this. This is ridiculous. As everyone in this place knows, heads of power like the one before us today are very common in regulatory frameworks and are found in a long list of acts. My colleague the member for Yan Yean in the Legislative Assembly listed a number of these acts in her contribution in that place, and it actually would be very worthwhile for those listening to refer back to *Hansard* if they would like a list of the acts. The subsequent amendment to the code of practice will outline when these powers can be used. I did from the outset talk about the various stages we are going through with these reforms. I should say the minister and secretary of the Department of Environment, Land, Water and Planning will be constrained by the code amendment, and it is redundant without the enabling code change.

There has also been commentary about needing a sunset or review clause for this head of power. Firstly, without the head of power there are no compliance standards and there is no greater certainty for industry, and I am pretty sure those opposite do not want to create even more uncertainty for forestry workers in our state. Secondly, there is already a review mechanism in place that will consider how this code amendment is being used. It is called the comprehensive code review, and it is required to be completed by December 2023, as agreed to with the commonwealth government under our regional forest agreements. So I would be very surprised if those opposite want to duplicate an already-existing process, adding more bureaucratic red tape to a reform designed to provide certainty to the forestry industry. The comprehensive code review will include public consultation, with all stakeholders being able to have their say. Public consultation will also be undertaken on the subsequent code amendment to enable the compliance standards framework should this bill pass the Parliament.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (15:31): This bill represents a continuation of Labor's war on the native timber industry. At the outset I would like to commend the speech made by my colleague Ms Bath, who very effectively articulated many of the issues and many of the concerns which the native timber industry has in this state as a consequence of the policies of this government over the last six or seven years, which have seen the native timber industry and the people who work in it demonised for the sake of inner-city votes. We have seen the native timber industry, particularly in Gippsland, sold out by this government for green votes in Brunswick. That is the raw politics of this issue for this government. Those communities, those families and those workers in Gippsland are expendable, because this government wants to claw back green preferences and green votes in the inner city—and Michael O'Connor of the CFMEU has said as much. The fact that a leader of a trade union heavily associated with the Labor Party is willing to call this out because of the demonisation of those workers by this government is so significant.

We have seen this government treat the industry and treat VicForests, as the state's operator in the industry, with absolute contempt. We have seen it time and time again. We have seen the government seek to starve the industry of timber and seek to frustrate VicForests' capacity to have access to timber. We have seen the government seek to undermine VicForests' capacity to undertake the duties it is charged with under its enabling legislation. As members of this Parliament would know, VicForests is established under the State Owned Enterprises Act 1992. It is an act which allows for the gazetting of entities as state-owned enterprises, and in this instance, as with most entities under the SOE, VicForests is an entity responsible to the minister and responsible to the Treasurer. Now, the fact that this government and this portfolio minister may not like VicForests and what it does does not give the minister the authority to undermine it. The Parliament has established the State Owned Enterprises Act, VicForests has been gazetted as an entity under the SOE and the government and the minister have an obligation to ensure that that entity, VicForests, can carry out its duties in accordance with the enabling act and the directions set down in the gazette when it was first established in 2003.

It is bordering on corruption for the government to seek to undermine a state entity because it does not like what it does. We have seen that in a number of ways. We have seen it in the restriction of the availability of timber, we have seen it in the government being willing to stand by and tacitly endorse green lawfare against VicForests and the native timber industry and we have seen it in the minister effectively directing VicForests not to recover damages which had been awarded to it by the Supreme Court because it does not suit the government for VicForests to do that, despite it having the legal entitlement to do it and frankly the legal responsibility to recover those costs as a debt owed to a state-owned enterprise.

We have seen over the life of the government this government demonising workers in the native timber industry and seeking to damage and undermine the state's own forestry operator in VicForests simply to suit its own political directive and political narrative. So you can understand why there is huge scepticism and lack of trust of this government among timber workers and the timber industry when the government comes forward with this bill today and says, 'Trust us. We want to use this legislation, we want to use these changes to the Conservation, Forests and Lands Act 1987, to clarify the way in which the code operates'. The industry does not trust the minister. They have no reason to trust the minister; they have seen for seven years the way in which this government acts towards that industry. There is no reason they would trust the minister. They would be stupid to do so given the track record of this government. So for Ms Taylor to come in here and say, 'We want to clarify the way in which the precautionary principle applies with respect to the code of practice. Give us this mechanism which opens up and expands the basis on which incorporated documents can be included in the code, provides a new head of power'—she said 'the god power'—'by which the minister and the secretary of the department in future will have discretionary authority in relation to matters which may be included in the code', and for the government to come forward and say the industry should simply trust them as to how these provisions will be used, is a stretch too far. The industry and the community in Gippsland have seen the actions of this government over the last seven years in relation to the timber industry, and they do not trust them—and with good reason.

My colleague Ms Bath has proposed an amendment to this bill which seeks to make very clear a constraint on the capacity for third parties to take action with respect to matters relating to code compliance. This has come about and Ms Bath has proposed this amendment because of the failure of this government to act to stop vexatious litigation, to stop vexatious actions which have undermined timber families throughout Gippsland. We have heard of the continuing green lawfare that is being taken against the timber industry through actions against VicForests, which have repeatedly failed to achieve the objectives of protesters, which have caused great uncertainty for the industry, which have caused great cost to the industry and to VicForests and which this government has stood idly by and allowed to occur and, even worse than that, has tacitly endorsed, such as most recently through the minister's direction to VicForests that it should not recover the costs which had been awarded against it. That is the reason Ms Bath has brought forward the amendment she has, seeking to restrict the parties who can bring actions in relation to alleged breaches of compliance with the code—because we have seen an open-slather approach where this government should have stepped in previously to ensure that those provisions for breaches were used appropriately rather than used simply as a weapon to try and shut down a legitimate industry.

I listened with interest to Mr Hayes's contribution earlier. I have to say it was very much the perspective of an inner-city MP. Ms Bath in her contribution put in context the impact of native timber harvesting in Victoria. Ms Bath created a very illustrative picture of the native timber industry when she said it is the equivalent of four trees out of 10 000 being harvested on an annual basis. I would encourage Mr Hayes and other members of this place to actually visit Gippsland to see the scale and scope of native timber harvesting in Victoria as a proportion of the total forestry resource in our state. It is minuscule; it is tiny. The impact of that sector on our forest resources is absolutely tiny—as Ms Bath said, the equivalent of four trees per annum harvested out of 10 000.

So, despite the way in which this sector is demonised by this government and inner-city MPs, this industry is not raping and pillaging through the state's timber resources; it is having a negligible impact on the state's forest resources while making an important economic contribution to our state and providing important employment, particularly in a region of the state where unemployment continues to be a problem and where disadvantage continues to be a problem. And for this government to demonise it, to act in such a way which even undermines the state's own operator in VicForests because it is politically convenient for them to do so, is absolutely reprehensible.

The industry does not trust the government with this legislation as Ms Taylor said it should. This bill effectively is a blank cheque in allowing and broadening the scope for incorporation and modification of documents in the code and providing for the code to have provisions which allow discretion authority to the minister and the secretary of the department with future iterations of the code. It is all very well for Ms Taylor to say this is simply to clarify the precautionary principle, which is something which frankly the department's application of has been questionable, but this is a problem which is broader than just the code of practice and this department. It goes to the whole understanding of the public sector in Victoria on the issue of risk management versus risk avoidance, and it is a problem we have seen across a whole range of areas where the government or the public sector interprets risk avoidance—running away from something rather than managing something—as being the way forward. That creates concerns around the way in which the precautionary principle in relation to forestry would be applied, given that Ms Taylor says the government's intent with this bill is to provide a mechanism to clarify the application of that precautionary principle.

Once again we have a bill before the house where the government basically says, 'Trust us'. We have seen for seven years the way in which this government has treated the native timber industry with disdain. The industry does not trust the government with this bill and the way in which it proposes to use it, the community does not trust the government, and I would urge the house not to trust the government with this bill and this provision and accordingly to support the amendment that Ms Bath is seeking to introduce to clarify the way in which third-party actions can be taken.

Dr RATNAM (Northern Metropolitan) (15:43): I rise to speak on the Conservation, Forests and Lands Amendment Bill 2022. Victoria's forests were once widespread and magnificent, from the tall trees and rainforests of the mountains to the giant box gums of the plains, to the red gums along the rivers. I so wish I could see these forests as they once were, before colonisation, when they were cared for by First Nations people.

Today Victoria is the most cleared state in all of Australia. Our forest ecosystems are either already irreversibly altered or on the brink of being so. Victoria's remaining forests in the central west, Central Highlands and east of Victoria are so precious. They make the clean air we breathe, the fresh water we drink and the carbon stores we so desperately need to stabilise our climate. Victoria's forests are habitats for creatures found nowhere else in the world. They are beautiful and vital, and they urgently need to be protected. Yet right now in Victoria, Labor, Liberal and The Nationals politicians continue to sanction native forest logging at all costs. Continued logging is irrational and desperate. It serves no-one but the vested interests that hold the Liberal, Labor and National parties to ransom. This Labor government is logging in water catchments, on steep slopes and in vital refuges for threatened species following the Black Summer fires. If the coalition were in power, they would be even worse.

The bill is a gut-wrenching move by the Labor government to ensure that logging can continue uninterrupted despite the stark reality that it is wholly untenable for so many reasons. Let us be clear, the purpose of the bill is to slap down the dedicated community groups who have resorted to legal processes and the courts to gain the protection Victoria's forests desperately need. These are people that are holding VicForests to account, while the government with this bill is wanting to change the law to avoid scrutiny.

In recent times we have seen dedicated communities and environmental organisations challenge VicForests in the courts. They are doing so on the basis of evidence suggesting VicForests is breaching

the forestry code of conduct and engaging in unlawful logging, logging that not just puts our forests at risk but threatens specifically our water supply and clean air. These people and organisations are motivated to protect our native forests and ecosystems.

The government says this bill is about giving certainty in the face of these lawsuits, but the question is: certainty for whom? Instead of pulling VicForests into line, the government is going out of its way to make it easier to log our precious forests and harder for communities to seek to protect them. There is no guarantee in this bill that the new provisions will be used to protect our forests, and in fact in the hands of a different government or a different minister the result could be even more disastrous.

The Greens and I are deeply, deeply concerned about this bill and in particular about new subsection (4), which gives the minister and secretary godlike powers to determine that logging is deemed acceptable whatever the real-world reality. We are very concerned about such a broad grant of discretionary power and the lack of checks and balances. That is why I will move a reasoned amendment calling for this bill not to be debated until the broad discretionary power it provides for has been considered and reported on by the Environment and Planning Committee.

Greens amendments circulated by Dr RATNAM pursuant to standing orders.

Dr RATNAM: It is also why I will move the amendments that I wish to propose in the committee stage of the bill, to put some basic conditions on the exercise of the extraordinary discretionary powers this bill provides for the minister to potentially make illegal logging legal. If we are going to give the minister such powers, at the very least they should be exercised on the basis of scientific evidence and in furthering the objects of the act. Furthermore, they should be subject to review in the courts.

A good government would see that the time to cut down native forests is well and truly over. A good government would overturn the wildly outdated Forests (Wood Pulp Agreement) Act 1996 that hands forests over for private profit until 2030. It would stop the public subsidy used to destroy our forests for private profit. We should be debating today a bill to repeal the Forests (Wood Pulp Agreement) Act. Instead of this we have a bill here that will drive the further destruction of our forests and the extinction of our precious native species who call them home. The Greens have a bill drafted and ready to do this right now. A good government would also bring forward financial assistance to immediately support workers to retire or move to new jobs and industries.

The world is on the brink of a climate and extinction crisis. We are on the brink of the sixth mass extinction. It is well past time to end native forest logging. That this bill from a Labor government is aimed at facilitating it further is just so sad. I urge everyone in this place to vote against this bill.

Mr TARLAMIS (South Eastern Metropolitan) (15:49): I also rise in support of the Conservation, Forests and Lands Amendment Bill 2022. As my colleagues have said before me, this is an important reform the government would like to see implemented as soon as possible. Compliance standards that will be created following the passage of this bill and the subsequent enabling code amendment will allow the Department of Environment, Land, Water and Planning to give guidance to VicForests and its contractors as to how to comply with the precautionary principle. Although a new reform for timber harvesting, the concept is not new in regulatory schemes. With the overhaul of the Environment Protection Act 1970 in the last term of government we introduced the new broad general environmental duty. This duty means you must reduce the risk of harm from your activities to human health and the environment from pollution and waste. The Environment Protection Authority Victoria then went about developing compliance codes for different industries, providing guidance as to how they could comply with this new duty. This is what government also intends to do for the forestry industry.

I would like to reiterate what my colleague said before: compliance standards will not change the rules VicForests and its contractors must follow. This bill just creates a new option for how VicForests can demonstrate their compliance with the precautionary principle. The new voluntary pathway will improve certainty for industry by providing guidance on what actions can be taken by timber

harvesters that will satisfy the precautionary principle. Public consultation will also be undertaken on the subsequent code amendments to enable the compliance standards framework should this bill pass the Parliament. There will be a mandatory public consultation period, parliamentary tabling of the code amendment and possibly disallowance by the Parliament, as laid out in the Conservation, Forests and Lands Act 1987. Should the government wish to change the scope of the compliance standards in the future, the code would need to be amended and further mandatory public consultation and parliamentary scrutiny would be required.

It is also wrong to suggest that this bill will allow the government to decide if VicForests has complied with the existing rules. Another incorrect claim is that this bill allows VicForests to avoid third-party scrutiny. There is no restriction on third-party rights in this bill, and the new compliance standards could be subject to judicial review. The government's intention is to make it much easier to determine if VicForests is complying with the existing rules, which I hope everyone in this place would agree is preferable to courts being asked to define ambiguous rules, which is often a slow, expensive and unpredictable way to get the clarity everyone is seeking.

I note that Dr Ratnam has circulated amendments to be considered later today during the committee stage. Although this bill does not change environmental standards, I would like to highlight for my colleagues that the code of practice for timber harvesting contains specific clauses for the consideration of the latest science. Section 2.2.2.3 states that:

> The advice of relevant experts and relevant research in conservation biology and **flora** and **fauna** management must be considered when planning and conducting **timber harvesting operations**.

Dr Ratnam has also circulated amendments that propose to enable VCAT to review discretionary decisions by the minister or secretary for any person whose interests are affected under the code of practice. The government will not be supporting this amendment. While we want to provide certainty and guidance, the Greens are looking to create more hooks for future litigation, providing even less certainty for everyone involved.

Further, the minister will not be making decisions under the code with the proposed head of power. As my colleague has already stated, the subsequent amendments to the code of practice will outline how the head of power will be used. Our subsequent code amendments will simply enable the compliance standard framework. There are no decisions for the minister to make, and the Greens well know that heads of power such as this one are very common in the regulatory framework.

I want to thank the minister for bringing forward this reform. Our government is committed to ending native timber harvesting by 2030, with a step down in 2024, as we transition to a plantation-based industry. We have invested significant funding to support workers and communities through this transition, with over $200 million underpinning the *Victorian Forestry Plan*. We will continue to work hard every day to ensure these workers have certainty as we move toward 2030. That is why our government has prioritised consideration of this bill through the Parliament—to ensure greater certainty is in place for forestry workers as soon as possible. Any delay by those opposite means a delay in this new framework being in place. Again, I thank the minister for her work to bring forward this reform, and I commend the bill to the house.

