



Hansard

LEGISLATIVE COUNCIL

60th Parliament

Tuesday 5 March 2024

Members of the Legislative Council

60th Parliament

President

Shaun Leane

Deputy President

Wendy Lovell

Leader of the Government in the Legislative Council

Jaclyn Symes

Deputy Leader of the Government in the Legislative Council

Lizzie Blandthorn

Leader of the Opposition in the Legislative Council

Georgie Crozier

Deputy Leader of the Opposition in the Legislative Council

Evan Mulholland (from 31 August 2023)

Matthew Bach (to 31 August 2023)

Member	Region	Party	Member	Region	Party
Bach, Matthew ¹	North-Eastern Metropolitan	Lib	Luu, Trung	Western Metropolitan	Lib
Batchelor, Ryan	Southern Metropolitan	ALP	Mansfield, Sarah	Western Victoria	Greens
Bath, Melina	Eastern Victoria	Nat	McArthur, Bev	Western Victoria	Lib
Berger, John	Southern Metropolitan	ALP	McCracken, Joe	Western Victoria	Lib
Blandthorn, Lizzie	Western Metropolitan	ALP	McGowan, Nick	North-Eastern Metropolitan	Lib
Bourman, Jeff	Eastern Victoria	SFFP	McIntosh, Tom	Eastern Victoria	ALP
Broad, Gaele	Northern Victoria	Nat	Mulholland, Evan	Northern Metropolitan	Lib
Copsey, Katherine	Southern Metropolitan	Greens	Payne, Rachel	South-Eastern Metropolitan	LCV
Crozier, Georgie	Southern Metropolitan	Lib	Puglielli, Aiv	North-Eastern Metropolitan	Greens
Davis, David	Southern Metropolitan	Lib	Purcell, Georgie	Northern Victoria	AJP
Deeming, Moira ²	Western Metropolitan	IndLib	Ratnam, Samantha ⁵	Northern Metropolitan	Greens
Erdogan, Enver	Northern Metropolitan	ALP	Shing, Harriet	Eastern Victoria	ALP
Ermacora, Jacinta	Western Victoria	ALP	Somyurek, Adem	Northern Metropolitan	DLP
Ettershank, David	Western Metropolitan	LCV	Stitt, Ingrid	Western Metropolitan	ALP
Galea, Michael	South-Eastern Metropolitan	ALP	Symes, Jaclyn	Northern Victoria	ALP
Gray-Barberio, Anasina ³	Northern Metropolitan	Greens	Tarlamis, Lee	South-Eastern Metropolitan	ALP
Heath, Renee	Eastern Victoria	Lib	Terpstra, Sonja	North-Eastern Metropolitan	ALP
Hermans, Ann-Marie	South-Eastern Metropolitan	Lib	Tierney, Gayle	Western Victoria	ALP
Leane, Shaun	North-Eastern Metropolitan	ALP	Tyrrell, Rikkie-Lee	Northern Victoria	PHON
Limbrick, David ⁴	South-Eastern Metropolitan	LP	Watt, Sheena	Northern Metropolitan	ALP
Lovell, Wendy	Northern Victoria	Lib	Welch, Richard ⁶	North-Eastern Metropolitan	Lib

¹ Resigned 7 December 2023

² Lib until 27 March 2023

³ Appointed 14 November 2024

⁴ LDP until 26 July 2023

⁵ Resigned 8 November 2024

⁶ Appointed 7 February 2024

Party abbreviations

AJP – Animal Justice Party; ALP – Australian Labor Party; DLP – Democratic Labour Party;

Greens – Australian Greens; IndLib – Independent Liberal; LCV – Legalise Cannabis Victoria;

LDP – Liberal Democratic Party; Lib – Liberal Party of Australia; LP – Libertarian Party;

Nat – National Party of Australia; PHON – Pauline Hanson's One Nation; SFFP – Shooters, Fishers and Farmers Party

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Tuesday 5 March 2024

The PRESIDENT (Shaun Leane) took the chair at 12:02 pm, read the prayer and made an acknowledgement of country.

Announcements

Usher of the Black Rod

The PRESIDENT (12:04): Members, I advise the house that Sally West is currently on secondment to the Legislative Assembly for four months – that was the bad news – and the good news is Matt Newington will act in the role as Usher of the Black Rod in her absence.

Bills

Building Legislation Amendment (Domestic Building Insurance New Offences) Bill 2023

Regulatory Legislation Amendment (Reform) Bill 2023

Service Victoria Amendment Bill 2023

Royal assent

The PRESIDENT (12:04): I have received a message from the Governor, dated 27 February:

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

4/2024 Building Legislation Amendment (Domestic Building Insurance New Offences) Act 2024

5/2024 Service Victoria Amendment Act 2024

I have received a further message from the Governor, dated 5 March:

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

6/2024 Regulatory Legislation Amendment (Reform) Act 2024

Announcements

Senate vacancy

The PRESIDENT (12:05): I am sad to say that I have received a further letter from the Governor informing me that she has received a letter from the President of the Senate advising her of the vacancy in the representation of the state of Victoria in the Senate following the death of Senator Linda White.

Questions without notice and ministers statements

Public sector executive remuneration

David DAVIS (Southern Metropolitan) (12:05): My question is to the Minister for Housing. Minister, I refer to Jeroen Weimar, the deputy secretary, housing statement implementation, in the Department of Premier and Cabinet, and ask: did Mr Weimar repay some of his \$160,000 windfall payment as a condition of accepting his new role with the Victorian government?

Harriet Shing: On a point of order, President, Mr Davis has framed a question in relation to a matter which is, firstly, not relevant to the general order and, secondly, not something of which I have coverage in my role as Minister for Water. It has got absolutely nothing to do with me. Perhaps a rephrasing of the question might assist.

The PRESIDENT: I will uphold the minister's point of order. Mr Davis, would you like to rephrase?

David DAVIS: Maybe I should direct this question to the minister representing the Premier in that case. Is that what the member is –

Harriet Shing: I am not telling you what to do apart from the fact that you are wrong.

David DAVIS: You have no input into the role?

Harriet Shing interjected.

The PRESIDENT: Let us not have a debate across the chamber.

David DAVIS: On a point of order, President, the minister has spoken on the housing statement on a number of occasions, including in this chamber. I am just troubled if she has not got oversight or involvement with the housing statement.

The PRESIDENT: It is not relevant to her responsibility. Where an individual does anything with a certain amount of money that they may or may not have obtained in previous employment – I cannot even see how it is relevant. Try again.

David DAVIS: Did the Secretary of the Department of Premier and Cabinet consult with Mr Weimar as to whether he should repay some of the money before employing him?

The PRESIDENT: I am just going to rule it out.