Ms BURNETT-WAKE (Eastern Victoria) (15:54): I rise to speak on the Conservation, Forests and Lands Amendment Bill 2022. Eastern Victoria Region has a rich history of forestry. In East Gippsland the local logging industry had its beginnings in the 1880s, while now my electorate is home to the Australian Paper mill, which is just one example of a big employer in our area—and it relies on a functioning timber industry. Forestry is also a significant industry in neighbouring regions and is also important to those in the inner city who live in homes built with timber frames, wooden stairs and floorboards and have wooden furniture. These people may not experience the industry firsthand, but they will certainly feel the consequences if the industry continues to suffer. And sadly that is what is happening—the industry is suffering.

The bill before us is brief but gives broad powers to the Minister for Agriculture and Secretary of the Department of Environment, Land, Water and Planning. These broad powers enable the minister or the secretary to create legally binding directions around the management of our forestry industry. It also provides that any matter contained in any document, standard or specification may be adopted or incorporated into the Code of Practice for Timber Production 2014. As it stands, VicForests must comply with the precautionary principle, and many of my colleagues in the chamber have raised this today too. There have been numerous legal disputes around the definition of this principle. The principle is effectively about taking steps to protect against threats. Biodiversity should be preserved and regrettable future outcomes avoided. Many cases before the courts have arisen because there is no useful definition of what constitutes a threat. This has led to ongoing yet avoidable tension, particularly in my region, between timber harvesters and environmental activists.

I have already mentioned the code of practice. The code of practice was implemented to acknowledge that the timber industry impacts the environment and to find ways to protect areas that are particularly vulnerable. It seeks to strike a balance between allowing a vital industry to operate and minimising impact on the environment. It is evident that it has failed in its aim. For example, the state-owned VicForests has been accused by activists and researchers of logging illegally on steep slopes around water catchment areas, which may cause contamination to our drinking water, yet despite numerous allegations, VicForests continues to effectively defend against the activists' cases brought against it—but at what cost? As a result of the anger over perceived abuses by VicForests, activist groups have focused on Baw Baw, Lakes Entrance and Noojee, where they persistently organise protests such as sitting in trees or weaving in and out of logging coupes, creating a danger to themselves and to harvesters.

The activists persistently use the courts to bring costly injunctions against the forestry industry that interfere and block essential supply. Given the current backlogged state of Victoria's court system, cases can be drawn out for years. They are contributing to timber shortages and creating costs and delays, yet activists feel this is justified because their interpretation of the law is different to that of VicForests and only the courts are empowered to decide which position is genuinely aligned with the law. This situation is bad for everyone. VicForests is paralysed by court cases while activists remain embittered that they did not get the outcomes they expected. Clear, sensible laws must exist so that everyone has confidence that our water remains uncontaminated and that threatened species are protected, all while allowing forestry to operate but within a balanced ethical framework.

As I said earlier, the code of practice exists to strike a balance. There has not been balance, only uncertainty. This is why so many people are protesting. The industry has to navigate rules that create such complexity and ambiguity that it is possible for professional activists to convince themselves and others that only corrupt behaviour would lead to the logging decisions taken by VicForests. To date the courts have not accepted these arguments. The details of the arguments are typically so complex that few fully understand them. The rule of law rarely functions well in such circumstances. It is not surprising that both sides are convinced they are right if VicForests has made every effort to be compliant and log within the law, but activists read the law from an entirely different viewpoint.

If the criteria for protection are poorly constructed, costly and complicated to apply, then they are worse than useless. Everyone loses. Desired environmental protections are not afforded, and business faces crippling costs, no matter how hard it tries to do the right thing. The forestry industry needs to be able to determine with certainty what can and cannot be logged in a cost-effective way so that even if objections exist they can be resolved quickly, convincingly and definitively. Yet we also need clear and effective environmental protections, because our environment is a great treasure that our children and our children's children should have the benefit of—and make no mistake, the long cycles of the forestry industry are on that generational scale.

We need clear rules and better oversight. These new guidelines must ensure that environmental practices are taken into consideration with clear boundaries to avoid drawn-out situations where it takes years to determine the law and if it was really breached. This will give the forestry industry the

ability it so desperately needs to properly plan long term and predict how best to succeed in providing business and consumers with essential materials that are now in short supply. The forestry business cannot function without the ability to perform genuine long-term planning, and that means absolute certainty over legal matters and supply eligibility for several decades to come. Alas, these new discretionary powers will sit with a government that has been disturbingly unforthcoming about the future of the sector.

By 2030 we will be required to rely solely on plantation wood, yet the necessary plantations take between 20 and 30 years to reach full maturity. The reality gap is obvious. If we are going to end native timber supply and rely on plantations, we need thousands of hectares to be planted right now. Even then, 2030 is obviously a wildly optimistic date, and if we do not start planning now, what will happen in the meantime? We are already seeing the negative impacts of an undersupplied timber industry. Homeowners and renovators have been forced to wait nine months or more for trusses to be delivered. Victoria is battling a huge undersupply of timber products, and homeowners are being slugged with cost increases due to enormous demand and little supply. Nationally building costs rose 7.3 per cent last year, which is the biggest surge in construction costs in 16 years. No doubt this, like everything else, will be blamed on the pandemic, and yet it was clearly avoidable.

If we are not going to produce enough wood here in Victoria, where will it come from? That is the question this government fails to answer. We will be swapping our homegrown renewable timber for imports that create far more global damage than a well-regulated, job-creating local industry. Will we be creating yet another fragile supply chain that leaves us at the mercy of authoritarians and increasingly destabilising world events? I know I would much rather see our timber sourced sustainably, ethically and securely here in Victoria, building Victorian jobs and Victorian prosperity, not feeding into the profits of fat cat overseas commodity speculators.

We need to strike a balance between protecting the environment and continuing an ethical and sustainable forestry industry. This will ensure we minimise reliance on imported wood from countries that do not care about setting new records for deforestation. Even if we could source timber remotely in an ethical and sustainable manner, local industries such as Australian Paper in Maryvale, Latrobe Valley's largest employer—one of them—rely on the economies of a local timber industry. We must have a reliable source of local timber. The devastation facing the industry is leaving lifelong harvesting families out of work and has the potential to render an otherwise prosperous paper industry unviable, resulting in an economic dissolution of the eastern region. We need more local timber processing, not less, and it is impossible without competitive and dependable local supply. If passed, I urge the government to use these new powers to strike this balance and finally get it right, because without a sustainable timber industry we are all impacted.

Sitting suspended 4.04 pm until 4.20 pm.

Ms PATTEN (Northern Metropolitan) (16:20): I rise to speak briefly to the Conservation, Forests and Lands Amendment Bill 2022, and I have to say from the outset I feel like it is deja vu. I feel that we have traversed this issue many times, certainly in recent years, and we do not seem to be able to get it right, because it is not right. We need to transition this industry, and there are ways to do it and it should be done, rather than us trying to tinker around the edges with a bill such as this one.

You know, even with that interjection of COVID-19 into our lives I still remember the 2019 bushfires. I am sure Mr Quilty would remember them as well, and they were devastating. They were devastating on our native flora and fauna, and we have certainly have not recovered from them. In fact we have not recovered from the 2003 bushfires that devastated much of New South Wales. As I drive up to a property in New South Wales I still look for the mountain ashes that were there—mountain ashes that, when it was hot and we were driving up, would leave a strong peppermint smell in the air. They are coming back, but they have still got decades to go before they come back. I cannot forget the picture of that kangaroo bloated, dead on the side of the road, having tried to scratch on the side of the road to get away from the fire. In 2019, 1.5 million hectares of Victoria burnt in those bushfires, including

more than half of the East Gippsland LGA. The fires wiped out the native forests, and they put significant strain on our endangered species. In terms of VicForests, that included 40 per cent of the area earmarked for native timber logging in East Gippsland.

At the end of 2019 the state government announced Victoria's forest industry transition from native forestry and the end to harvesting native forests by 2030. Good. I do not see why we cannot bring this forward. Much of the timber that is being harvested is mainly for pulp, and there are many other ways that we can create jobs and we can create pulp. One of them is the need to transition to plantation timber, and I get that. We are working very hard on that, and it is important.

But as I have said many times in this place, we should be unlocking the extraordinary potential of industrial hemp. This is a product that could grow in all of the areas that we are looking at. Hemp should be the future of paper, and it can be. It could be the provider of many more jobs than are currently available in the timber industry. We heard Mr Hayes talking about how overseas they are leaving us behind with their new technologies and with their new way of doing things. We could be a leader here as well, and we certainly could do this with hemp. Hemp grows 4 metres in 100 days. It is the quickest carbon to biomass available. The University of Melbourne is undertaking extensive research into how we can move from logging native forests to using hemp instead. Hemp is cheaper, it restores the soil and it does not destroy old-growth forests. One acre of hemp can produce as much paper as 4 to 10 acres of trees. I will say that again: 1 acre of hemp can produce as much paper as 4 to 10 acres of trees. Hemp stalks grow in four months, whereas trees take 20 to 80 years. Hemp has a higher concentration of cellulose than wood, which is obviously the principal ingredient in paper. Hemp paper does not yellow, crack or deteriorate like tree paper. These are the raw facts, and this is where we should be going. This is the conversation I think this Parliament should be having.

I congratulate the government for announcing that there will be an end to the harvesting of our native forests, but let us do it faster, let us talk about the opportunities of how we are going to do that and let us start talking up hemp. Now, we actually need some legislative change for hemp. I would love to see some changes that would make it easier for us to introduce this industry. I have spoken to the unions about this, and the unions are very open to it. I have spoken to pulp mills; we can use our existing mills. We actually do not have to change a lot to transition to a much better product—a product that grows a lot faster, is a lot better for the environment, is a lot cheaper and is a lot better for our native flora and fauna. We do not need as much because it is a much denser cellulose product. And it is not just paper; we are seeing hemp really as an alternative to many timber products. Looking at particle board to high-strength beams. In 90 days you can grow the fibre required for structural beams, rather than the 30 years it will take to grow that same beam, that same product, using timber. The rest of the world is going this way. We are seeing considerable changes: Germany, Canada and the United States are investing a lot of money into hemp as fibre, and we should be doing the same. We could be leaders in this area.

Going briefly back to the bill, I know that it deals with the codes of practice and the precautionary principle, and I understand that. I would have to say that I very much appreciated the minister's office briefings that we have received about this. I certainly do not have the same concerns I heard from the opposition about the godlike powers that this bill may present. I note that the opposition is concerned about this legislation, but I understand that they are not opposing it. I cannot see that supporting a constraint on litigation in the way that this bill does is a positive. I cannot see that either of the godlike powers, as they are called, or the constraints on litigation are good things when we look at some of that litigation that has actually successfully protected native wildlife in the past and when we look at the warriors and the fighters who have stood up when we have seen the timber industry—and this is no offence to many of the industry workers—logging on streams and illegally logging. This bill will constrain, to a degree, the ability to litigate against that.

So again I thank the minister's office and the minister herself for her detailed briefings. As I say, they did allay some of my concerns, but I will support Dr Ratnam's reasoned amendment. I do not see any problem with a reasoned amendment to see an inquiry into this. I would hope that that inquiry would

look at alternatives to the timber industry—how can we transition faster? As I say, hemp could not be faster: 90 days for 4 metres. But I do not think we should be massaging codes and making it easier to log native forest. We should be planning for short-term transition, and as I say, hemp could be a centrepiece.

Mr QUILTY (Northern Victoria) (16:30): I will be brief. This bill gives the Minister for Energy, Environment and Climate Change enormous discretionary powers over timber workers. The government claim that they will use these powers to clarify vague standards that activists are currently exploiting to engage in lawfare, and God knows something needs to be done to rein in these legal attacks. The current code of practice requires compliance with the precautionary principle, which in practice demands the elimination of all environmental risks no matter how small or imaginary they might be. This is an impossible principle to apply, and anti-logging groups know it. They make up or exaggerate risks and drag VicForests through the courts, wasting time and money. VicForests, controlled by the state government, is told not to pursue compensation for the millions of dollars in legal costs caused by vexatious environmentalist litigation. Timber protestors are often well funded but hide their cash before issuing lawsuits. Anti-logging campaigners in East Gippsland moved $336 000 into a trust just before commencing legal action against VicForests. Another group, MyEnvironment, still owes $2 million to VicForests that it is unlikely to ever pay.

This government is not a fan of timber or the industry. Anti-timber activists want to kill off the industry overnight, and the government wants to kill it off over the next eight years. They are agreed on the objective; they are only haggling over the price. That is the choice we are being given. Hardwood timber has already been given a death sentence; it is only a question of how long before the axe falls. Giving these additional discretionary powers to the government is a risk. A much better way to address this issue would have been creating a clearer code of conduct that ditched the precautionary principle. Having discretionary powers in the hands of a minister and a department dedicated to ending logging cannot be good. If the minister were serious about protecting the industry, she would instruct VicForests to pursue recovery of those legal costs and lock these vexatious litigants out of the system. But I feel the minister and this government are fellow travellers with these protest groups. They do not want to rein them in.

Now, I do not see timber as an evil thing. Wood is a sustainable resource that captures carbon during its production. Everyone in the state relies on timber in one way or another. Timber keeps roofs over our heads, and almost everything we buy comes to us on a pallet made of timber. Constant attempts to demonise sustainable timber and to pretend it is an environmental blight show how out of touch the green movement has become. They have made it clear they believe humans are a disease on planet Earth and that we do not belong. They see anything that is productive as destruction. This view of timber is hypocritical. These are the same people who demand we replace our plastic straws with paper ones, only to turn around and put the screws on paper production. Where do you think all these recyclable alternatives come from? If we cannot have mining, plastic, concrete or timber, we cannot have cities, roads, houses or logistics. The green movement want to pull civilisation back into the dirt, and they are abusing our legal system to do that.

The Victorian timber industry is important to our state but vital to the economies of so many regional communities. The shutting down of the timber industry, as this minister is overseeing, can only be considered as part of this Melbourne government's ongoing war on the regions. These communities do not want more government cash to shut them down. They want to continue to work, to produce timber and to help manage the forests. They deserve better. The Liberal Democrats will stand with timber workers and the timber industry and against this nonsense that is being forced on regional Victoria by out-of-touch city dwellers. We will support this legislation because the current situation needs fixing, but this is very, very far from the best solution.

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (16:34): I will be brief. I thank all the members for their contribution. This is an important bill, even though it is only five clauses, and we have prioritised its

passage through the Parliament to get greater certainty in the forestry industry as soon as possible. As my colleagues from the government side of the chamber have stated during the debate, it is the role of the government to provide guidance where there is uncertainty about how to comply with environmental regulation. The government has done this before with the EPA compliance codes, and we are doing it again via this bill. This bill is the first step of three steps that will ultimately enable compliance standards to be created.

These new standards will give VicForests and its contractors guidance on how to comply with the precautionary principle in the Code of Practice for Timber Production. Compliance standards will be voluntary, providing VicForests with a new way to demonstrate compliance with existing rules. The bill and the consequent code amendment will not change environmental standards. The bill will not give the minister God powers. As has been described by my colleagues before, heads of power are very common in regulatory frameworks, and any powers will be enabled by a subsequent code amendment. This code amendment has mandatory consultation requirements and must be tabled in the Parliament.

Government's intention is to have this reform in place by mid-year, and we expect there will be a reduction in litigation. The contributions from members today have shown there is broad support to ensure forestry workers understand how to comply with the rules.

Dr Ratnam has proposed a number of amendments. The government are not supporting those amendments today. The Greens want to delay the reform, and if they cannot delay it, they want to ensure there are even more court cases in the coming months. Then we have the opposition. They have an amendment as well. We will not be supporting that amendment. My colleagues have already covered this in some detail, and I do not intend to go over it again. But this amendment from the opposition will not even do what they want it to do. It will not constrain cases like the ones currently before the court, because their amendments only relate to criminal matters, not civil matters. Their proposed amendment would have no effect on third-party litigation about breaches of the code, which would still continue as civil cases before the Supreme Court. I am sure there will be a number of questions on the bill, and I look forward to answering all of those in the committee stage.

The DEPUTY PRESIDENT: Dr Cumming missed her call, so I am just asking if, by leave, the chamber would permit her to speak.

Leave granted.

Dr CUMMING (Western Metropolitan) (16:37): I thank others in the chamber for allowing me to speak on the bill. I rise to speak on the Conservation, Forests and Lands Amendment Bill 2022. This is a very contentious issue—that of logging native forests. I will make my contribution brief. The Premier and the minister announced that commercial harvesting in public native forests would end in 2030. They also announced that the total harvest levels would be maintained at the current level to 2024 then cut by 25 per cent in 2025 and a further 25 per cent from 2026 to 2030, but that is not what has been happening. Today the industry is 50 per cent down. By the end of this year it will be 75 per cent down, and next year there will hardly be an industry.

Since 1985 records of our land cover have been kept. These records show that the net native tree cover in Victoria has actually increased by 80 000 hectares over the last 35 years. During that time over 200 000 hectares of extra timber plantations have been planted. That means that we have an additional 450 000 hectares of forest—native and plantation—to what we had 35 years ago. Harvesting of hardwood timber from our native forests is done in a sustainable and responsible way. It is independently audited, and measures are put in place to protect the fauna and flora.

We also have to remember that bushfire is the greatest cause of loss of vegetation, not logging. In the 2019–2020 Victorian bushfires more than 1.5 million hectares of public and private land were burnt, including 1.39 million hectares of forests and parks, plantations and native timber assets. In her second-reading speech the minister did not mention fires. This did not surprise me, as the government

has had no regard for the recommendations of the 2009 Victorian Bushfires Royal Commission. While I am not happy with the power that this bill gives the minister, I do understand that the industry need some certainty going forward, but I am just not sure that this bill will actually give them that.

Dr RATNAM (Northern Metropolitan) (16:41): I move:

> That all the words after 'That' be omitted and replaced with the words 'this bill be referred to the Environment and Planning Committee for inquiry, consideration and report, by 15 September 2022, on the contents of the bill, including but not limited to the appropriateness of the extraordinary discretionary powers this bill provides the minister and the second reading of this bill be deferred until the final report of the committee is presented to the house.'.

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (16:41): Just to put it on the record, the government will not be supporting Dr Ratnam's reasoned amendment for the reasons that I put on the public record in the second-reading summary.

Ms BATH (Eastern Victoria) (16:41): The Liberals and The Nationals will be opposing this amendment. It is quite interesting that we have had the biggest inquiry that the Environment and Planning Committee has ever seen, and it was actually from a Greens motion. It ended up being 600 pages. It investigated thoroughly aspects of VicForests and forestry, and yet they are still not satisfied without going back in again to continue to hammer a nail in the coffin. It is unfair, and we will not be supporting it.

Ms PATTEN (Northern Metropolitan) (16:42): Certainly Reason will be supporting this reasoned amendment. I think it is very reasonable.

House divided on amendment:

Ayes, 4

Cumming, Dr	Patten, Ms	Ratnam, Dr
Meddick, Mr		

Noes, 29

Atkinson, Mr	Finn, Mr	Quilty, Mr
Bach, Dr	Gepp, Mr	Rich-Phillips, Mr
Barton, Mr	Grimley, Mr	Shing, Ms
Bath, Ms	Hayes, Mr	Stitt, Ms
Bourman, Mr	Kieu, Dr	Symes, Ms
Burnett-Wake, Ms	Leane, Mr	Tarlamis, Mr
Crozier, Ms	Lovell, Ms	Taylor, Ms
Davis, Mr	Melhem, Mr	Terpstra, Ms
Elasmar, Mr	Ondarchie, Mr	Tierney, Ms
Erdogan, Mr	Pulford, Ms	

Amendment negatived.

House divided on motion:

Ayes, 30

Atkinson, Mr	Erdogan, Mr	Pulford, Ms
Bach, Dr	Finn, Mr	Quilty, Mr
Barton, Mr	Gepp, Mr	Rich-Phillips, Mr
Bath, Ms	Grimley, Mr	Shing, Ms
Bourman, Mr	Hayes, Mr	Stitt, Ms
Burnett-Wake, Ms	Kieu, Dr	Symes, Ms
Crozier, Ms	Leane, Mr	Tarlamis, Mr
Cumming, Dr	Lovell, Ms	Taylor, Ms
Davis, Mr	Melhem, Mr	Terpstra, Ms
Elasmar, Mr	Ondarchie, Mr	Tierney, Ms

Noes, 3

Meddick, Mr	Patten, Ms	Ratnam, Dr

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (16:52)

Dr RATNAM: Minister, I understand that we have been told that the reason for the new authority under this bill is to provide certainty about when logging can and cannot occur. Can you assure the Victorian public that the practical application of this bill will not result in weakened legal protection for threatened species?

Mr LEANE: Thank you, Dr Ratnam. We are not altering the environmental standards whatsoever as far as changing what we want to in this code and the objectives of this bill are concerned, so the short answer is that I can reassure you and say yes in answer to your question.

Mr RICH-PHILLIPS: Minister, the Minister for Energy, Environment and Climate Change in the second-reading speech indicated that this bill is about providing a mechanism to clarify the precautionary principle. Where is the precautionary principle outlined in the bill?

Mr LEANE: Thank you, Mr Rich-Phillips. That principle is in the code that is referred to in the bill.

Mr RICH-PHILLIPS: Thank you, Minister. But if the intent of the bill is to provide clarification of that principle and how that principle should be applied, why hasn't the government included that clarification in the bill?

Mr LEANE: Thank you, Mr Rich-Phillips. It is a three-step process. It is the bill, then the code, then the compliance that need to go through. This is why we are going to do the bill, and the next step will be that work on the code.

Mr RICH-PHILLIPS: Minister, has that work been done on the interpretation of the precautionary principle?

Mr LEANE: Mr Rich-Phillips, there has been work on the principle around that particular code in 2021, but we cannot progress the code—the second stage—until this bill goes through the Parliament.

Mr RICH-PHILLIPS: Minister, so the interpretive work has been undertaken by the department as to how the government would expect the precautionary principle to be applied in respect of the code—the clarification that has been talked about in the second-reading debate?

Mr LEANE: The answer to your question is that the department is working on the code amendment as we speak.

Mr RICH-PHILLIPS: Minister, what guidance, interpretation or application of the precautionary principle is going to emerge from that process? How is that going to be applied in respect of the code? What is the practical application of that going to be?

Mr LEANE: The guidance will be incorporated in the actual code. The guidance will be part of the application in the code.

Mr RICH-PHILLIPS: Thank you, Minister. But the government is unable to tell the house what that guidance is at this point?

Mr LEANE: Yes.

Mr RICH-PHILLIPS: Minister, given the whole intent, we are told, of this bill is to interpret, apply and clarify the application of the precautionary principle, why hasn't the government actually done that work and brought that application and clarification forward in legislation, rather than simply creating a mechanism where it can come along later and drop in an interpretation of the principle?

Mr LEANE: Thank you, Mr Rich-Phillips. The reason all the guidance is not in the bill is for the ability for adaptability of the guidance in the code, in case it is out of date in the future as far as environmental changes that may have to be taken into consideration are concerned.

Mr RICH-PHILLIPS: Thank you, Minister. Minister, the second-reading speech, as I said, talks about clarifying the precautionary principle. That is the rationale given for this amendment to the act. Does the scope of the amendments the bill is creating, providing the power for discretionary authority for the secretary or the minister and changing the scope of documents that can be incorporated in the code—are those matters confined to only interpreting the precautionary principle, or can those new provisions be applied far more widely?

Mr LEANE: Mr Rich-Phillips, the bill allows that the incorporated instrument can be varied.

Mr RICH-PHILLIPS: So it can be more than just addressing the precautionary principle?

Mr LEANE: Yes.

Mr RICH-PHILLIPS: Thank you, Minister. So although the government has brought forward this bill saying it is to provide a mechanism to clarify the precautionary principle, in reality it is providing a head of power for the minister to address any matters in the code and use that discretionary power for any matters the minister chooses to deal with, not just clarifying the precautionary principle.

In the existing Conservation, Forests and Lands Act 1987, where a code is promulgated there is a requirement for consultation, and sections 32 to 34 of the act set out the consultation process and the mechanism for creating a code. In the passage of this bill if a code is made which allows for discretionary authority by the minister or the secretary—and the provision is very broad in the act, being in relation to 'any matter or thing to be from time to time approved, determined, dispensed with or regulated by the Minister or Secretary'—that power is very, very broad. Once that is incorporated in the code, the power for the minister or the secretary to do those things, is there any requirement for the minister or the secretary to consult before they exercise that power?

Mr LEANE: Thank you, Mr Rich-Phillips. That consultation will be set out in the code amendment, but taking into account, Mr Rich-Phillips, that that actual variation of the code has to come to the Parliament as well, so it can be under a disallowance if the Parliament chooses. So there will be time for parliamentarians and others to look at that consultation measure in the code.

Mr RICH-PHILLIPS: Thank you, Minister. Just to clarify what you are saying, if the minister or the secretary exercises a discretionary authority under this new provision, that has to come to Parliament for disallowance?

Mr LEANE: No, I am not saying that. I am saying, to your concern around this particular code amendment which is going to be enacted by this bill, the variation and any provision of consultation needs to be in that code. So if you have got concerns about consultation, there will be an opportunity for the Parliament to disallow that if you believe the consultation is not up to the standard that you believe it should be.

Mr RICH-PHILLIPS: Thank you, Minister. But once this new discretionary power is reflected in the code, which I assume is the government's intention, the minister or the secretary will then be able to use that discretionary power into the future without any further consultation? So on a literal reading of this the code could be amended to say the minister or the secretary may do anything they regard as convenient to give effect to the Victorian government's forestry policies, and that could be

incorporated in the code and then there would be no need for further consultation. Once that is in the code there would be no need for further consultation to actually exercise that discretionary power.

Mr LEANE: Thank you, Mr Rich-Phillips. I just want to get you the correct information. So the code will outline the circumstances when these powers can be used. This will require a code amendment, which will be subject to the usual public consultation and a parliamentary disallowance period. These powers will not allow the Minister for Energy, Environment and Climate Change or the secretary to change code clauses. The future use of these powers will also be constrained by the Conservation, Forests and Lands Act 1987, which has a basic requirement that the codes of practice specify standards and procedures for timber harvesting. This is likely to mean a code cannot leave broad discretion to the secretary or minister.

There are also regional forest amendments with the commonwealth government which are based on the current Victorian timber harvesting regulation framework. The commonwealth government therefore has a vested interest in any significant changes to the code, particularly if this would alter environmental standards.

Mr RICH-PHILLIPS: Thank you, Minister. That is a helpful addition to the committee's consideration. Can I ask: with respect to that application of discretionary authority, can it only be applied on a sector-wide basis or can discretionary authority be applied specifically in relation to a particular coupe or a particular operator or a particular part of VicForests' operations?

Mr LEANE: Thank you, Mr Rich-Phillips. That will be set out in the enabling code amendment.

Mr RICH-PHILLIPS: Thank you, Minister. The legislation as drafted, though, would not prevent a discretionary authority from being used for a decision around a sector of the industry rather than applying to the whole industry—subject, as you said, to what the code amendment comes forward as.

Mr LEANE: Thank you, Mr Rich-Phillips. I will repeat my answer that that would be set out in the enabling code amendment.

Mr RICH-PHILLIPS: Thank you, Minister. Just one further: a technical question on why the authority is being vested in both the minister and the secretary.

Mr LEANE: Thank you, Mr Rich-Phillips. It is standard drafting procedure in a lot of legislation, so those powers, we believe, are standard drafting procedures.

Mr RICH-PHILLIPS: That is reflected elsewhere in this act, is it, Minister? I thought it was unusual for the same head of power to be given to both the secretary and the minister. It is not a practice I have seen.

Mr LEANE: It is not unique to this legislation.

Clause agreed to; clause 2 agreed to.

Clause 3 (17:14)

Mr MEDDICK: Minister, in the second-reading speech the minister explained that this bill will enable us to provide much clearer direction on what is required to protect our forests, particularly in the wake of natural disasters, such as fires, that change the context for management, and to ensure continued use and enjoyment of our forests well into the future. There are already existing mechanisms to protect forests after bushfires which have never been used—critical habitat determinations under the Flora and Fauna Guarantee Act 1988, which were created by Andrews government amendments. Why haven't these mechanisms been used to protect threatened species after bushfires?

Mr LEANE: Thank you, Mr Meddick, for your question. The precautionary principle is a mandatory action in the code. It enables requirements for timber harvesting operations to respond flexibly and responsibly. Critical habitat determinations are subject to process and consultation

requirements that would not enable the same flexibility and immediate response that the precautionary principle provides.

Mr MEDDICK: Thank you, Minister, for your answer. Your answer does somewhat go to clarifying my second question, but if you could just reiterate that for clarity, sorry. The second-reading speech described the precautionary principle:

> … if there are threats of severe or irreversible damage, but the science is not yet settled, the precautionary principle requires us to put in place protective measures to ensure we don't have regrets in the future.

What scientific or evidence-based inputs will be used by the minister to avoid future regrets in making rules?

Mr LEANE: Thank you, Mr Meddick. I just wanted to make sure I had the right information. Robust scientific input will be essential and has been a feature of all previous Department of Environment, Land, Water and Planning (DELWP) guidance and advice on similar matters. Compliance standards may be open to a request for judicial review on the grounds of legal error in the secretary or minister's decision-making, such as whether the decision-maker followed the rules as set by the code when considering and approving a compliance standard or regulated entity proposed action or made a legal mistake in approving a compliance standard or regulatory entity proposed action—for example, whether the decision-maker understood or applied the law incorrectly or failed to take into account some relevant factor provided for by the code when making a decision to approve a compliance standard or regulatory entity proposed action.

Mr MEDDICK: Thank you, Minister, for that clarity. It does go actually a lot further than the original answer around that. My next question again comes from the second-reading speech:

> Similarly, providing a clearer power, in express and broad terms, to enable a Code to specify matters that will be left to the discretion of the Minister or the Secretary will enable the Code to authorise discretionary approvals as a means of establishing greater regulatory certainty. The Code may provide, for example, that the Secretary may approve certain measures or plans, compliance with which will be sufficient to discharge the duty or obligation in the Code to apply the precautionary principle, in the particular circumstances to which those measures apply.