LGBTIQA+ homelessness services

Rachel PAYNE (South-Eastern Metropolitan) (12:08): (438) My question is for the Minister for Housing, Minister Shing. The Council to Homeless Persons budget submission asked this government to commit \$1.6 million in 2024–25 and \$6.9 million over four years to continue lapsing funding for Pride in Place. Pride in Place does incredibly important work for LGBTIQA+ people who are homeless, at risk of homelessness or living in housing that is unsafe, insecure or too expensive. We know from La Trobe University's *Writing Themselves In 4* report that almost a quarter of LGBTIQA+ people have experienced homelessness. My question is: will the minister ensure there is funding for Pride in Place in this May budget so that they can continue their essential work to provide access to homelessness support for LGBTIQA+ people?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:09): Thank you very much for that question, and thank you for your ongoing interest in and passion for advocating for our communities and for the very real challenges, disadvantages and lesser outcomes that are experienced by LGBTIQA+ people over the entirety of our lives. We know that housing, along with employment, along with access to services, along with the way in which take-home pay is calculated, is lesser for LGBTIQA+ people.

There are a couple of dimensions to this particular question, which go to both the housing portfolio and the equality portfolio, so what I might do is perhaps combine them as a bit of a shandy, if that suits you – and of course I am very happy to provide you with further briefings on this matter. On the homelessness fund and the work that we are doing, this is as much about partnerships across the state–federal interface as anything else. Just last week I attended a ministerial council of housing ministers, and homelessness was one of the key areas of discussion around the work that is needed to be done and maintained across the funding for homelessness. We know that different states allocate and use the funding from NHHA, the National Housing and Homelessness Agreement, which is currently in the process of being renegotiated with a view to not having that gap at the end of the financial year.

Pride in Place and the work that we are doing are also consistent with *Pride in Our Future*, the LGBTIQA+ strategy for 2022–32. This is a 10-year plan which also goes directly to the importance of ensuring that LGBTIQA+ people have access to a range of supports. You would be aware that it was a couple of years ago that the then Minister for Housing and I, as Parliamentary Secretary for Equality, met at Drummond Street Services to announce the pilot for housing and homelessness services in both Melbourne and Ballarat, and that this is intended to make sure that we have culturally safe spaces and that we are meeting the service needs and the care needs of people who require ongoing and wraparound care. Transitional housing is another part of this, and there is a big interface with

LGBTIQA+ community members. We know that that also interfaces with a range of supports in intersectionality, which is a big part of what we are doing across homelessness and also across equality to make sure that LGBTIQA+ people who are Aboriginal and Torres Strait Islander, who are victim-survivors of family violence, who are young people, have access to those wraparound supports even if it is within the broader remit of service delivery and programs as part of that ongoing investment in homelessness.

We also know that as part of the ongoing engagement it is important that we do not see any cut to homelessness funding from the Commonwealth. The Commonwealth have been really clear that they do not want to see that funding go backwards. I cannot give you commitments about the state budget, but of course I am really happy to continue to update you as things progress. Thank you for your advocacy.

Rachel PAYNE (South-Eastern Metropolitan) (12:12): I thank Minister Shing for her response, particularly the response around wraparound services, which sort of leads into my supplementary. In the midst of the current housing crisis, intake services like Pride in Place provide essential support and drive prioritisation. Unfortunately, they are under immense pressure as they face a tidal wave of requests for support. With limited staffing and funding, many people are either turned away or cannot get in contact with the service to begin with. So my supplementary is: will the minister commit to increasing their intake response, acknowledging that these intake services are facing significant increased demand?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:13): Thank you, Ms Payne. You have touched on significant and increased demand, which is at the heart of all of the work that we are doing. Within the wheelhouse of housing, obviously homelessness crisis support and accommodation and transitional housing are part of that, but without housing to go to, we do not see a move from those initial and response acute settings into something more permanent that enables those areas of disadvantage to be substantively and durably addressed. Again, the measure of support is as much about frontline service delivery as anything else. Within the public service we have made sure that frontline service delivery is not impacted. Of course more needs to be done, not just across this area but also, beyond Pride in Place, across the other initiatives that we are doing to support marginalised communities.

Again, I cannot give you the answers in terms of what might be in this year's budget, but of course I am happy to sit down with you and also with a range of other networks. The Western Homelessness Network I met with just last week. We continue to work with service providers to talk through what this will mean after the budget is handed down in May.

Ministers statements: western Victoria fires

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:14): Last Wednesday Victorians braced for the second catastrophic fire danger warning of the year – all while the existing fire at Bayindeen was still burning – and of course many communities in our state have been through three disasters or challenging conditions in just the past three weeks. Unsurprisingly, our emergency services shone through in the toughest situations, as we know they do. Crews in the air and on the ground did an incredible job keeping Victorians safe, and the fact that no lives were lost and no further homes were destroyed is a testament to the vast preparation of all of our emergency services. On Wednesday night I was at the State Control Centre, and I saw just how quickly our fire services swung into gear to manage a really dangerous situation. It was basically under an hour and there was a truck parked near every house in Dereel protecting those assets – it was really an amazing effort.

I would also like to thank the 110 fires from New South Wales who came down to support our fire response, with three aircraft, five strike teams and an incident management team in tow. I met many of them after the event, and they were very happy to repay the favour as many Victorians have been doing in recent years. With their help, both fires were brought under control, and of

course it meant that volunteers around the state could be well placed to protect their communities on a really high-risk day.

As we head into again more hot days I do encourage Victorians to continue to follow the warnings from officials, to download the VicEmergency app and to have a fire plan. I also wish to advise that in the last three weeks since the February fires, so from 13 February, the CFA have received 627 new volunteer member applications, which is fantastic. The incredible work and preparation of our emergency services did ensure that the conditions did not get the better of us. I am a strong believer that if you prepare you become luckier. I think that is what rang true last week. So thank you to all of our emergency services and community members who really stood up and protected their communities last week.

Clyde North fire services

Ann-Marie HERMANS (South-Eastern Metropolitan) (12:16): (439) My question is to the Minister for Emergency Services. I do agree that our emergency services do a great job, but on Sunday a fire ripped through a property on Spartan Avenue, Clyde North, destroying eight garages and damaging three adjoining homes. The property is located just 350 metres, or under 1 minute travel time, from where the Clyde North Fire Rescue Victoria station that your government promised in 2017 was to be built. Minister, why haven't you built this station, leaving local residents at risk?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:17): Thank you, Mrs Hermans, for your question. I have sought advice in relation to the house fire at Clyde North. It was responded to by the Clyde, Berwick, Narre Warren, Hampton Park and Beaconsfield units, and I am advised that the Clyde CFA tanker arrived first on the scene from the nearby satellite station and it arrived within the service delivery standards time frame. FRV and CFA pumpers also arrived on the scene just after the Clyde CFA tanker. The response from crews was well coordinated and, I am advised, extremely quick.