What considerations for the compliance standards are being taken, who is drafting those compliance standards and how can the public be assured that they are based on up-to-date conservation science and not captured by the interests of the logging industry, for instance?

Mr LEANE: Thank you, Mr Meddick. The conservation regulator will be responsible for developing the compliance standards and recommending to the DELWP secretary for a decision. It is the regulator's responsibility, compliance under the code, and it already undertakes the role of interpreting the code clauses and providing guidance to the industry.

Mr MEDDICK: Thank you, Minister, for that answer. Minister, there is little feasible way the application of the precautionary principle can be foreshadowed and therefore compliance with it deemed in advance. In every conceivable circumstance in which logging occurs, what guarantee does the public have that any instruments deeming compliance are scientifically sound?

Mr LEANE: It is not intended compliance standards foreshadow every conceivable circumstance. Therefore this bill will enable them to be updated as needed. I think that is the answer.

Mr MEDDICK: Thank you, Minister, for that answer. It does give clarity around the fact that in many essences this is crystal ball gazing and that all circumstances cannot possibly be foreseen. The next question is: what are the inputs or considerations that will be made by the secretary or the minister in deciding whether VicForests is or is not complying with the precautionary principle?

Mr LEANE: Thank you, Mr Meddick. The conservation regulator will be responsible for compliance under all elements of this reform. Since the conservation regulator's establishment we have introduced new powers for the regulator and clarified the code to make it more enforceable. There

are more resources for the timber harvesting regulator than ever before, which has resulted in more inspections of coupes and greater scrutiny of the industry. The regulator has also introduced more transparency as to how it regulates, through interactive online information and forestry surveys. Compliance standards are an important step to improving the powers of the conservation regulator, as they provide regulatory weight to its interpretation of code obligations.

In March 2022 the new powers for the conservation regulator that were passed by this Parliament last year came into force. They include improved ability to prosecute offences of illegal timber harvesting by ensuring that illegal harvesting undertaken by contractors can also be addressed and expanding tools and powers to respond in a proportionate way to alleged non-compliance, including the use of enforceable undertakings.

Mr MEDDICK: Thank you, Minister. Minister, if the minister or secretary decides VicForests are complying with the precautionary principle in a particular case, can third parties still bring the issue to court if there is a disagreement with the decision made by the minister or secretary on the necessary measures to protect threatened wildlife impacted by logging?

Mr LEANE: Thank you, Mr Meddick. Compliance standards may be open to a request for judicial review on the grounds of legal error in the secretary or minister's decision-making, such as whether the decision-maker followed the rules as set by the code when considering and approving a compliance standard or regulated entity proposed action. Another dot point on that is if they made a legal mistake in approving a compliance standard or regulated entity proposed action—for example, whether the decision-maker misunderstood or applied the law incorrectly and, further to that, failed to take into account some relevant factor provided by the code when making decisions to approve a compliance standard or regulated entity proposed action.

Third parties will still be able to commence proceedings where they consider timber harvesting has breached or is likely to breach obligations contained in the code or in cases where there is a question as to whether a compliance standard has been complied with or where a timber harvester has taken different actions—sorry, this is on a separate point—to those set out in a compliance standard and the third party is of the view that these actions do not meet the standards of the precautionary principle.

Mr MEDDICK: Thank you, Minister. The last part of that was a great and very clear answer to what the concern is that has been raised. The next question I have is: the precautionary principle provides that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. That is, if there are threats of severe or irreversible damage but the science is not yet settled, the principle requires us to put in place protective measures to ensure we do not have regrets in the future. So when the minister says the changes provide certainty for the industry in that regard, is she talking about greater access to forests and more logging that is not restricted by environmental protections and considerations for declining wildlife?

Mr LEANE: Thank you, Mr Meddick, for your question. The simple answer is no.

Mr MEDDICK: Thank you, Minister. The minister has acknowledged that the precautionary principle is currently engaged due to the impacts of the 2019–20 bushfires. There is a serious question regarding the ability of wildlife, for instance the threatened greater glider, to recover after fires. Yet logging has continued across Victoria since then in key remaining glider habitat. What has the government done so far to address VicForests' continued logging and hold them accountable to recommendations from the commonwealth, the Office of the Conservation Regulator, the Arthur Rylah Institute and other scientists regarding additional protections in those areas?

Mr LEANE: The answer to your question is that we want to ensure the conservation regulator is a best practice regulator, and it is well on its way. Since the conservation regulator's establishment we have introduced new powers for the regulator and clarified the code to make it more enforceable. There are more resources for the timber harvesting regulator than ever before, which is resulting in more

inspections of coupes and greater scrutiny of the industry. The regulator has also introduced more transparency as to how it regulates, through interactive online information about forest surveys. Compliance standards are also an important step to improving the powers of the conservation regulator, as they provide regulatory weight to its interpretation of code obligations.

Mr MEDDICK: Thank you, Minister, for that answer. I am sure that will provide a great deal of certainty to some people who are very concerned about that. Minister, in the future we can expect more bushfires to occur. These will cause damage to forests of some depth and scope that we cannot now know. Can the minister provide an example of how these changes will provide greater regulatory oversight and clarity in this situation? And I do understand that this is somewhat speculative.

Mr LEANE: Thank you, Mr Meddick. The precautionary principle is designed to be adaptive to respond to the environmental conditions. Timber harvesters must consider if any additional actions are required to protect the environmental values from serious and irreversible damage beyond what is explicitly stated in the code. This requirement exists where there are scientific uncertainties in relation to those environmental values.

While this precautionary principle provides an important adaptive function to account for the impact of fires, floods, new diseases and other impacts, it can create uncertainty over whether it applies in a given case and precisely what actions will satisfy this obligation. Currently the conservation regulator provides advice to VicForests about the possible measures to acquit the precautionary principle. However, even if timber harvesters follow this advice, it provides no legal guarantees that a court will find that these actions were sufficient. Compliance standards will provide a pathway for timber harvesters to comply with the precautionary principle and, if applied, have legal certainty that they have met their obligations under the precautionary principle for the species or value in question.

Mr MEDDICK: Thank you, Minister. I have no more questions on this clause, but I will just flag that I have one other question, and that is on clause 4.

Ms BATH: Minister, could you please explain what 'full scientific certainty' means? What is the definition of 'full scientific certainty'?

Mr LEANE: Thank you, Ms Bath. This bill does not change the definition of the precautionary principle, and the definition you are seeking, of 'certainty', is outside the scope of this bill.

Ms BATH: It raises the question that the lack of scientific certainty should not be used as a reason for postponing. We have been talking and many MPs have been contributing, yet the definition cannot be identified in this debate. My question is: what is the smallest land area under which the precautionary principle operates in its entirety?

Mr LEANE: Thank you, Ms Bath, but it is the same answer: that question is outside the scope of this bill.

Ms BATH: Isn't it interesting that we have been debating this bill for about 4 hours and it has been mentioned on multiple occasions, yet it is now outside the scope of the bill. I would put it to you that the government needs to, when considering the precautionary principle, consider it on a landscape scale or as a wide-scale entity and consideration, because a focus of this government has been a significantly, we will say, microscopic view of what is happening coupe by coupe by coupe by space within coupes rather than looking at species—and it is highly and very important to protect species—across the landscape, noting that the whole reason for having a code of practice and implementing a precautionary principle is knowing that there always have been, under a code of practice, timber operations that would alter the environment on those coupes but not actually cause any irrevocable damage in terms of species lost. That is the whole reason why this is in operation.

Mr LEANE: I will take that as a comment.

Clause agreed to.

New clause (17:35)

Dr RATNAM: I move:

Insert the following New Clause to follow clause 3—

'**3A New sections 41 to 43 inserted**

After section 40 of the **Conservation, Forests and Lands Act 1987 insert**—

"**41 Requirements for decisions under Codes of Practice**

(1) The Minister or Secretary when making a Code of Practice discretionary decision must—

(a) make the decision on the basis of the best available, relevant scientific knowledge; and

(b) make a decision that promotes the object of the Act set out in section 4.

(2) In this section and in sections 42 and 43—

Code of Practice discretionary decision means either of the following—

(a) a decision that may be made under a discretionary authority conferred by the Code of Practice;

(b) the approval, determination, dispensation or regulation of a matter or thing under a Code of Practice.

42 VCAT review of Code of Practice discretionary decisions

(1) Any person whose interests are affected by a Code of Practice discretionary decision made by the Minister or Secretary may apply to VCAT for a review of the decision.

(2) An application for review under subsection (1) must be made within 28 days after the later of the following—

(a) the day on which the decision is made;

(b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the party requests a statement of reasons for the decision, the day on which the statement of reasons is given to the party or the party is informed under section 46(5) of that Act that a statement of reasons will not be given.

43 Stay of decision pending review

(1) This section applies, despite anything to the contrary in section 50 of the **Victorian Civil and Administrative Tribunal Act 1998**, if a person applies for a review of a Code of Practice discretionary decision under section 42.

(2) On the making of an application for review of a Code of Practice discretionary decision under section 42, the decision is stayed pending the determination by VCAT of the proceeding to which the application applies and the expiration of the appeal period.

(3) For the purposes of subsection (2) the appeal period expires—

(a) at the end of the period during which an application for leave to appeal from the order of VCAT determining the proceeding may be made under Part 5 of the **Victorian Civil and Administrative Tribunal Act 1998** if an application is not made within that period; or

(b) if an application for leave to appeal is made, when that application is determined if leave is not granted; or

(c) if leave is granted, at the end of the period during which the appeal may be instituted under Part 5 of the **Victorian Civil and Administrative Tribunal Act 1998** if an appeal is not instituted within that period; or

(d) if an appeal is instituted, when the appeal is determined."'.

As I said in my substantive speech, the Greens are particularly concerned about the nature of the power given by new subsection (4). Essentially it grants to the minister or the Secretary of the Department of Environment, Land, Water and Planning free rein to decide how the logging code of practice is applied and therefore what logging is legal. The extremely broad nature of this power is disturbing and should not be happening at all. However, if it is to occur, there must at least be checks and balances on how it is exercised. This is what the amendments I have circulated will do.

These amendments do a few key things. First, new section 41(1)(a) would ensure that any decision made under the discretionary power is evidence based and incorporates the latest scientific knowledge. The logging code relates to the management of public forests, forests that are there for all Victorians; anything less than managing based on evidence and science would be to let down Victorians. It is disturbing that in the way that this power is currently drafted the minister can simply ignore science or evidence and instead sanction logging with detrimental consequences for our forest ecosystems, threatened species, water catchments and the list goes on.

Secondly, new section 41(1)(b) incorporates a requirement that the decisions made under this new power consider the objects of the Conservation, Forests and Lands Act 1987. This would ensure that any use of the power is consistent with the key reason for these laws to exist in the first place, which is to ensure our forests are conserved and managed in ways that are environmentally sound, socially just and economically efficient.

Third, new section 42 would ensure that decisions made by the minister or secretary to alter the logging code can be reviewed by the courts—in this case the Victorian Civil and Administrative Tribunal. It is a fundamental tenet of our Westminster system of government that decisions made by the executive arm of the government—in this case the minister and department—can be adjudicated.

I hope all MPs here can see that these amendments are very reasonable, and I urge that if you are determined to support this bill, you also agree to these amendments.

Mr LEANE: I just want to put on the record that the government opposes the inclusion of new section 41 in the Conservation, Forests and Lands Act but does not oppose ensuring timber harvesting is informed by the best scientific knowledge. The code already provides for this in section 2.2.2.3. There is no proposal to change the current requirement and the levels of environmental protection currently in the code. The code specifically provides in section 2.2.2.3:

> The advice of relevant experts and relevant research in conservation biology and **flora** and **fauna** management must be considered when planning and conducting **timber harvesting** …

This bill is about clarifying the details of how the code requirements can be met, not about changing the code requirements.

The government does not support the inclusion of new section 42(1). The bill does not restrict existing legal rights of third parties to bring legal action through the courts. At present third parties can only bring court proceedings for a judicial review. This considers whether the decision has been made appropriately and within the decision-maker's power. It does not consider the merits of the decision—that is, it does not stand in the shoes of the decision-maker and consider whether it was the correct decision. If this clause is implemented, it will likely provide an additional and unnecessary avenue for third parties. Merit review of government decisions through VCAT are better suited for circumstances in which individuals' rights have been altered by decisions of government, such as a review of a planning decision that affects a person's property.

Ms BATH: The Nationals and the Liberals will not be supporting this amendment. It seems to me that this is highly subjective, particularly new section 41(1) in terms of 'best available, relevant scientific knowledge'. That, to my mind, opens a can of worms in terms of who is deciding the 'best' there. If it is the Greens' best, it may well be different to somebody else's best.

In relation to VCAT, it seems like if the third-party litigators are not getting the answers they want from the courts, then there will be an option to go around to another space and time at VCAT.

In relation to court decisions, I might just avail the house of the information that, I am very pleased to say, VicForests has successfully defended another of the four cases brought by Kinglake Friends of the Forest, with a decision by Justice Ginnane of the Supreme Court handed down this afternoon. So once again the court system is finding that for the practices undertaken by contractors on behalf of VicForests there is no case to answer.

Committee divided on new clause:

Ayes, 4

Hayes, Mr	Patten, Ms	Ratnam, Dr
Meddick, Mr		

Noes, 30

Atkinson, Mr	Erdogan, Mr	Pulford, Ms
Bach, Dr	Finn, Mr	Quilty, Mr
Barton, Mr	Gepp, Mr	Rich-Phillips, Mr
Bath, Ms	Grimley, Mr	Shing, Ms
Bourman, Mr	Kieu, Dr	Stitt, Ms
Burnett-Wake, Ms	Leane, Mr	Symes, Ms
Crozier, Ms	Lovell, Ms	Tarlamis, Mr
Cumming, Dr	Maxwell, Ms	Taylor, Ms
Davis, Mr	Melhem, Mr	Terpstra, Ms
Elasmar, Mr	Ondarchie, Mr	Tierney, Ms

New clause negatived.

Clause 4 (17:48)

Mr MEDDICK: Minister, will any instruments deeming compliance be independently reviewable by independent experts?

Mr LEANE: Thank you, Mr Meddick. If I could refer you to my previous answer, I can confirm that experts within DELWP and the Arthur Rylah Institute will provide advice on the development of the compliance standards. Robust scientific input will be essential and has been a feature of all previous DELWP guidance and advice on similar matters.

Clause agreed to.

New clause (17:49)

Ms BATH: I move the amendment for the Liberals and Nationals standing in the name of Mr Davis and on behalf of the Shadow Minister for Environment and Climate Change, Mr Newbury:

1. Insert the following New Clause to follow clause 4—

'**5 Proceedings for offences**

(1) After section 96(2) of the **Conservation, Forests and Lands Act 1987 insert**—

"(2A) Offence proceedings must not be taken by a person who is not authorised to take offence proceedings by this section.".

(2) In the definition of ***offence proceedings*** in section 96(4) of the **Conservation, Forests and Lands Act 1987**, after paragraph (c) **insert**—

"(ca) proceedings for an offence against a Code of Practice; or".'.

We firmly believe that the government has missed an opportunity to close those loopholes that provide a mechanism whereby third-party litigators can continue to hold VicForests to ransom. We feel that the government should have been able to perhaps move a more elegant one than this one, but we still feel that it is important that this is passed.

Mr LEANE: The government opposes this amendment. The proposed amendment is unnecessary. Only the persons set out in section 96(1) may take offence proceedings under the CFL act. Litigation currently before the courts relating to the code are civil proceedings—they are not criminal proceedings—for the four offences. Section 96 of the act already limits the persons who can take offence proceedings to an authorised officer, a police officer, a person authorised by the DELWP secretary and the Victorian Plantations Corporation. Third-party forest litigation in Victoria is being made not under legislation but under the inherent jurisdiction of the Supreme Court. Third parties rely on their rights under common law in Australia, as persons affected by native timber harvesting, to

bring these proceedings. The proposed amendment would have no effect on third-party litigation about breaches of the code, which would still continue as a civil case before the Supreme Court. The most effective and efficient way to reduce third-party litigation is to ensure the law is clear. This is what we are doing with this particular amendment. The proposed amendment is misunderstood and would have no effect.

Mr RICH-PHILLIPS: The opposition disagrees with the minister in the government's contention that this bill is going to fix the problem. It is our view and I think it is the industry's view that the government has no intention of seeking to fix the problem, and we have seen that over the last seven years where third-party actions have been taken to nobble VicForests and in doing so nobble the native timber industry in this state. We have seen this government refuse or direct VicForests not even to recover costs where costs orders have been made in their favour against vexatious litigants who have brought a number of third-party civil litigations against VicForests in an effort to shut down the native timber industry. Ms Bath spoke about yet another case which has gone in favour of VicForests today, another attempt to shut down the industry and to shut down and frustrate VicForests. So we do not accept that the government's mechanism is going to address that problem. We believe that the problem should have been addressed directly through a constraint on the capacity of third parties to bring litigation against VicForests, to allege breaches of the code and seek injunctions in that way. The government's mechanism does not do that. We maintain that the amendment Ms Bath has proposed goes in the direction of stopping third-party litigants from taking actions of the nature we have seen time and time again over the last five years, so we will persist with the amendment.

Mr MEDDICK: I will be opposing this amendment, and just a very quick few words as to why: I have some very severe concerns about what this amendment will do. If you look at this isolation incident to begin with, we are talking about here an environment that holds some of our most precious native and indeed endangered wildlife. So to remove a third-party process, to remove a level of capture where something that is detrimental to that environment may occur and we can challenge it in the court, is not the correct way to go. I am also concerned on another level that this may potentially then be used as a precedent to also remove third-party rights in other pieces of legislation that may also have a detrimental effect where those people are concerned.

Committee divided on new clause:

Ayes, 13

Atkinson, Mr	Burnett-Wake, Ms	Lovell, Ms
Bach, Dr	Crozier, Ms	Ondarchie, Mr
Barton, Mr	Cumming, Dr	Quilty, Mr
Bath, Ms	Finn, Mr	Rich-Phillips, Mr
Bourman, Mr		

Noes, 20

Elasmar, Mr	Maxwell, Ms	Stitt, Ms
Erdogan, Mr	Meddick, Mr	Symes, Ms
Gepp, Mr	Melhem, Mr	Tarlamis, Mr
Grimley, Mr	Patten, Ms	Taylor, Ms
Hayes, Mr	Pulford, Ms	Terpstra, Ms
Kieu, Dr	Ratnam, Dr	Tierney, Ms
Leane, Mr	Shing, Ms	

New clause negatived.

Clause 5 agreed to.

Reported to house without amendment.

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (18:00): I move:

That the report be now adopted.

In doing that, can I thank Ms Bath, Mr Rich-Phillips, Dr Ratnam and Mr Meddick for their contributions during the committee stage.

Motion agreed to.

Report adopted.

Third reading

Mr LEANE (Eastern Metropolitan—Minister for Local Government, Minister for Suburban Development, Minister for Veterans) (18:00): I move:

That the bill be now read a third time.

Motion agreed to.

Read third time.

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

Committees

PARLIAMENTARY COMMITTEES

Membership

The PRESIDENT (18:01): I advise the house that I have received a letter from Ms Kat Theophanous, member for Northcote, resigning from the Scrutiny of Acts and Regulations Committee, effective from 24 March 2022.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:01): I desire to move, by leave:

That:

(1) the following changes be made to the membership of the Standing Committee on the Environment and Planning:
   (a) Ms Taylor be discharged;
   (b) Ms Watt be appointed;
(2) the following changes be made to the membership of the Standing Committee on Legal and Social Issues:
   (a) Ms Vaghela be discharged;
   (b) Ms Taylor be appointed;
   (c) Ms Watt be discharged as a participating member;
   (d) Mr Gepp be appointed as a participating member;
   (e) Ms Vaghela be appointed as a participating member;
(3) Mr Barton be a member of the Public Accounts and Estimates Committee; and
(4) Mr Gepp be a member of the Scrutiny of Acts and Regulations Committee.

Leave refused.

Ms SYMES: I will attempt another motion by leave that perhaps Mr Quilty might be more satisfied with. I move, by leave:

That:

(1) Mr Barton be a member of the Public Accounts and Estimates Committee; and

(2) Mr Gepp be a member of the Scrutiny of Acts and Regulations Committee.

Motion agreed to.

Bills

GAMBLING AND LIQUOR LEGISLATION AMENDMENT BILL 2022

Introduction and first reading

The PRESIDENT (18:03): I have a message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Casino Control Act 1991**, the **Gambling Regulation Act 2003** and the **Liquor Control Reform Act 1998** and for other purposes'.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:04): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms SYMES: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:04): 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 Gambling and Liquor Legislation Amendment Bill 2022.

In my opinion, the Gambling and Liquor Legislation Amendment Bill 2022 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 amends the *Casino Control Act 1991*, the *Gambling Regulation Act 2003* and the *Liquor Control Reform Act 1998* to remove obsolete sections and references and make other miscellaneous amendments. It introduces a prohibition on online community and charitable gaming, extends the time to claim unpaid winnings from 6 to 12 months, and expands existing state of emergency provisions to capture the new pandemic declaration.

Human Rights Issues

The human rights protected by the Charter that are relevant to the Bill are:

Property rights (section 20)

Rights in criminal proceedings (section 25)

Section 20—Property rights

Section 20 of the Charter provides that a person must not be deprived of his or her property other than in accordance with law. This right will be engaged by amendments that affect someone's ability to access funds or to generate revenue from particular activities.

Clauses 133–135 promote the right to property by giving gamblers up to 12 months to claim their prizes directly from the licensee. Previously people had only 6 months to claim refunds, dividends and winnings from the licensee before the money was transferred to the Treasurer to be treated as unclaimed money.

Clauses 137 and 138 limit this right by prohibiting the sale of lucky envelopes online and the conduct of online bingo thus restricting the ability of a person to generate revenue via these products. These limits are lawful, being consistent with other prohibitions under the *Gambling Regulation Act 2003* (GRA). The amendments are necessary to address the higher risk of harm associated with online gambling activities.

Clauses 13 and 140 also limit the right to property by requiring gaming venue or casino patrons, as the case may be, to wait 24 hours before being given access to winnings via electronic funds transfer. This limit is justifiable because it constitutes an important harm minimisation measure aimed at preventing people from immediately gambling away their winnings.

Section 25—Rights in criminal proceedings

Section 25(1) of the Charter provides a right to be presumed innocent until found guilty while section 25(2) requires that a person charged with a criminal offence be entitled to certain guarantees.

Clauses 137 and 138 of the Bill engage this Charter right by introducing several new offences to the Act. New section 8.4.2AA of the GRA prohibits the sale of lucky envelopes online while new section 8.4.7B prohibits the running of bingo and the sale of bingo tickets online. I do not consider that these offences limit rights in criminal proceedings because they are strict liability offences, and the burden of proof sits with the prosecution. Even if these offences were to engage the right, they would be justifiable on the basis that they address the considerable risk of harm associated with these activities being conducted online.

The Hon. Shaun Leane
Minister for Local Government
Minister for Suburban Development
Minister for Veterans

Second reading

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:04): I move:

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

Motion agreed to.

Ms SYMES: I move:

That the bill be now read a second time.

Incorporated speech as follows:

This government is proud to lead Australia in efforts to address gambling-related harm.

The government has provided the Victorian Responsible Gambling Foundation with $153 million over four years to deliver on its mandate to reduce the prevalence and severity of gambling-related harm. This represents the nation's largest commitment to address problem gambling.

The government has also introduced other reforms to lead the way on reducing gambling-related harm, including:

- introducing Australia's first state-wide pre-commitment system, YourPlay, which is available on every gaming machine in Victoria
- prohibiting ATMs in gaming venues and imposing $200 transaction and $500 daily EFTPOS withdrawal limits. Victoria is the only Australian mainland jurisdiction without ATMs in gaming venues; and
- capping the total number of gaming machines in the State until 2042 and setting regional caps and municipal limits on gaming machine entitlements. The caps and limits help to ensure that Victoria

remains the Australian jurisdiction with the lowest density of gaming machines, except for Western Australia (which does not permit gaming machines outside the casino).

We have also established a stronger, more focused regulator through the Victorian Gambling and Casino Control Commission. The new regulator will have oversight of all gambling and gaming activities within Victoria—from gaming machine through to the casino.

This Bill builds on the work of the government by introducing further harm minimisation measures and improving the regulatory framework for gambling in Victoria.

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

The Bill makes amendments to the *Casino Control Act 1991* to enable the casino operator to pay gaming machine winning by electronic funds transfer. The provisions replicate provisions applying to clubs and hotels.

The makes a number of amendments to the *Gambling Regulation Act 2003* (GRA).

The Bill amends the requirements for the term of a wagering and betting licence to replace the current fixed term of 12 years with provisions that enable the licence term to be specified in the licence. This will enable the government to determine the most appropriate licence term at a point in time, having regard to best available evidence and an understanding of the value to the State.

The Bill also makes changes to the cross-ownership restrictions applying to the monitoring licensee to reinstate the ability for the monitoring licensee to provide technical services for gaming machines and player account equipment for venue operators. The ability to provide technical services was inadvertently prohibited in 2011 by changes to the structure of the Roll of Manufacturers, Suppliers and Testers. However, the cross-ownership provisions as originally enacted in 2009 permitted the monitoring licensee to provide technical services for gaming machines and player account equipment to venue operators.

The Bill also makes changes to the requirements for unpaid jackpot funds held by venue operators. These are amounts that are remaining in a jackpot special prize pool after all prizes won on a linked jackpot arrangement have been paid. These are player funds and must be returned to players as part of the return to player rate.

When a venue operator retires a linked jackpot in the future, the Bill will require that any unpaid jackpot funds are allocated to another linked jackpot arrangement operating in that approved venue. The Bill will also permit unpaid jackpot funds to be transferred between venue operators when an approved venue is transferred.

When unpaid jackpot funds are not allocated to another linked jackpot in the approved venue, they will be required to be paid into the Responsible Gambling Fund established under the *Victorian Responsible Gambling Foundation Act 2011* and will be used by the Foundation to provide programs and services to reduce gambling-related harm.

A review by the Victorian Gambling and Casino Control Commission has revealed that there are some venue operators holding unpaid jackpot funds from jackpots retired in the past. To ensure these funds are returned to players, the Bill includes provisions requiring venue operators to transfer such funds to other linked jackpots operating in their venue within 12 months of the provisions commencing. Where these funds are not allocated to other linked jackpots, they must be paid into the Responsible Gambling Fund.

The Bill will repeal Chapter 7 of the Gambling Regulation Act which deals with interactive gaming. Since 2001, interactive gaming has been regulated by the Commonwealth through the *Interactive Gambling Act 2001*. Chapter 7 of the Gambling Regulation Act is being repealed to avoid uncertainty and inconsistency with the Commonwealth regulation of interactive gaming.

The Bill will also make changes to community and charitable gambling. The Bill increases the threshold for raffles that require a minor gaming permit. Raffles with prizes not exceeding $20,000 in value will no longer be required to obtain a minor gaming permit and the threshold amount will be indexed each year from 1 July 2023. Currently, raffles with prizes exceeding $5,000 require a minor gaming permit. This amendment will reduce the regulatory burden on community and charitable organisations and recognises that raffles are not associated with a high risk of gambling-related harm.

The Bill will prohibit provision of online community and charitable gambling to minimise the risk of gambling-related harm.

Chapter 8 of the Gambling Regulation Act provides for minor gambling activities conducted for charitable purposes and establishes a regulatory framework to minimise the burden on charitable organisations. The minor gaming nature of these activities would be altered if they were permitted to be provided online. If such activities were provided online, there would be an increased risk of gambling-related harm that would require appropriate standards and requirements that would impose a significant burden on charitable organisations.

To address this, bingo, fundraising events and lucky envelopes will be expressly prohibited from being conducted or sold online.

The Bill makes other changes to improve the operation of the Gambling Regulation Act. It includes amendments to clarify the process for payment of gaming machine winnings by electronic funds transfer and increases the period of time that unclaimed prizes are held by the wagering and betting, keno and public lottery licensees before being paid to the Treasurer from 6 months to 12 months.

The Bill also repeals obsolete provisions related to the former gaming machine industry structure. Following the changes in 2012, provisions relating to a gaming operator's licence, a gaming licence and a wagering licence are obsolete as these licences can no longer be granted under the Gambling Regulation Act. The Bill will remove references to these obsolete licence types from the Gambling Regulation Act, the Casino Control Act and the *Liquor Control Reform Act 1998*.

The Bill also makes other amendments to the Liquor Control Reform Act.

The *Liquor Control Reform Amendment Act 2021* (Liquor Amendment Act) amended the Liquor Control Reform Act to expressly regulate the supply of liquor via orders placed on the internet. These amendments included:

- creating a new licence category of online-only vendor packaged liquor licence,
- allowing certain licences to supply liquor online without an additional licence,
- applying standard conditions to online orders,
- obligations and offences relating to online supply.

The Bill will amend the Liquor Control Reform Act to expand this regulation to not only apply to online but other forms of remote ordering, including telephone, mail order, facsimile and other forms of electronic communication. This recognises that there are other forms of remote ordering that were not captured by the original amendments and will ensure that the regulation of all forms of remote ordering is consistent.

The Bill will rename the "online-only vendor packaged liquor licence" to a "remote seller's packaged liquor licence" so it applies to all licensees who supply liquor for delivery but do not have a physical retail outlet for customers.

The Liquor Amendment Act introduced measures that were designed to assist licensees while a state of emergency was in place, within the meaning of the *Public Health and Wellbeing Act 2008* (PHWA). The recently amended PHWA now provides that a state of emergency ceases to be in force following the making of a pandemic declaration. The Bill will extend the measures introduced by the Liquor Amendment Act relating to a state of emergency to the new pandemic declaration, therefore allowing licensees to continue to benefit from these measures despite the changes to the PHWA.

The Liquor Amendment Act repealed the requirement for a licensee to give the regulator a plan of the licensed premises when requested. The Bill will make a technical amendment to the Liquor Control Reform Act to replace a redundant reference to this requirement with an obligation for the licensee retain a plan provided to the regulator in accordance with that Act.