A number of other CFA and FRV vehicles also attended the blaze and saved the townhouses from being further impacted. I am advised that the fire developed very quickly due to the lightweight, open construction of the townhouses, with no fire separation material or constructions present. This is now the subject of further investigation by the city council municipal building surveyor and CFA manager of community safety to determine if the construction was within building regulations and codes. I am sure that that information will be provided to your community. FRV and CFA do ensure that the Clyde North community is –

Ann-Marie Hermans: On a point of order, President, it is great that we are getting lots of information about who did attend the actual fire, but the question is: why has this particular station that was promised not yet been built?

The PRESIDENT: I think the minister is being relevant. At the end of her answer there she was talking about construction and things within code – sorry to paraphrase. I will let the minister continue her answer.

Jaclyn SYMES: Thank you, President. In regard to the Clyde North fire station, planning is well underway. FRV and CFA continue to ensure that the Clyde North community is provided with a high level of service and that there is no unacceptable risk to community safety.

Ann-Marie HERMANS (South-Eastern Metropolitan) (12:19): It is great that you are in the planning stage, but Minister, when this station was announced in 2017 the then Minister for Suburban Development, the member for Mill Park, stated:

We're getting on with ... delivering critical infrastructure for the future needs of Victorians, so families in growing areas have the services they need.

Considering that commitment was seven years ago, what will you say to the families who cannot return to their homes because Labor cannot deliver on its promises?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:20): I think it would be appropriate for me to repeat my answer from the previous response, and that was that the FRV and CFA continue to ensure the Clyde North community is provided with a high level of service, and there is no unacceptable risk to community safety.

Housing

Katherine COPSEY (Southern Metropolitan) (12:20): (440) My question is to the Minister for Housing. There is a public housing estate with 36 units across 1–9 Alamein Avenue, Ashburton. On 5 August 2023 there was a fire at number 1, causing significant damage. The units damaged by the fire and those that were left unoccupied by tenants who have been relocated were left open and unsecured. Ten units across four buildings are still occupied, and residents such as Karen and Kris have told my office that they have felt unsafe for months. Squatters are coming and going regularly, and there are mounds of rubbish to climb across to get up the stairs. My colleague Samantha Ratnam wrote to you about this site last month, and then literally yesterday, seven months after the fire, housing staff and police arrived at the site to finally secure the damaged and unoccupied units. Minister, is it acceptable that public tenants need to wait seven months for their homes to be made secure?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:21): Thank you for that question. In the first instance, I want to acknowledge that any tragedy or damage or loss that is sustained across anyone's home, whether it is in rental accommodation, whether it is in a home ownership situation, whether it is in social housing or whether it is in temporary housing, can be really devastating, and the loss of that measure of safety and security is really significant. There are a range of steps that are taken upon damage to properties that are about ensuring that tenants – residents – are given appropriate, safe and secure accommodation and that their homes are fit for purpose. There is also a process which is about assessment and upgrades and whether there are any structural remediation works that can be undertaken to ensure that a property can be restored to a fit state prior to renters moving back in to that accommodation. In the first instance, I am really happy to get further information for you or indeed for Dr Ratnam, who you have just indicated wrote to me in February –

Katherine Copsey: Last month.

Harriet SHING: Sorry, February?

Katherine Copsey: Last month.

Harriet SHING: We are in March now. Yes, okay, last month. Why don't I have a conversation with both of you, perhaps, about the progress of that work?

But to be really, really clear, we want to make sure that in bringing down the backlog of maintenance, upgrade and repair and in funding additional work that is needed across our stock we are addressing that need as the population grows. I also note that the standard life span for a social housing dwelling is about 45 years, so we are not short of challenges and opportunities around making sure that upgrades occur in the right way, whether they occur because of fire or for some other reason. Why don't I get some further information for you on that particular matter and on the progress and the discussions that have been occurring with residents, and we can go from there?

Katherine COPSEY (Southern Metropolitan) (12:23): I thank the minister for her answer. That would be most appreciated. Minister, Alamein Avenue is one of many public housing sites where I am hearing about poor maintenance and cleaning being ongoing problems. Multiple constituents across my electorate who are also public housing tenants have raised that they feel their homes and estates are being deliberately run down. This includes a lack of responses to requests for either urgent or routine maintenance, poor or non-existent cleaning and lack of garden maintenance in common areas. Minister, you have been very clear about the government's decision to privatise public land and public housing through the ground lease model. Are these deliberate tactics? Are public housing sites

being run down in order to justify Victorian Labor's agenda to privatise public housing sites across the state?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:24): I want to be really clear: community housing is not private housing. Community housing is as much part of the fabric of delivering on the record numbers of homes across the state as public housing. That is why I refer to 'social housing', because for-purpose, not-for-profit organisations that are there to support vulnerable communities, who are either funded directly by government or where government actually funds the work to invest in the buildings that they run and manage, are integral to meeting that need around shortfall. So I absolutely, categorically reject the premise of your question. What I would say is that we have provided maintenance services to over 64,000 dwellings at a cost of about \$281 million, and we undertake 350,000 maintenance activities per year. We have got a comprehensive program of renewals, upgrades and planned maintenance, and we are continuing to work towards that and reducing the shortfall.

Ministers statements: western Victoria fires

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (12:25): I rise today, like Minister Symes, to thank our firefighters in the Grampians region who saved countless homes over the last fortnight with fortunately no loss of life. I acknowledge in particular the CFA brigades that I met on the weekend in Dereel, Beaufort and Raglan for their bravery and for contributing local knowledge and expertise to the bushfire response. Can I also give a shout-out to the Forest Fire Management Victoria teams that I saw everywhere I went on the weekend. Thank you. The common threads of my recent visits to the fire- and storm-impacted towns have been communities across the region rallying to support each other, optimism despite the difficulty and practical ideas to support recovery.

I acknowledge our smaller councils for their crucial role in response and recovery and Pyrenees Shire Council mayor Robert Vance, CEO Jim Nolan and Cr David Clark, who I was able to spend quality time with – fine examples of the local government leadership we are seeing right across our region during this very, very challenging period. Many of these rural councils are visiting Parliament today, and I look forward to further discussion with them later on this afternoon.

The hardworking staff of Regional Development Victoria are continuing to work every day and night hand in glove with local councils towards recovery. A testament to these joint efforts is the new \$200,000 investment by regional development in the Pomonal community hub as a central point for recovery and planning. This will help locals distribute the community newsletter, shovels and wheelbarrows as part of the clean-up. Practical, community-driven solutions are very important in regional development right across regional Victoria, and I am pleased to see that this approach is absolutely taking action.