I commend the Bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (18:04): I move:

That debate on this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

JUSTICE LEGISLATION AMENDMENT (FINES REFORM AND OTHER MATTERS) BILL 2022

Introduction and first reading

The PRESIDENT (18:05): I have another message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Fines Reform Act 2014**, the **Infringements Act 2006**, the **Magistrates' Court Act 1989**, the **Road Safety Act 1986**, the **Sentencing Act 1991**, the **Sheriff Act 2009**, the **EastLink Project Act 2004**, the **Melbourne City Link Act 1995**, the **North East Link Act 2020**, the **West Gate Tunnel (Truck Bans and Traffic Management) Act 2019**, the **Taxation Administration Act 1997** and the **Transfer of Land Act 1958** and other Acts and for other purposes'.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:05): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms SYMES: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:06): 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 (Fines Reform and Other Matters) Bill 2022 (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

Relevantly, the Bill:

1. implements recommendation 12.1 of the Fines Reform Advisory Board (the Board) for a harmonised time served scheme for prisoners
2. implements recommendation 20 of the Board by allowing toll companies to request that toll fines be withdrawn once issued
3. enhances the information-gathering powers of the Director, Fines Victoria (the Director) and the sheriff, and
4. creates a legislative framework for the electronic service of documents under the *Infringements Act 2006* and the *Fines Reform Act 2014*.

Human Rights Issues

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

Recognition and equality before the law

Section 8 of the Charter relevantly provides that every person is equal before the law.

The changes to implement recommendations 12.1 and 20 of the Board promote the right in section 8.

The changes to implement recommendation 12.1 will ensure that all prisoners eligible to participate in the 'time served' scheme for prisoners—a scheme that allows prisoners to convert their unpaid fines to time in custody—can do so on an equal basis (clauses 32B-32M, 33(2) and 50B). Currently, the rules relating to prisoners with unpaid court fines are different from those applicable to prisoners with unpaid infringement fines. The scheme for infringement fines is broader and more flexible. The changes will bring the two schemes together and ensure that there are consistent rules for prisoners with unpaid fines who wish to convert those fines to prison time.

The changes to allow toll companies to request Victoria Police to withdraw a tolling infringement notice—made in response to recommendation 20 of the Fines Reform Advisory Board—will create a more flexible toll fine enforcement regime that is more responsive to the needs of vulnerable and disadvantaged fine recipients (clauses 61–64). The change will allow toll companies to request that fines be withdrawn if they consider that the fine should not be enforced, having regard to the fine recipient's circumstances.

Collectively, the changes will enhance the extent to which fine recipients are treated fairly and equally by the fines enforcement framework.

Right not to have one's privacy and reputation unlawfully or arbitrarily interfered with

Section 13(a) of the Charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. An interference will be lawful if it is authorised by law. An interference will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the purpose of the interference.

Powers to obtain additional information for the purpose of fines enforcement

The Bill amends section 177 of the *Fines Reform Act 2014* to expressly authorise credit reporting bodies to disclose to the Director or the sheriff additional information about fine defaulters (clause 37). A 'fine defaulter' is a person who has been issued a fine and has not paid that fine after service of a penalty reminder notice, registration of the fine with the Director for enforcement under the *Fines Reform Act 2014* and the issue of a notice of final demand.

Currently, the Director and the sheriff can only obtain 'identification information' from credit reporting bodies (called 'relevant information'). This information is very limited in scope: it includes only a person's full name, date of birth, sex, current or last known address, two previous addresses, last employer and driver licence number.

The Bill will expressly authorise (but not compel) credit reporting bodies to disclose to the Director and the sheriff the following additional information about a fine defaulter:

- telephone number and email address
- credit worthiness information, and
- details of any accounts held by the person with any bank or other deposit-taking institution.

Credit worthiness information is defined to mean information concerning an individual's eligibility to be provided with consumer credit, history in relation to consumer credit or capacity to repay an amount of credit that relates to consumer credit.

Consistent with the current drafting of section 177, the request will need to be made in writing and for the purpose of enabling the Director or the sheriff to take enforcement action under the *Fines Reform Act 2014* against a fine defaulter.

The Bill also amends section 178 of the *Fines Reform Act 2014* to expressly allow third-party entities that collate publicly available information to disclose to the Director or the sheriff any information that may be of use in the enforcement of registered fines, collection and enforcement orders, directions and warrants under the *Fines Reform Act 2014* (clause 38).

Currently, although section 178 provides that the Director or the sheriff (and any contractor or sub-contractor supporting the functions of the Director or sheriff) can request information for enforcement purposes from any person or body, it is only 'specified enforcement information agencies' that are expressly authorised to disclose such information.

Specified enforcement information agencies are defined as agencies that hold information that may be of use in the enforcement of unpaid fines, collection and enforcement orders, directions and warrants under the *Fines Reform Act 2014*, and that are prescribed in the Fines Reform Regulations 2017. Prescribed agencies include municipal councils, government departments such as the Department of Jobs, Precincts and Regions and various State agencies such as the Victorian Fisheries Authority and the Game Management Authority.

The Bill clarifies that where a request is made under section 178 to another person or body (as distinct from a request under section 178 to a specified enforcement information agency), that person or body is expressly authorised to disclose that information. There is already an express authorisation for specified enforcement information agencies to disclose information to the Director or the sheriff.

Finally, the Bill amends the *Taxation Administration Act 1997* to add the Director and the sheriff as authorised recipients in respect of whom a tax officer may disclose information obtained under or in relation to the administration of a taxation law under section 92(1)(e) of the *Taxation Administration Act 1997* (clause 97). The amendment will enable the Director or the sheriff to obtain additional information for the purpose of enforcing an unpaid fine or registered collection and enforcement order.

Other authorised recipients of taxation information under section 92(1)(e) of the *Taxation Administration Act 1997* include police, the Country Fire Authority, the Director of Consumer Affairs Victoria, the Registrar of Titles and the Secretary to the Department of Transport for the purpose of administering the *Road Safety Act 1986* and regulations made under that Act.

Information able to be disclosed will include information relating to duties, land tax and payroll tax.

Compatibility with the right in section 13

The amendments to expand the powers of the Director and the sheriff to request information from a range of persons engage but do not limit the right to privacy because they will not result in a person's privacy being unlawfully or arbitrarily interfered with.

Enforcing unpaid fines, collection and enforcement orders made by a court, and directions and warrants is a legitimate and important public function. Credit reporting bodies will not be compelled to provide any information (including the additional information the subject of the amendments), the scope of information that may be supplied to the Director or sheriff remains very limited and what information is disclosed may only be used for the purpose of taking enforcement action under the *Fines Reform Act 2014* against a fine defaulter.

The amendment to section 178 of the *Fines Reform Act 2014* will not alter the scope of the information-gathering power contained in section 178, which remains limited to sourcing information that may assist in enforcing unpaid fines, directions or warrants. Any information sourced can only be used for that purpose.

Disclosure of information under the *Taxation Administration Act 1997* is subject to constraints, including that disclosure may not occur unless it is to enable the recipient to exercise a function conferred by law for the purpose of enforcing a law or protecting public revenue. This means the Director or sheriff will need to be able to demonstrate that the information is needed to assist in enforcing unpaid fines or collection and enforcement orders.

The Director and the sheriff will also continue to be constrained by the requirements in the *Privacy and Data Protection Act 2014* that apply to all public entities relating to obtaining, using and disclosing personal information. Their enforcement related activities are appropriately regulated under relevant legislation, including the *Fines Reform Act 2014* and the *Sheriff Act 2009*.

For these reasons, I consider that these amendments are compatible with the right to privacy contained in section 13(a) of the Charter.

Right to a fair hearing and rights in criminal proceedings

Relevantly, section 24(1) of the Charter provides that a person charged with a criminal offence has the right to have the charge or proceeding decided by a competent, independent, and impartial court or tribunal after a fair and public hearing. The right generally encompasses the established common-law right of each individual to unimpeded access to the courts and may be limited if a person faces a procedural barrier to bringing his or her case before a court.

Section 25(2)(a) of the Charter provides that a person charged with a criminal offence is entitled without discrimination to be informed promptly and in detail of the nature and reason for the charge.

Electronic service of documents

The Bill engages the right to a fair hearing by amending the *Fines Reform Act 2014* and the *Infringements Act 2006* to establish a legislative framework for electronic service (by email or mobile phone) of a range of fines related notices (clauses 39, 41(b), 46 and 48). These changes are aimed at bringing Victoria into line with several other jurisdictions, including Queensland and NSW, which have expressly provided for the electronic service of infringement notices and other fines related documents.

The Bill makes amendments to allow the electronic service of any document under either the Infringements Act or the Fines Reform Act if the recipient is of or over the age of 16 years and:

a. has provided their express consent (whether orally or in writing) to receiving notices by electronic communication and has provided an electronic address for that purpose, or

b. their electronic address is sourced from a prescribed electronic address database.

Where these requirements are satisfied, service will be deemed to have occurred at the time the document was sent or, if sent after 4pm, on the next day.

Noting that there is no existing database of electronic addresses, this aspect of the proposal will only be used where such a database is developed and becomes a reliable source of accurate electronic addresses.

The Bill will also amend the *Infringements Act 2006* and the *Fines Reform Act 2014* to allow alternative means of serving fine related notices to be prescribed.

Compatibility with the rights in sections 24 and 25

The amendments do not directly engage the rights, because an infringement offence (or a court fine) is not a formal criminal charge. To the extent that they may be regarded as being relevant to those rights, there are

adequate safeguards in place to ensure that electronic service does not adversely affect a person's ability to deal with their fine, including:

- the person will be required to expressly consent to electronic service and have provided an electronic address for service, or the person's address must have been sourced from a prescribed database, and
- the person must be aged 16 or over.

The department will develop appropriate policies to guide the implementation of electronic service. Under those policies, it is anticipated that electronic service would not be relied on where objective evidence indicated that the notice sent electronically had not been received.

For these reasons, I consider that the amendments are compatible with the rights to a fair hearing and the rights in criminal proceedings contained, respectively, in sections 24(1) and 25(2)(a) of the Charter.

JACLYN SYMES MP
Attorney-General
Minister for Emergency Services

Second reading

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:06): I move:

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

Motion agreed to.

Ms SYMES: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The government is committed to ensuring Victorians have access to a fair and effective fines system. This bill continues the important work of implementing recommendations to improve the fines system made by the independent Fines Reform Advisory Board ('Board'). It also makes other important changes to improve the fines system.

Continuing to implement the Fines Reform Advisory Board's recommendations

The Board was established in late 2019 to provide advice to government on the operation of the fines system and opportunities for improvements after the commencement of the *Fines Reform Act 2014*, on 31 December 2017. The Fines Reform Act introduced a suite of important changes—known as 'fines reform'—to make the fines system fairer and more effective, including by centralising the collection of court fines and infringement fines in a new office of the Director, Fines Victoria (Director) and establishing new and extending existing social justice initiatives for vulnerable and disadvantaged fine recipients.

In its 2020 final report, the Board made 24 recommendations to establish a more accessible, effective, efficient and fair fines system. In December 2020, the government responded to the Board's report, supporting seven recommendations in full (recommendations 1, 5, 8, 10, 14, 15 and 18) and six recommendations in-principle (recommendations 2, 3, 7, 16, 20 and 21). Eleven recommendations were to be considered further (recommendations 4, 6, 9, 11–13, 17, 19 and 22–24).

Twelve of the Board's recommendations require legislative change. Of these, recommendations 7 and 13 have already passed, and the Bill will result in full implementation of recommendations 1, 5, 12, 18 and 20.

Recommendation 1: clarifying the aims of fines reform

In recommendation 1, the Board called for the Fines Reform Act to be amended to clearly state the objectives of fines reform, as identified by the Board. The Board identified four key objectives of fines reform: the centralised collection and enforcement of infringement and court fines; strengthened enforcement mechanisms to better deter fine avoiders; support for vulnerable people to deal with their fines; and enhanced review and oversight processes.

The government agrees that a clear statement of the aims of fines reform is important to provide clarity to stakeholders and the wider public on the purposes of a complex statutory framework for the collection and enforcement of fines.

The Bill will amend the Fines Reform Act to enshrine these key objectives in the legislation.

Recommendation 5: clarifying reporting requirements

In recommendation 5, the Board also called for legislative change to require that the Attorney-General prepare and publish an annual report on the infringements system. While an annual report is routinely prepared by my department, there is no statutory obligation to publish this report.

The government agrees that preparing and publishing information on the functioning of the fines system is important for transparency and accountability purposes. The Bill will amend the *Infringements Act 2006* to require the preparation and publication of an annual report. To consolidate reporting requirements under fines legislation, the annual report will also encompass general information about the exercise of the internal review oversight function of the Director.

Recommendations 12.1 and 12.3: a more accessible time served scheme for prisoners

The time served scheme for prisoners supports prisoner rehabilitation and reintegration into the community by minimising the extent to which prisoners are burdened by unpaid fines on their eventual release. The time served scheme allows prisoners to expiate their unpaid fines through time spent within prison.

Currently, there are two separate legislative schemes: one in the Fines Reform Act for prisoners with unpaid infringement fines and one in the *Sentencing Act 1991* for prisoners with unpaid court fines. Different rules apply to these two schemes and the infringement fine scheme is broader and more flexible than that applicable to court fines.

The Board recommended that the same rules apply to both categories of fines, and that any costs and fees added to a fine be removed for the purposes of calculating how much 'time in lieu' a prisoner will need to serve in place of paying their unpaid fines.

The government agrees these changes will make the time served scheme for prisoners fairer and more effective. The Bill will amend the Sentencing Act and the Fines Reform Act to bring the two schemes for prisoners together, with one set of consistent rules for all fines, and fees and costs will be waived where these have been added to an unpaid fine amount.

Recommendation 18: more time for enforcement review applicants to obtain evidence

Enforcement review is one of the safeguards in the fines system. It allows fine recipients to apply to the Director for a review of their fine after it has been registered under the Fines Reform Act for enforcement. There are established statutory grounds on which review can occur, including that the fine recipient was affected by special circumstances or the conduct for which the fine was issued should be excused having regard to exceptional circumstances.

There is also a process by which the Director can request additional information from enforcement review applicants in support of their application. If the Director requests additional information, that information must be provided within 14 days or, if the Director agrees to provide more time, a maximum of three months.

In recommendation 18, the Board called for change to allow applicants to request more time to obtain additional evidence for applications on the grounds of special or exceptional circumstances. Due to the nature of these applications, which can require evidence from medical or other professionals, for example, greater flexibility is needed to ensure that applicants are given enough time to obtain this additional supporting material and make it available to the Director.

The Bill will make this change and will also allow the Director a discretion to give applicants more time to provide additional evidence where the Director has requested that information. The changes will create a more flexible and responsive enforcement review process.

Recommendation 20: new powers for toll operators to request tolling fines be withdrawn

Unpaid debts for the use of Melbourne's toll roads may be referred to Victoria Police for the issue of tolling infringement fines. These fines are then enforced in the same way as any other infringement fine. The tolling company has no further involvement in collecting or enforcing the fine.

In recommendation 20, the Board recommended change to allow tolling companies to withdraw toll infringement fines if they consider it appropriate having regard to the fine recipient's individual circumstances. The Board recognised that through their interactions with customers, toll companies can learn that a person is suffering from financial hardship or vulnerability such that enforcing a fine against them may be counter-productive and unfair. Enforcing fines that should not or cannot be paid is not in the interests of the toll companies, Victoria Police or the wider community.

The Bill responds to recommendation 20 by creating a power for toll companies to request that Victoria Police withdraw a toll infringement fine if they think the fine recipient's circumstances mean that the fine should not be enforced. Consistent with its role in enforcing toll fines, Victoria Police will retain a discretion as to whether to withdraw a fine in response to a request.

The changes are consistent with recent legislative amendments by this government to limit the number of tolling offences for which a person can be prosecuted in any seven-day period and give toll companies more time to seek payment of toll debts before the issue of an infringement notice.

Other changes to improve the fines system

The Bill will make other important changes to improve the fines system. These include:

Ensuring fines can be enforced

The Bill will ensure that the Director has the information needed to enforce fines when they are registered under the Fines Reform Act for enforcement. Currently, there are no minimum requirements for providing information about a fine when registering it for enforcement and the Bill will address this by allowing minimum requirements to be prescribed in regulations.

Ensuring internal reviews are carried out by enforcement agencies

The Bill responds to a 2020 recommendation by the Victorian Ombudsman for legislative change to clarify who can conduct internal reviews of parking infringements. The Bill will amend the *Infringements Act 2006* to clarify that internal reviews of infringement fines cannot be 'outsourced' by local councils or any other enforcement agencies.

Creating a legislative framework for electronic services of fines related notices

The Bill creates a framework for the electronic service of infringement fines and related notices—by email or mobile phone, for example—where a person has consented to electronic service or their address has been obtained from a prescribed database. The amendments will bring Victoria into line with other jurisdictions that have similar provisions enabling electronic service, including NSW and Queensland.

Implementing electronic service will require extensive IT changes and consultation with enforcement agencies and other stakeholders. The changes create a structure for electronic service to be used where this method is fair to fine recipients and effective for enforcement purposes, while recognising that this method of service has considerable potential to increase the efficiency of the fines system while also making it more convenient for fine recipients.

Strengthening information-gathering powers to enforce fines

The Fines Reform Act contains a range of provisions enabling the Director and the sheriff to seek information that may assist them in enforcing unpaid fines. There are inconsistencies and gaps in these powers. The Bill will make amendments to clarify and strengthen these information-gathering powers, subject to appropriate constraints.

In particular, the Bill will:

- allow the Director and the sheriff to source additional information from credit reporting bodies
- amend the *Taxation Administration Act 1997* to add the Director and the sheriff as authorised recipients of taxation information

Important safeguards remain in place. Credit reporting bodies will not be compelled to provide information to the Director or the sheriff, and any information that is supplied can only be used for the purpose of enforcing unpaid fines. The same limitation on use will be in place in respect of any taxation information sourced under the provisions of the *Taxation Administration Act 1997*.

The amendments will also clarify that where the Director or sheriff requests information from a third-party that may assist in enforcing unpaid fines under existing provisions in the Fines Reform Act, that entity is authorised to disclose that information. These changes will strengthen the Director or sheriff's ability to recover unpaid fines from fine recipients.

Making minor and technical amendments

The Bill will also make a range of minor and technical type amendments to clarify various matters.

I commend the Bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (18:06): I move, on behalf of my colleague Dr Bach:

That debate on this matter be adjourned for one week.

Motion agreed to and debate adjourned for one week.

PUFFING BILLY RAILWAY BILL 2022

Introduction and first reading

The PRESIDENT (18:06): I have a further message from the Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to establish the Puffing Billy Railway Board, to provide for the objectives, functions and powers of the Board, to provide for matters relating to the Puffing Billy Railway, to repeal the **Emerald Tourist Railway Act 1977** and for other purposes'.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:06): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Ms SYMES: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:07): 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 Puffing Billy Railway Bill 2022 (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 is an important part of the government's efforts to improve and modernise the governance framework of the Puffing Billy Railway. The Bill:
>
> a) Repeals the ETR Act and establishes the Puffing Billy Railway Act 2022 as a new principal Act.
>
> b) Introduces a framework that supports the Bill's principal objective to provide for the ongoing management and sustainability of the iconic Railway.
>
> c) Changes the name of the ETRB to the Puffing Billy Railway Board (PBRB).
>
> d) Introduces contemporary corporate governance reporting mechanisms that align with modern standards and are appropriate for operating the Railway in a contemporary tourism environment.
>
> e) Updates the functions of the PBRB and outlines clear objectives relevant to the operation of the Railway as a state significant tourism attraction.
>
> f) Provides that the persons appointed to the PBRB are directors rather than members, to remove any ambiguity with members of the Society.
>
> g) Transitions the PBRB with an emphasis on a skills-based directorship, conferring the power to appoint directors to the Governor in Council on the recommendation of the Minister.
>
> h) Permits the making of regulations with respect to a broad range of matters relating to the day-to-day operation and management of the Railway.
>
> **Human Rights Issues**
>
> The Bill engages the right to recognition and equality before the law (section 8).
>
> For the following reasons, I am satisfied that the Bill is compatible with the Charter and, if any rights are limited, those limitations are reasonable and demonstrably justified having regard to the factors in section 7(2) of the Charter.

Temporary limitations on eligibility for appointment to the Puffing Billy Railway Board

The Bill limits eligibility for appointment to the Puffing Billy Railway Board to exclude those who in the previous 12 months were elected to any position in the Puffing Billy Preservation Society (the Society). While this is a very minor limitation (as persons within the affected cohort become eligible after 12 months of ending their involvement with the Society) it is arguable that this infringes that cohort's rights to equality before the law.

To the extent this infringes the right of that cohort to equality before the law, I consider this limitation to be reasonable and justified because:

i. The limitation is temporary. People subject to the limitation become eligible after 12 months regardless of previous affiliation with the Society;

ii. The Bill's object of a new, modern governance framework is advanced by the clear separation between the new framework and its predecessor.

The Hon. Jaala Pulford
Minister for Small Business

Second reading

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:07): I move:

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

Motion agreed to.

Ms SYMES: I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Puffing Billy Railway is Australia's premier preserved steam railway that operates between Belgrave and Gembrook in Victoria's Dandenong Ranges. The Railway opened for heritage operations in 1962 and has evolved from a small regional tourist railway into a state significant tourism attraction, with a strong international profile.

In 1977, the Victorian Government established the Emerald Tourist Railway Board as a statutory authority under the *Emerald Tourist Railway Act 1977*. Under this Act, the ETRB is responsible for the preservation, development, promotion, operation and maintenance of the Railway and carrying out other related operations which are consistent with the operation of the Railway as a major tourist attraction.

The ETRB and the governance structure established under the *Emerald Tourist Railway Act 1977* have come under scrutiny in recent years. In June 2018, the Victorian Ombudsman released her report 'Investigation into child sex offender Robert Whitehead's involvement with Puffing Billy and other railway bodies'. The report identified significant failings in the governance of the ETRB, a poor legislative framework under the *Emerald Tourist Railway Act* with respect to managing conflicts of interest and inappropriate board and management composition, which had enabled the Executive Committee of the Puffing Billy Preservation Society to control the ETRB. The Ombudsman concluded that governance failings of the ETRB, which included the Society's position of control, had facilitated Robert Whitehead's offending.

The Society was established in 1955, with the key objective to preserve the Railway and its historical assets for future generations. The Society continues to operate today, with over 1,000 current members. Many of these members volunteer on the Railway and their contribution is critical to the sustained operations of the Railway by driving locomotives, preserving trains and track maintenance.

Among several recommendations, the Ombudsman recommended review of the current structure and composition of the ETRB, and the governance issues associated with its relationship with the Society. The findings and recommendations from this review have informed many provisions in this Bill.

The *Emerald Tourist Railway Act* is not a suitable framework to provide for the contemporary operations of the Railway. A replacement Act with modernised provisions has been developed, which more effectively supports the contemporary operations of the Railway in the context of a state significant tourism attraction.

The Bill supports the future growth and sustainability of the Railway, which it weighs with the need to recognise the heritage significance of the Railway, the significance of its volunteers and its importance to local communities. These purposes are important for the Railway to remain a significant demand driver for the state and retain its status as a heritage attraction that supports local communities.

The Bill changes the name of the ETRB to the Puffing Billy Railway Board to align with the more commonly known name of the Railway. The current name presents unnecessary confusion to consumers who use the Railway.

The Bill introduces modern corporate governance reporting mechanisms that support the ongoing management and sustainability of the Railway in a contemporary tourism environment. Key provisions of the Bill include to enshrine the requirement to develop strategic plans and business plans, enhance the circumstances with which the PBRB reports to the Minister and empower the Minister to make written directions and request particular information. These reforms deliver an improved corporate government framework that overcomes the reporting deficiencies present in the *Emerald Tourist Railway Act*. They also support the Victorian Government to achieve the findings from the Ombudsman's report.

The Bill introduces a comprehensively altered board management framework that aligns with modern standards and further supports the Victorian Government's commitment to implement the findings from the Ombudsman's report. The Puffing Billy Railway Board will transition to a skills-based directorship, with the skills reflective of the contemporary needs of the Railway. All appointments will be made by the Governor in Council on the recommendation of the Minister. This approach removes the Society's capacity to make nominations.

The Bill also introduces restrictions on the Society with respect to holding directorship on the PBRB, including prohibiting a person who holds or held an elected position at the Society within the preceding 12 months from holding directorship and limiting the number of non-elected Society members who can hold directorship to two current or former members who concluded their membership within the preceding 12 months. These restrictions are intended to improve separation between the PBRB and the Society and future proof the Puffing Billy Railway Board from being controlled by the Society. However, the Bill allows limited representation from non-elected Society members in recognition that they are not associated with the Society's decision-making branch and could provide valuable skills and expertise to the Puffing Billy Railway Board given their involvement with heritage and tourist railways.

The Bill introduces a more comprehensive list of functions and objectives that recognise the broader and more diverse operations of the Railway as it has evolved into a state significant tourism attraction. The *Emerald Tourist Railway Act* provides a relatively outdated list, which is no longer sustainable to support the current operations of the Railway.

I commend the Bill to the house.

Mr ONDARCHIE (Northern Metropolitan) (18:07): I move, on behalf my colleague David Davis:

That debate on this matter be adjourned for one week

Motion agreed to and debate adjourned for one week.

Rulings by the Chair

CONSTITUENCY QUESTIONS

The PRESIDENT (18:08): Dr Cumming, while you are in the chamber, I have reviewed your constituency question asked today, and I have determined that as the question does not relate to a specific matter within your region it is not within the standing orders. Therefore I rule it out of order.

Dr Cumming: On a point of order, President, I looked at the sessional orders very closely to be able to write that constituency question, and obviously it relates to the 17 constituency questions which are in my region that I need answers for.

The PRESIDENT: It was not a constituency question. It was a follow-up matter, and I think you should have raised it as a point of order, not a constituency question.

Mr Ondarchie: On a point of order, related to that, President, I wonder if the government could use their wisdom on this case and just take Dr Cumming's attempt at a constituency question as part of their information and deal with that accordingly.

Adjournment

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:09): I move:

That the house do now adjourn.

BAKER HEART AND DIABETES INSTITUTE

Ms CROZIER (Southern Metropolitan) (18:09): (1842) My adjournment matter this evening is to the Minister for Health, and it is in relation to the Baker Heart and Diabetes Institute, which is an iconic institute. It is world renowned and has done work for many, many years—almost 100 years, actually. The Baker Institute is situated at the Alfred hospital. It something I am very familiar with, having done my training at the Alfred. It was in the backblocks. It has now got a very prominent position, as it should, because of the work it does in cardiovascular heart disease and diabetes.

The Baker Institute, as I said, is world renowned for the work it is doing, but it has been under some financial strain over the last few years because the operational infrastructure support funding has been stagnant since 2017. It relies on very generous donations through philanthropic donations and other campaigns that raise money for it to continue to operate the way it does in this very important area of medical research. And over the last two years with COVID, which has taken an enormous toll, the areas of heart disease and diabetes are on the increase. I was speaking with Professor Tom Marwick the other week. In his words, he said there is going to be a 'juggernaut of chronic disease', and I agree with him. I talked about this in my maiden speech when I first was elected to Parliament, around the incidence of diabetes, especially around type 2 diabetes.

COVID has seen chronic disease so much more exacerbated through inactivity and other issues around stress and eating habits, and as we know, there have been so many issues around mental health and eating disorders with the young. However, in relation to chronic disease such as diabetes and heart disease—which has been very topical, unfortunately, through the terribly sad situations of the high-profile heart attacks of Shane Warne and Senator Kimberley Kitching—it is very much in the forefront of people's minds. I have been told West Melton, for instance, is the heart attack capital of Australia. So this is very important in your area, President, in terms of the western parts of Melbourne, and very important to—well, you are Northern Metropolitan—the entire Australian community. So the action I seek is that in this year's budget consideration is given to significant amounts of funding to keep this institution going in a way that it can continue with the wonderful research and work.

ADJOURNMENT MATTERS

Dr CUMMING (Western Metropolitan) (18:12): (1843) President, I am sure you are going to enjoy my adjournment tonight. My adjournment matter is to the Minister for Health in the other place, and the action that I seek is for the minister to respond to my outstanding adjournment matters and to commit to doing so in a more timely manner in the future.

Now, the daily adjournment debates allow members to raise matters to be considered by a minister, whether that be a complaint, a request or to have a matter clarified. Those matters are often raised with us by constituents. Standing order 4.13 states that adjournment matters must be answered within 30 days. Yet I have, as of the end of the last sitting week, 16 that have not been answered. This again shows total disrespect for members of this house as well as my constituents.

Now, in looking at the data for adjournments, I am not the only one who is having these problems. It shows that other members have the same issues with the ministers, with over 100 adjournments still waiting for responses. And some other ministers have not responded to adjournments.

The PRESIDENT: Order! Dr Cumming, it is not about me enjoying your adjournment, it is that your adjournment should be done within the standing orders. Now, your adjournment should be directed to one minister. I do not know which minister. I do not know how many adjournments you have got there.

Dr CUMMING: President, the action that I seek is for the minister—it was to the Minister for Health in the other place—to respond to my outstanding matters. Just he, the Minister for Health, has 16 of mine that have not been addressed. So clearly I have stated it within my adjournment. I understand that I might have started, because you did the call, but I am pretty clear on the amount of outstanding adjournments that I have—and that other members do—because they are in the *Hansard*.

And some other ministers have not responded to adjournments. I have another three outstanding that go back to February of last year. I understand ministers' offices are busy with COVID, but this just is not good enough. Matters raised in this house, matters that are concerns of our constituents, have to be answered, and answered in a timely manner. In this place—we have brought this up numerous times—ministers need to actually respond to our constituency questions and to our adjournments. And it is very clear, the times that they must be answered—two days, 14 days or 30 days, not months, and not so many outstanding. That Minister for Health is not that busy that he cannot answer my adjournments, my constituency questions or my questions without notice. He does not do anything.

The PRESIDENT: I will get back to you on your adjournment.