Emergency communication services

Evan MULHOLLAND (Northern Metropolitan) (12:28): (441) My question is for the Minister for Emergency Services. Minister, on 22 February, during extreme fire danger conditions, why did Triple Zero Victoria have only nine call takers available to answer calls for fire emergency?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:28): I thank Mr Mulholland for his question. When there are fire-risk days or indeed areas where TZV recognise that surge capacity will be required, such as long weekends and the like, they have management processes that bring more people on board for those particular days. Your suggestion that there would be nine call takers on a high-risk day I would very much doubt is accurate.

I tend to get a lot of questions and facts that are false that come to me from people who think they have got information about how TZV operates, and time and time again we are demonstrating that those

are just unfounded. I find it concerning, because it is potentially creating concerns in the community that would be creating fear. It is misinformation.

If you want to provide me with some greater detail offline, I can double-check with TZV in relation to that particular claim that you have made. But for you to just stand up and say something does not mean it is true. I have not received any concerns about –

Members interjecting.

Jaclyn SYMES: I have been pretty frank in this place about the challenges of TZV. I have not shied away from the problem, that we had challenges, but this organisation has had a massive transformation and has new leadership. It is an organisation that is working really, really well. They are meeting all of their benchmarks in terms of call taking. They respond to peak demand, like all of our emergency services do. I met Triple Zero call takers in the incident control centres in Ballarat last week. They come out of the workplace to ensure that they are having local solutions so that they can help emergency services on the ground. This is an organisation that, yes, had challenges – we have broadcast that – but to come in and undermine them continually with false information is really disrespectful to an organisation that I think are doing an awesome job, and the statistics support that, as does community experience. I can only confirm for you, Mr Mulholland, that there are robust procedures in place to plan to ensure we have the appropriate amount of staff, whether they are call takers, dispatchers, support workers or team leaders, for periods of peak, and that includes all of the issues that we have had in the last three weeks.

Evan MULHOLLAND (Northern Metropolitan) (12:31): Following the litany of failures at the height of the 000 crisis that was linked to the deaths of 33 Victorians, as discussed in your previous answer, you said you were going to fix the system. How can the Victorian community have confidence in Triple Zero when callers are left on hold during a day of extreme fire danger?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:31): Mr Mulholland, again you are making statements that you do not have any basis to make. On days of high fire danger there are processes in place to ensure that there are adequate surge staff to help with those days. There have not been concerns in relation to people waiting on these types of days, and the information you have is frankly false. I am more than happy to have a conversation with you to perhaps fact-check your questions before you put them to me, because I think that they have a really harmful impact, not only potentially on concerns of the public that are unfounded, but it is really disrespectful to those staff who turn up day in, day out and work really hard. They are meeting all of their benchmarks, as I have said to you. I am confident in this organisation, and the public can be too.

Illicit tobacco

David LIMBRICK (South-Eastern Metropolitan) (12:32): (442) My question is for the minister representing the Minister for Police. The last year has seen a dramatic escalation in the battle for criminal control of illicit tobacco and vaping markets. With potentially a \$2 billion market up for grabs, there is no shortage of cash to incentivise, bribe and otherwise fund the violence and arson. Recent reporting suggests that teenagers are being recruited to steal the cars used for arson attacks via home invasions or are even committing the arson attacks themselves. With people living above or adjacent to some of these stores, it is just dumb luck that innocent bystanders have not yet been killed. There is some confusion about exactly how many stores have been targeted or how many arson attacks have occurred on them. Some clarity here would be helpful. My question to the minister is: how many instances of arson have occurred at tobacco or vape stores in the past 18 months?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:33): I thank Mr Limbrick for his question and his interest in this matter. I know our government is committed to keeping Victorians safe, and I know the police minister's focus, together with Victoria Police, has been on these issues. I will direct those questions to the Minister for Police in the other place, and he will respond in line with the standing orders.

David LIMBRICK (South-Eastern Metropolitan) (12:34): I thank the minister for passing that on. It is not just tobacco and vape stores, though. This has spread out to restaurants, reception centres and other venues. So brazen has this become that after some teenagers allegedly failed to burn down a restaurant in Mill Park a few days ago, an armed crew were later sent in to ensure the arson attack was successful. Despite some arrests, it appears there is no shortage of people willing to engage in this behaviour. There is a lot of money at stake, so it is hard to imagine that policing will be effective at stopping the trade. All indications are that state and federal Labor governments are doubling down on their current approach, so the least we can do is accurately track the subsequent crime wave. Minister, how many other properties have been targeted with arson that police suspect are connected to the gang war over illicit tobacco and vapes?

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:34): I thank Mr Limbrick for raising this issue of significant public importance. I will make sure that it is passed on to the police minister in the other place and that he responds in line with the standing orders.

Ministers statements: victims legal service

Enver ERDOGAN (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:35): I rise today to update the house on our victims legal service. Last March the government launched Victoria's first dedicated victims legal service, a free legal service to people who have suffered injury or a loss as the result of crime. The service assists victims to make applications to the Victims of Crime Assistance Tribunal and assists victims in restitution and compensation order matters. The legal support is not only victim centred and trauma informed but also culturally safe.

As the one-year anniversary of this victims legal service approaches, we are on track to achieve its service delivery target for the first year. Since its commencement in March 2023 and up until the end of January 2024 the service assisted in over 2000 inquiries. This month does not just mark the first anniversary of the victims legal service; I am pleased to inform the house that we are also expanding the service. From the first of this month the victims legal service, in partnership with the Commonwealth government, has increased its service offering to victims. In partnership with the Commonwealth government, a three-year pilot program will help victims of sexual offences protect their confidential health and counselling records. It will also provide legal support to help Aboriginal women report sexual violence to police. The success of the victims legal service in its first year of operation provides a strong platform for this expansion. Victoria was one of three locations identified and selected to partner with the Commonwealth in this important pilot program. That is in no small part due to Victoria's sector-leading victim support initiatives and the Victorian government's longstanding commitment to supporting victims. The Allan Labor government will continue to lead the way in building a victim-centred, trauma-informed and culturally safe support system across our state.

State Emergency Service volunteers

Renee HEATH (Eastern Victoria) (12:36): (443) My question is for the Minister for Emergency Services. Minister, the February storms highlighted the vital importance of our incredible volunteer emergency services workers. Despite this, three regional Victorian SES units were inactive and towns such as Wedderburn were left vulnerable with no volunteers to help during the storms. Can the minister explain why the State Emergency Service continues to bleed volunteers from vulnerable regional communities that need them most?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:37): I thank the member for her question. I am sorry, I might have to follow up with you offline. You have listed three stations or units that you are concerned about, but I think you only named one. So in terms of me being able to provide information about the specifics in response to your particular concerns, I was a little unclear about the locations that you raised concerns about.

I will just take the opportunity to thank our amazing volunteers, who continue to go over and beyond in response to any emergency, whether it is storm, flood or fire, as we have seen in escalating issues over the past three weeks. I have been out and met with lots of SES people on the ground, and a little bit like in my ministers statement in relation to CFA and the amount of applications coming in, there is a lot of demand for SES volunteers. My local SES unit in Kilmore has a waiting list, so it is good that we are building them a new station so they can fit more of their volunteers in. There is a lot of interest in SES. Unfortunately, we have more and more emergencies, but the fortunate part of that is that people go, 'I really should stand up and put my hand up for my community' – as we have demonstrated in the past.

I have just received a bit of an update concerning your Wedderburn question. The information I have is that the dates you have provided are actually incorrect. Again, I was a bit confused by your question because you were referencing now and apparently there was an issue in December, so perhaps you and I can have a fact-check about that. I am more than happy to follow that up, but my information is that perhaps your question contains errors. But again, you have asked a great question about how we can all encourage more people to put their hand up for emergency services volunteering. There are a lot of people in the SES. It is a really diverse organisation. We are seeing more and more people from different backgrounds interested in the SES. I think we are going to build and build that amazing organisation, because as a community we rely on them.

Renee HEATH (Eastern Victoria) (12:40): I thank the minister for her response. Minister, in 2022 the SES reported a 4905-strong base of volunteers. In 2023 36 fewer volunteers were available to put the orange uniform on and help Victorians in storms or flood crises. Why has the minister failed to stop the crisis of emergency services volunteers?

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:40): I think I have answered your question. I think it is incumbent upon all of us to continue to pay our respects and thanks to volunteers. I know that a lot of our organisations are hoping to recruit and attract more and more volunteers to their local units, and some are having fantastic success. For those that are not, I work hard with the management in terms of ideas about how we can attract a broader range of audience. That is where I come back to my reflections on the fact that we are seeing more and more interest from diverse communities. We really want our volunteer organisations to reflect the communities that they serve, and we are seeing that time and time again. I think all of us can play a part in ensuring that when we come across people in the community that perhaps might have some spare time, acknowledging that volunteerism across the board is struggling – people are busier and busier – whether it is community sport or whether it is emergency services. Connecting people to our emergency services is a role that we should all consider playing.

Housing

Samantha RATNAM (Northern Metropolitan) (12:41): (444) My question is for the Minister for Housing. The Victorian government claims to be building affordable housing; however, it is very unclear to the public what 'affordable' actually means when it comes to your government. A constituent has informed me that he applied to Homes Victoria's affordable housing scheme and won the ballot twice. However, he was rejected both times following an income assessment, which found that the rent for the affordable housing was more than 30 per cent of his income. This is despite falling within the required income thresholds for affordable housing. He was then told to join the decades-long public and community housing waitlist. It is clear that the government's definition of 'affordable' is not working for Victorians on low incomes. Minister, why is the government locking out low-income earners from its affordable housing scheme?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:42): There is a lot in that. Before I do address the question that you have asked, Dr Ratnam, I understand that we do not actually have any record of correspondence received from you in February in relation to the matter raised earlier in question time today, so perhaps you can follow

that up and we can address the issues that you have raised around Ashburton. Again, there is no record from my end. As far as –

A member interjected.

Harriet SHING: If only you cared about asking about housing in a substantive way over there, we could actually have a constructive conversation. In terms of affordable housing and the definition of ‘affordability’, that is set out in the EPC legislation. It is regulated by reference to singles and couples, within both a metropolitan and a regional context. This is something which sits at the heart of the way in which housing funding is allocated to renters, not just here in Victoria but also around Australia. The affordable housing rental scheme itself addresses those rental market issues, such as poor renter experience, the sorts of challenges around bias experienced during the application process, uncertain tenure and also housing shortages. Rent is set, as you would know, at 10 per cent below the market rate in metropolitan Melbourne and at market rate in regional Victoria. There is the added protection of a rental cap, which is set at 30 per cent of the midpoint of the moderate-income band in both metro and regional locations. That is the first point about affordable housing.

The other point that I do want to make is that our one-bedroom homes – for example, in Ashburton, to go back to the area that you referred to earlier today – are leasing at \$344 a week. That is at a discounted rate due to a rent cap applying. The market rent, for example, is \$400. What we are doing is assessing carefully the way in which income is received by a renter in order to ensure that people who fall underneath that threshold are able to access through an established process a home which is intended to be provided for people in difficult and vulnerable financial circumstances. We have delivered a range of housing across metropolitan and regional Victoria that is intended to address accommodation needs for a range of different configurations, and we are intending to keep this work going because we know that affordable housing is at the heart of making sure that –

Nick McGowan: On a point of order, President, on a question of relevance, the minister was asked about a very specific case where an individual has applied on the basis they are eligible to apply and then has been refused on the very basis that they actually do not fall within the threshold. The question was a very specific question, and while I appreciate the minister’s elongated answer to this point, it would be great if the minister was drawn back to the point.

The PRESIDENT: Actually there appeared to be more than one question in the question. I think the minister is being relevant, and I think she actually has addressed the crux of the question.

Harriet SHING: Thank you so much, Mr McGowan. It is always lovely to hear from you so early in a sitting week. We are continuing to do the work around the definition of ‘affordable’ as well as making sure that across the Commonwealth and other jurisdictions there is a uniform understanding of what that means. We are also providing those safeguards and making sure that people who do not sit over that cap are not getting those benefits, which otherwise need to go to people in more vulnerable situations. I am very happy to take additional conversations offline.

Samantha RATNAM (Northern Metropolitan) (12:46): Thank you, Minister. Just going back to the earlier reference to my colleague’s question, we just received responses from your office to questions on notice. Your office clearly has a record of questions on notice, so we did furnish you with them over the last couple of months.

In response to your response to my question, it is quite clear that your program for affordable housing is locking out low-income earners that you presume should be eligible and who have met all of the eligibility otherwise for this affordable housing scheme. So something is going wrong with your definition of ‘affordable’.

The premise of the government’s demolition of Victoria’s 44 public housing towers has been that it will rebuild the towers with community and affordable housing along with a whole bunch of private housing – on public housing land, mind you. There has been no commitment to any public housing

being rebuilt on these sites, and the handover to private developers has been justified with the promise of improved housing affordability. Minister, are property developers getting to set the prices for so-called affordable housing and getting to choose who qualifies for these properties so they can maximise their profits?

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:47): Okay, Dr Ratnam, let us go for round 15 on this. In terms of the redevelopment of the 44 tower sites, here is something that you should not forget: we are delivering a 10 per cent uplift in social housing across these sites. We are increasing density to manage the sort of population changes that you and your colleagues are so concerned about, as is everybody else around the state, because we know that by 2050 we are going to see a population here in Melbourne about the size of London. What we also know, Dr Ratnam – and you would be wise to actually just take this on board – is the two red brick towers, which you did not even know were empty, are public housing. They are literally going to be public housing. Stop peddling misinformation. We are continuing to work on making sure that affordable housing is part of the mix of housing that we deliver, and we are delivering that housing in ways which meaningfully address the shortage through an investment of not just \$5.3 billion but an additional \$1 billion for rural and regional housing in ways that address generations of challenge and of disadvantage. Stop peddling lies.