WEST GATE TUNNEL SOIL

Mr FINN (Western Metropolitan) (18:15): (1844) My adjournment this evening is addressed to the Premier, and it concerns the spill—the first major spill—that we had in Sunbury yesterday of sludge which may or may not have been PFAS-contaminated. The date of that—yesterday—was almost more than a coincidence, because today we find out when reading the West Gate Tunnel Project agreement third amending deed that the government has completely taken responsibility for any potential disaster away from itself and given it to a company called BSF. Members may well speculate on what BSF stands for, and I have got a few ideas myself, but apparently it is Bulla Spoils Facility Pty Ltd. This company has been set up specifically, as I understand it, to carry the can for any disasters that may occur as a result of the dumping of the toxic soil from the West Gate Tunnel.

The fact that the government has thought it necessary to remove responsibility from itself for this I find quite appalling. This government knows the threats. This government knows that its actions are putting the people of Sunbury and Bulla and indeed many parts of the western suburbs in danger, so it is actually removing itself from the scene altogether legally. I think that is appalling. It is an act of cowardice, really, and it is also an act of gross negligence on the part of a government that just specialises in negligence.

I am absolutely flummoxed to understand why this government would feel the necessity to turn its back on the people of the north-west of Melbourne in particular but of other parts of the west as well where this soil will travel via trucks, spilling all over the place.

A member interjected.

Mr FINN: I would not go via Melton—that is a fair hike—but it certainly would come up the Tulla freeway, potentially spilling that PFAS-contaminated soil or sludge everywhere as it goes. It is a major problem, and it is putting many, many thousands, tens of thousands and maybe hundreds of thousands, of people's lives in danger throughout the north-west in particular and throughout the west of Melbourne. So I am asking the Premier to reverse this decision, to not turn his back on the people of the west of Melbourne and to meet his responsibilities—to stand up and do his job.

TAXI FARES

Mr BARTON (Eastern Metropolitan) (18:18): (1845) My adjournment this evening is for Minister Pearson, the Assistant Treasurer. Victorian taxi fares are some of the lowest in the country, and the costs of living keep going up. It is no surprise that our lowest paid and most vulnerable workers are feeling the brunt of these increases. In the past year fuel prices, as we know, have increased by 32 per cent—the biggest annual increase in 32 years. Now we are seeing reports of fuel soaring to over $2.35 a litre in my electorate. Meanwhile we have seen the Essential Services Commission begin their annual

review into maximum taxi fares—a long, absurd process that is expected to take the rest of this year. It is not good enough. There is no pricing mechanism available that is flexible enough to keep up with the rapidly changing costs of living. Despite taxidrivers being forced into poverty for some years now, no other mechanism to alleviate the financial devastation has been considered by this government, the regulator or the Essential Services Commission. That is why maximum fares for unbooked work should now be removed.

This would take the handcuffs off the taxi industry and bring us one step closer to operating on a level playing field, which we were promised, with all the other market participants, especially rideshare. Taxidrivers have only had one fare increase in the past 14 years. If you cannot figure out how to deliver a fare rise over the last eight years, then fair dinkum. This is the not the time for unnecessary bureaucratic delays. Commercial passenger vehicle drivers need maximum fares removed today, so the action I seek is that the minister remove the maximum fares for unbooked work.

CAMPING REGULATION

Mrs McARTHUR (Western Victoria) (18:20): (1846) My adjournment matter is for the Minister for Energy, Environment and Climate Change and concerns the assessment process being undertaken by the Department of Environment, Land, Water and Planning for camping sites on Crown-leased riverfront land in Victoria. This policy was always an absurdity—allowing free, unregistered camping for up to 28 days on land managed by farmers which may be close to their residences and be an integral part of their farming properties and security perimeters. The biosecurity consequences could be disastrous, so too the danger of fire and the problems of defecation, rubbish and antisocial behaviour. The compliance and enforcement elements will be a nightmare, and I have yet to hear a good response to the insurance difficulties likely to be caused. Still, it was good that in some regards the government backed down between passing the legislation and publishing the regulations, not just on the rules themselves but on the process required for sites to be opened for camping. We were also promised, to quote the DELWP website, that:

> Government is exploring the potential for introducing a registration system for the designated camping areas.

There has been no sign of that, and I would be pleased for an update from the minister on it.

Most significantly, though, rather than opening up all licensed properties, we heard in August that just 27 sites would be assessed for suitability in the first tranche. The DELWP website has said since that the locations will be published when available, and yet seven months later there is still no sign of a single site being approved. I note DELWP's statement that the department is:

> … leading the assessment of sites, with the support of a number of other agencies. Assessments include consideration of environmental values and suitability for camping.
>
> An assessment of Aboriginal cultural heritage will be undertaken by the relevant Traditional Owner group for that area.

Is this bureaucratic process the reason no progress has been made? I understand that of the 170 000 kilometres of river and creek frontage in Victoria, some 30 000 kilometres are Crown land. If it has taken more than seven months to look at 27 sites and still not conclude the process, how long is it going to take to go through the whole state? And more importantly, how much is this process going to cost? This is clearly not a cost that was considered when this policy first came to the Parliament, but it is obvious now it will be catastrophically high. The action I seek from the minister is an explanation of how great the expenditure will be, how significantly the DELWP budget will blow out and exceed the original projected cost of the policy and a timescale for the assessment of the sites across the state.

COVID-19 VACCINATION

Mr QUILTY (Northern Victoria) (18:23): (1847) My adjournment item is for the Minister for Health. While the Liberal Democrats have been outspoken about the damage being caused by the

government's endless restrictions on citizens, it appears that even now they can hit new lows on the people being impacted. We have been contacted with stories that I hope will force the minister to finally realise the horrible impact his pandemic orders are still having on the community.

There was recently an incident in Castlemaine where the police were called to physically remove two individuals from premises they were not allowed to enter. 'Were these hardened criminals', you ask, 'to have the police called to remove them?'. No. They were two young mothers who tried to take their children to the library to borrow books.

We received a call last week from a lady who has been experiencing homelessness over the past five years. While she called requesting an update on the motion passed by this house last month requesting that the Independent Pandemic Management Advisory Committee review the vaccine mandates, she stated the reason she was interested was that she normally showered at the local aquatic centre. The government's vaccine segregation has created a situation where she struggles to find ways to manage her hygiene. She simply wants the mandates removed so she can shower and visit the library.

For those this government has locked out of society, this is still far from over. Minister, based on the impacts the open premises orders are having on some of the most vulnerable in the community, we believe you should end them immediately. If you will not do that, will you at least commit to changing the current Pandemic (Open Premises) Order 2022 (No 5) to allow for aquatic centres and libraries to be excluded?

DALTON–SETTLEMENT ROADS, THOMASTOWN

Mr ONDARCHIE (Northern Metropolitan) (18:25): (1848) My adjournment matter today is for the Minister for Roads and Road Safety. The roundabout on Dalton Road and Settlement Road in Thomastown in my electorate of Northern Metropolitan Region, which I am sure the President is familiar with, is dangerous, especially for those trying to enter it from Settlement Road. In the past, as members would not be surprised, I surveyed the area and asked the opinion of residents about traffic. They told me that that roundabout is a nightmare to navigate. During the week it is congested with those trying to get to and from work, and on the weekend it is congested with those trying to access Bunnings, the Good Guys, Macca's and the businesses and two homemaker centres on either side of the roundabout.

In the past I have raised this dangerous roundabout with the minister, and I got a response that said, 'Well, there's not really a problem there; we've repainted the lines and everything's okay'. Well, I disagree, and so does my community. The action I seek of the minister is for the minister to commit in the upcoming state budget to replacing that dangerous roundabout with traffic lights so drivers in Melbourne's north can travel through there safely.

HORSE-DRAWN VEHICLES

Mr BOURMAN (Eastern Victoria) (18:26): (1849) My matter is for the Minister for Local Government. I have previously mentioned the issue horse-drawn carriages are having with their business in the CBD. There are many factors at work with this issue, but the subject today is that of the Melbourne City Council. Apparently there are some sorts of issues with the Melbourne City Council and their actions. The action I seek from the minister is that the minister work with the council and find a way forward for the operators of these carriages to continue their business.

WOMEN AND MENTORING

Dr BACH (Eastern Metropolitan) (18:26): (1850) I raise a matter tonight for the attention of the Minister for Youth Justice and Minister for Crime Prevention, and the action that I seek is for her to provide immediate funding to the organisation Women and Mentoring, to the tune of $58 000, to tide them over until the end of this financial year.

I recently had the pleasure of having some discussions with the CEO of Women and Mentoring, Ms Tricia Ciampa. Now, I had met Ms Ciampa via Zoom on a committee hearing, and I had been so impressed by the work of Women and Mentoring. It was fantastic that Ms Ciampa was able to bring along to the committee hearing a young woman who had been through the youth justice system in Victoria and then gone through Women and Mentoring's fantastic program, ultimately had turned her life around and was now making a really fantastic contribution to our community.

So I know I speak for other members of that committee across the aisle when I say that we were struck by the work that Women and Mentoring does, working in particular with young women who have been in our youth justice facilities—and I have spoken at length just this week about some of the problems that we are seeing, dreadful problems in our youth justice facilities—in order to then reduce reoffending and help these young people rebuild their lives.

In Victoria of course at the moment more than 60 per cent of young people who exit our youth justice facilities are known to reoffend in the years following their release. The actual figure of course will undoubtedly be significantly higher. Nonetheless there is no government funding for Women and Mentoring beyond the end of this month. The organisation would obviously love to continue, and I would love this organisation to be able to continue to do what it is doing at the moment—and that is providing mentoring support to 29 women. The organisation has excellent plans to expand over the next few months to reach another 10 to 15 young women and also to deliver training and screening processes for another 13 mentors.

Unless the government is in receipt of some information that I am not, I would argue that this sort of program is exactly the kind of program that we should be supporting. It is not just supporting the young women themselves who have been through the youth justice system, it is also supporting any children they may have—and I am advised by Ms Ciampa that many of the young women who they engage with do have young children of their own. Of course we know that people who have been through our youth justice program are then at greater risk of having their children engage with child protection. We have far too many young people moving into child protection then graduating—if I can use that word advisedly—into youth justice. I think, unless the government is in receipt of some information that they should share that I do not have, that Women and Mentoring should be able to continue their excellent work. They need $58 000 in order to do so, and I call on the Minister for Youth Justice and Minister for Crime Prevention to provide it as a matter of urgency.

SHEPPARTON SPORTS AND EVENTS CENTRE

Ms LOVELL (Northern Victoria) (18:29): (1851) My adjournment matter is directed to the Minister for Tourism, Sport and Major Events, and it concerns funding for the redevelopment of the Shepparton Sports Stadium. The action that I seek from the minister is for him to accompany me on a visit to the Shepparton stadium to see Greater Shepparton council's plans for stage 1 of the planned Shepparton sports and events centre and also to commit funding of $20 million as the state government's share of the cost of stage 1.

The Shepparton Sports City precinct in North Shepparton is home to world-class facilities for many different sports, including soccer, netball, BMX racing, hockey and athletics. The quality and high standard of these facilities allow Shepparton to host national and international sporting events, injecting millions of dollars into the local economy. To complete the sports city precinct, Greater Shepparton City Council are seeking to transform the Shepparton Sports Stadium into the Shepparton sports and events centre. The current stadium opened in 1972 as a two-court facility with only one major upgrade occurring in 1994, with the construction of two additional basketball courts. Appropriately, the redevelopment of the stadium is a high-priority infrastructure project for the City of Greater Shepparton and is now well and truly on the radar of the federal government.

I congratulate the Liberal candidate for Nicholls, Steve Brooks, who saw the importance of the project and recently invited the federal Liberal Minister for Sport, Richard Colbeck, to Shepparton to visit the stadium and hear about the project firsthand. It was wonderful for the minister to see the potential

major events that the new sports and events centre will bring to Shepparton and the Goulburn Valley region and the boost such events would have on our local economy. It is estimated that the redevelopment will create 235 new jobs during construction and additional events hosted at the new centre would generate an additional 24 000 visitors to Greater Shepparton each year.

I have called on the state government for funding for this project for nearly five years and last raised its merits with Minister Pakula on 10 February, but he failed to respond. Steve Brooks's invitation to the federal minister to visit the stadium has now put the project in the spotlight of the federal government. This will aid council's advocacy for federal funding of $20 million towards stage 1 of the project. The planned Shepparton sports and events centre is a game changer for sport and entertainment in the Goulburn Valley, and now that the project has attracted attention at the highest levels of the federal government I call on Minister Pakula to commit the state government's share of the funding to the project.

PRESTON MARKET DEVELOPMENT

Dr RATNAM (Northern Metropolitan) (1852)

Incorporated pursuant to order of Council of 7 September 2021:

My adjournment is for the Minister for Planning.

I welcome the minister's referral of the revised Victorian Planning Authority's (VPA) Preston Market precinct structure plan to the standing advisory committee (SAC), including seeking advice on planning mechanisms to support the vibrancy of the market and secure its long-term operation with regard to its social and cultural significance and its association to multicultural and migrant communities.

While some of the changes in the scope of the project as reflected in revised plans of this much-loved community space are welcome and respond to the significant community concern about the overdevelopment of this site, including overshadowing and lack of public open space, I note that the community and council remain concerned that there are insufficient protections for the market to remain an affordable, open-air, culturally diverse, fresh food community hub and uncertainty about how traders will be supported through the redevelopment process. I very much hope that the need for a section 173 agreement to protect the market will be a priority for the minister in this next stage of the planning process.

That aside, I am concerned about a number of other aspects of the referral.

Firstly, together with Darebin council and community members, I am concerned about the proposed time line for the consultation in relation to this very significant project for the Darebin community, which has been condensed thanks to your requested reporting date of 7 July 2022.

The initial VPA consultation had a record number of submissions from 386 people and a revised VPA SAC process should also respect and reflect this significant community interest by providing for an extended period of time to hear from people, not be a shorter process than others.

Residents who might work full time and live busy lives have been given a little over a week to review the revised plans and decide whether they want to be heard at the hearings, and just over three weeks in total before hearings start.

This is also a very short time frame for council to consult with the community and prepare to be heard.

This is not a fair and reasonable time line for the community consultation process.

Secondly, that the referral omitted some very important considerations for the precinct.

Namely, no advice is being sought on targets for affordable housing for this large-scale development, and on how we ensure the apartments are livable and appropriate for the needs of the community.

Thirdly, no advice is being sought on whether the precinct meets our long-term sustainability requirements, including electric vehicle charging stations, green waste management, solar farms, big batteries, ensuring buildings are fully electric, and other measures to meet our zero net emissions target for the state, for example.

So the action I am seeking of the minister is that you revise your reporting deadline and the referral to include these very important considerations.

The PRESIDENT: I have checked Dr Cumming's adjournment and the standing orders. My understanding is that her adjournment is not within the standing orders, so I rule it out. She should be here to make a point of order and follow this up.

Mr Ondarchie: On a point of order, President, in relation to your most recent ruling I understand your position, but I draw your attention to standing order 4.14, which encourages members to seek some responses about outstanding adjournment matters at the end of the adjournment debate. Now, to be fair to Dr Cumming, she inadvertently did it as part of her adjournment, and I just wonder, with your forbearance, President, if the government could take the body of her contribution as an indication of some outstanding matters so she can respond accordingly to her constituents?

RESPONSES

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (18:33): There were 10 adjournment matters tonight, minus one. I will pass them on for a response.

The PRESIDENT: On that basis, the house stands adjourned.

House adjourned 6.33 pm until Tuesday, 5 April.