Ministers statements: LGBTIQ+ equality

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:48): I rise today in my capacity as Minister for Equality. We know that recent data published by the *National Study of Mental Health and Wellbeing* marks the first time the Australian Bureau of Statistics has reported on the mental health and wellbeing of LGBTIQ+ people and indeed compared that to the rest of the community. This report highlights that the mental health challenges and the wellbeing challenges experienced by LGBTIQ+ communities because of stigma and discrimination and because of layered discrimination, particularly for non-binary and bisexual people, also reflect the impact of transphobia and biphobia that non-binary and bisexual people experience because of diverse gender and sexuality within workplaces, within the community and when accessing services for support.

This is something which I know a number of people in this place take an active and progressive interest in. Research from La Trobe University in 2020 revealed that 73.2 per cent of LGBTIQ+ people have considered suicide compared with 13.2 per cent of the general Australian population. We know that death, injury, loss and violence affect us disproportionately. To that end I want to encourage anybody who has been affected by the tragic deaths of Jesse Baird and Luke Davies in New South Wales to reach out for support, including to the Rainbow Door, QLife and Lifeline. Help is available, and we are determined to make sure that people who are grieving and people who are impacted have the culturally safe access to support and services that they need. We have invested \$21 million across the state to deliver on our supports for trans and gender-diverse health and community options around Q+ hub locations in Geelong and Ballarat and making sure that *Pride in Our Future* continues to be delivered as a 10-year plan.

Written responses

The PRESIDENT (12:50): Minister Erdogan is going to get two written responses from the Minister for Police for Mr Limbrick, and I do take into account that some ministers did say they would get further information outside the standing orders to certain members who asked questions.

Constituency questions

Eastern Victoria Region

Tom McINTOSH (Eastern Victoria) (12:51): (704) My question is for the Minister for Agriculture. Fruits, wine, wool, meat, dairy, vegetables – we grow it all. Victoria is home to an amazing agriculture industry that produces some of the best food products anywhere in the world.

In 2021–22 our state's gross value of agricultural production reached a new record high of over \$20 billion, employing around 154,000 Victorians, of course living mostly in our regions. Many of these workers and farms are in Gippsland and on the Mornington Peninsula, and they are the people and businesses that keep our amazing towns thriving and put food on all of our plates. Recently I went out on farms in Mirboo North and Arawata, and at the Foster show I discussed and saw firsthand the work farmers and regional communities are doing to futureproof their industry. Minister, how is the government supporting Victorian farmers, including those in Eastern Victoria, to continue growing the world's best produce?

South-Eastern Metropolitan Region

Ann-Marie HERMANS (South-Eastern Metropolitan) (12:52): (705) My question is to the Minister for Local Government, and I ask the minister to address and fix a serious issue that has been brought to my attention by concerned residents regarding the scheduling of the monthly council meetings at Casey council. Will the minister instruct commissioners to change the 4 pm meeting time currently scheduled for council meetings to 7 pm to allow more inclusion of the community as requested? Constituents signed a petition to request a more accessible time for council meetings for ratepayers. The request to change from 4 pm to 7 pm on each third Tuesday is to allow more people to attend the meeting and is in line with times adopted by many other councils. Residents have complained that their request has been dismissed and that the refusal to change the meeting time stems from a desire to conclude proceedings before 5 pm, avoiding any obligation to work beyond that hour and limiting public presence at these meetings due to contentious policies which have caused considerable distress within the community.

Western Metropolitan Region

David ETTERSHANK (Western Metropolitan) (12:53): (706) My constituency question is for the Minister for Transport Infrastructure and relates to the proposed sporting precinct in Tarneit, which will see a new 15,000-seat stadium built to house a new A-League club, Western United Football Club. I have to say, after attending a Matildas game recently, soccer fever is certainly at an all-time high. While my constituent is looking forward to the prospect of seeing elite soccer matches so close to home, they are concerned that without investment in public transport, traffic congestion will be a major issue, and I am sure many in this place will recall the nightmare traffic which plagued Waverley stadium throughout the 1980s and 90s. My constituent asks: given that the proposed stadium location is a 2.5-kilometre walk from the planned Tarneit West train station, what are the government's plans to connect this new sporting precinct to the Public Transport Victoria network?

Northern Victoria Region

Gaelle BROAD (Northern Victoria) (12:54): (707) My question is to the Minister for Health. Can the minister please explain why patients in regional Victoria are waiting many months for surgery without any indication of when their operations may take place? Last November my constituent Robert was referred to the specialist clinics at the Bendigo Health Care Group for some general surgery. On 8 December he was notified that his case had been reviewed and he had been placed on a waiting list. He was told the wait could be up to 12 months or in some cases even longer. His condition is not life-threatening at the moment, but he is in a great deal of discomfort and would like some clarity as to when his surgery may take place. He has rung the clinic a couple of times only to be told that he is on the waiting list and it may take some time. He believes by inference that he could be waiting for two to three years, and he is understandably sceptical. Some years ago his doctor referred him for another operation. It was recommended to be completed within 12 months; he waited 18 months for surgery. I ask the minister to explain why the waiting list is so long, and why patients cannot receive clarity on when their operations will take place.

North-Eastern Metropolitan Region

Aiv PUGLIELLI (North-Eastern Metropolitan) (12:55): (708) My constituency question today is to the Minister for Education. On Sunday I joined the Teachers and School Staff for Palestine rally. These teachers were calling on the Department of Education to stop allowing weapons manufacturers access to Victorian public school classrooms via sponsored STEM programs and competitions. This included teachers from schools in my electorate, several of which have had access to, and in some cases participated in, these programs. It is, frankly, preposterous that companies such as BAE Systems, Lockheed Martin and Boeing are running STEM programs in Victorian primary and secondary schools. These same arms companies are supplying weapons to the Israeli government that are being used to devastate Gaza and kill Palestinian children. Minister, will you ban any STEM programs that are being sponsored by weapons manufacturers from being run in public schools in my electorate?

Northern Victoria Region

Wendy LOVELL (Northern Victoria) (12:56): (709) My question is for the Minister for Roads and Road Safety. The 2022–23 state budget included \$3.5 million to upgrade the intersection of Graham Street and Numurkah Road in Shepparton, a project which is to include traffic lights. Two years later not a single thing has been done to upgrade this intersection. Graham Street is the location of Goulburn Valley Health hospital, and this intersection, as the main access point to the hospital, is increasingly busy. It is important that this intersection be as safe as possible, but at the moment it is a nightmare during busy traffic periods. A major regional hospital with a busy emergency department must have simple and safe road access. Minister, when will the Graham Street–Numurkah Road intersection be upgraded, and when will the promised traffic lights be operational?

Northern Victoria Region

Rikkie-Lee TYRRELL (Northern Victoria) (12:57): (710) My constituency question today is for the Minister for Roads and Road Safety in the other place. For months my constituents have been alerting me to the downright dangerous condition of the Katamatite-Shepparton Main Road. In numerous places the road is crumbling, rutting and full of potholes, which can cause damage to the hundreds of cars, trucks and buses that travel it every single day. One of the main issues is the deep rutting at the intersection of Katandra Main Road, Victoria Road and the Katamatite-Shepparton Main Road. As a main thoroughfare from the towns of Cobram, Katamatite and Tocomwal, it is vital that this road is maintained and kept in good condition. My constituents ask the minister: when will the Katamatite-Shepparton Main Road actually be fixed properly and not patched up only to fail a few days later?

Western Metropolitan Region

Trung LUU (Western Metropolitan) (12:58): (711) My question is directed to the Minister for Police. Can the minister please update my constituents on what measures are being taken to address the increase of firebombing and arson attacks? The recent tragic arson attack in my region in Sunshine North resulted in the loss of two innocent lives. Local resident Tien Vo was abruptly awoken at 5 am by the commotion of fire trucks. It took Fire Rescue Victoria 3 hours to finally get the blaze under control. Sadly, these incidents are becoming an increasingly common occurrence under this Labor government. It is getting clear that real action needs to be taken to battle the firebombing and arson attacks to keep my residents safe. With another report in recent days, with arson incidents on the rise and with reports from the Police Association Victoria indicating that the Sunshine police station is operating at 50 per cent capacity, what proactive steps is the minister taking to ensure safety in Sunshine North?

South-Eastern Metropolitan Region

David LIMBRICK (South-Eastern Metropolitan) (12:59): (712) I have previously raised the matter of unpaid exorbitant fines for breach of lockdown orders here and received some helpful advice from the Attorney-General regarding the COVID-19 concession scheme, which significantly reduces

the penalty payable for eligible COVID-19 fines. Constituents have raised another issue of fines impacting financial hardship – through my office, through reporting by the ABC and through the Peninsula Community Legal Centre – which is with toll road fines. The PCLC recently found through freedom-of-information requests that unpaid toll road fines in the south-east have amassed to \$60 million, with the biggest concentration of impact on struggling families in Cranbourne, Dandenong and Frankston. My constituency question to the Attorney-General is: will the government consider expanding the concession scheme for COVID-19 fines to include toll road fines for those enduring financial hardship?

Western Victoria Region

Joe McCRACKEN (Western Victoria) (13:00): (713) My question is to the Minister for Agriculture, but I understand that it might be across a few different portfolios, so I am happy to accept that. It relates to the closure of the timber industry and the subsequent impact on the ability of communities – and particularly fire-affected communities that I have been in and around recently, such as Raglan, Beaufort and Buangor – to effectively use machinery that would normally be used in the timber industry to create firebreaks and those sorts of things which help impact fires. My question is: will the minister come with me to meet those communities to listen to them so they can air their concerns about the ability or lack thereof to fight fires and manage them in such a way that ensures that communities remain protected? I am happy to redirect the question to emergency services if that is the case.

Jaclyn Symes: Environment.

Joe McCRACKEN: Okay, I will direct it to the Minister for Environment. I would appreciate if the minister would meet with me and communities to talk about those matters.

Eastern Victoria Region

Melina BATH (Eastern Victoria) (13:01): (714) My constituency question is to the Minister for Children in her role with early childhood education. The Willow Grove Kindergarten currently operates in the rear of the Willow Grove community hall and has done so for 40 years, with regular enrolments of about 20 kids a year. The hall is a shared community facility, and it is run by a voluntary committee. The kindergarten currently is run by the Y, which also rents the hall from the service three days a week. On the days when the kinder does not run it is used as a community space for funerals, playgroups et cetera. With the government's policy to double kinder hours over the next decade to 30 hours a week, this actually means that the kinder will not be able to be run in that hall and therefore there will be no kinder in Willow Grove, full stop. What my constituents are asking is: will the minister meet with a delegation that will come to Parliament House to discuss the virtues and where a new kinder will be in Willow Grove so that there is a sustained presence of a kinder in that town?

Southern Metropolitan Region

David DAVIS (Southern Metropolitan) (13:02): (715) My matter today is for the attention of the Minister for Government Services, and it relates again to the issues around local history funding. I have raised this in the chamber before, but there are further developments that are relevant. The local history funding, to be clear, began in the 1990s under Jeffrey Kennett. There were two forms of finding – one through the Royal Historical Society and the other through the Public Record Office Victoria. One of the developments is the government intends to abolish the public records advisory committee. This is further to the attack on history. I note the relevance of the Royal Historical Society based in my electorate is that it oversights these significant awards. What I am asking the government to do is to review the problems that are created by the abolition of the committee and the potential weakening of records in the long term.

North-Eastern Metropolitan Region

Richard WELCH (North-Eastern Metropolitan) (13:03): (716) My question is for the Minister for Youth. Last week I had the pleasure of sitting down with Abdi Mohamed from Somali Voice Victoria based in my electorate in the suburb of Ivanhoe. Somali Voice provide important social work, immigration support and legal and general advice for Somali youth, women and families, especially addressing some of the specific challenges of refugee communities. They are keen to progress as a community and have expressed to me the desire to build on their engagement and integration with the broader Australian society. They have concerns that they have identified a gap in connecting youth to specific services, and they wish to come up with their own solutions and address those. The question is: will the minister sit down with Abdi and the Somali Voice team and work with them on some of the solutions that they have come up with?

Eastern Victoria Region

Renee HEATH (Eastern Victoria) (13:04): (717) Local history groups play an important role in the life of our communities. They are custodians of invaluable information about the past, which forms the story and the identity of a district. In the last state budget the Victorian government cut funding to the Victorian community history movement, which is the umbrella organisation for about 350 other historical societies found in almost every suburb and every town across every electorate in Victoria. They were instead instructed to apply to the Community Support Fund. They are all manned by volunteers, and they run museums and research centres on the smell of an oily rag. They really struggle to stay afloat, and Public Record Office Victoria's local history grants program was the only state funding across the sector. Will the Minister for Government Services commit to funding historical societies in next year's budget to preserve the important work of the local historical societies?

The PRESIDENT: Particularly, Dr Heath, the ones in your electorate.

Northern Metropolitan Region

Evan MULHOLLAND (Northern Metropolitan) (13:05): (718) My question is to the Minister for Creative Industries, and it concerns the \$200,000 cut to Melbourne Youth Orchestras. What is the minister doing to ensure funding for Melbourne Youth Orchestras is secured? Learning music at a young age has profound benefits for the development of life skills, improving mental health outcomes through community involvement. Moradi, a young musician from Broadmeadows in my electorate, has experienced brain tumours and undergone surgery twice at only 15. Her ability to pursue a career in music depends on this scholarship. As I said in my maiden speech, while the political class rolls out the pork barrel to sporting clubs, worthwhile arts organisations and the arts are not even getting the crumbs off the table. Heartless and cruel decisions like this one are what Labor does because of the debt level being more than New South Wales, Queensland and Tasmania combined. They are desperate for cash where they can get it, even if it means going after disadvantaged children. This is how desperate they are.

Samantha Ratnam: On a point of order, President, at the conclusion of questions without notice, prior to constituency questions, the Minister for Housing in responding to my question concluded by making an accusation that I was peddling lies yet gave no context or no detail to substantiate that allegation. I believe she was reflecting on me as a member, and I would ask you to direct her to withdraw those comments about me.

The PRESIDENT: She is not here, but you are correct: a member cannot accuse another member of lying. They can accuse a whole party or whatever of lying, but they cannot do that. I will uphold your point of order, and at the next opportunity I will ask the minister to withdraw.

Petitions

Home building industry

Evan MULHOLLAND (Northern Metropolitan) presented a petition bearing 1168 signatures:

The petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the catastrophic state of the construction industry in Victoria. Builders are continually breaching their legal obligations by not arranging domestic building insurance for customers before they receipt deposits under a domestic building contract. The Victorian Managed Insurance Authority is aware of these breaches yet has failed to act. A full year after the collapse of Porter Davis, the customers of Montego Homes and Chatham Homes have suffered the same outcome and lost thousands of dollars because the Government failed to act upon this situation. The builders failed to obtain domestic building insurance policies for their customers and breached their legal obligations. The Liquidated Builders Customer Support Payment Scheme, that closed on 29 January 2024, should be reopened until a comprehensive solution that stops this occurring and protects Victorian families, is implemented.

The petitioners therefore request that the Legislative Council call on the Government to provide the customers of Montego Homes and Chatham Homes with the same financial support that was provided to Porter Davis customers under the Liquidated Builders Customer Support Payment Scheme.

Evan MULHOLLAND: I move:

That this petition be taken into consideration on the next day of meeting.

Motion agreed to.

Fireworks regulation

Georgie PURCELL (Northern Victoria) presented a petition bearing 1103 signatures:

The petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the issue of fireworks and the damage they cause to people, companion animals, wildlife and the natural environment. Entertainment should never come at the expense of another. Fireworks may be pretty to look at and entertaining for some, but for many others they are frightening and a risk to their health and even their lives. People with PTSD or sensory conditions, such as autism, may suffer sensory overload, panic attacks and anxiety which may potentially lead to self-harm or suicide. There are also other health concerns, particularly for asthma sufferers and those with bronchial conditions. Wild animals are shocked, disorientated, and frightened, often ending in serious injury or death. Companion animals are known to tremble in fear and worse, often escape their homes in the confusion and fear, leading to the permanent separation from their loving families or sadly, being hit by a car. Fireworks have negative impacts to our environment by polluting river systems and drinking water reserves with toxic chemicals, and on occasion have even started grass fires, putting people's homes at risk.

The petitioners therefore request that the Legislative Council call on the Government to move towards a total ban of fireworks in Victoria, seek safer and more environmentally friendly options, such as drone and water projection shows and roll out education programs that highlight the dangers and risk of personal injury through the use of illegal fireworks and legislate harsher penalties for their use.

Georgie PURCELL: I move:

That the petition be taken into consideration on the next day of meeting.

Motion agreed to.

Committees

Scrutiny of Acts and Regulations Committee

Alert Digest No. 3

Sonja TERPSTRA (North-Eastern Metropolitan) (13:09): Pursuant to section 35 of the Parliamentary Committees Act 2003, I table *Alert Digest* No. 3 of 2024, including appendices. I move:

That the report be published.

Motion agreed to.

*Papers***Papers****Tabled by Clerk:**

Electoral Act 2002 – Electoral Review Expert Panel’s Report on Victoria’s laws on political finance and electronic assisted voting, November 2023, under section 222DB(5) of the Act.

Interpretation of Legislation Act 1984 – Notices under section 32(3)(a)(iii) in relation to –

Statutory Rule No. 102/2023 (*Gazette G9, 29 February 2024*).

Statutory Rule No. 106/2023 (*Gazette G9, 29 February 2024*).

Land Acquisition and Compensation Act 1986 – Minister’s certificate of 22 February 2024 to not require the service of a notice of intention to acquire land, under section 7 of the Act.

Planning and Environment Act 1987 – Notices of approval of the –

Central Goldfields Planning Scheme – Amendment C38.

Macedon Ranges Planning Scheme – Amendment C145.

Maribyrnong Planning Scheme – Amendments C162 and C186.

Melbourne Planning Scheme – Amendment C379.

Moonee Valley Planning Scheme – Amendment C232.

Murrindindi Planning Scheme – Amendment C76.

Whitehorse Planning Scheme – Amendment C220.

Wyndham Planning Scheme – Amendment C262.

Yarra Ranges Planning Scheme – Amendment C217.

Statutory Rule under the Children’s Services Act 1996 – No. 12.

Subordinate Legislation Act 1994 – Documents under section 15 in relation to Statutory Rule No. 12.

Terrorism (Community Protection) Act 2003 – Inspection Report by the Victorian Inspectorate on Victoria Police records inspected in February 2023, under section 37D of the Act.

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

Building Legislation Amendment (Domestic Building Insurance New Offences) Act 2024 – 28 February 2024 (*Gazette S88, 27 February 2024*).

*Petitions***Road tolls***Response*

The Clerk: I have received the following paper for presentation to the house pursuant to standing orders: minister’s response to petition titled ‘Reinstate the Road Safety Committee’, presented by Ms Crozier.

Nuclear energy*Response*

The Clerk: I have received the following paper for presentation to the house pursuant to standing orders: minister’s response to petition titled ‘Support the Nuclear Energy Prohibitions Repeal Bill 2023’, presented by Mr Limbrick.

*Papers***Department of the Legislative Council***Overdue government responses to standing committee reports*

The Clerk: I have received the President's report on overdue government responses to standing committee reports as at 29 February 2024.

*Production of documents***Port of Hastings**

The Clerk: I table a letter from the Attorney-General, dated 26 February 2024, in response to a resolution of the Council on 7 February 2024 on the motion of Mr Davis relating to the Port of Hastings application for offshore wind turbine facilities. The letter states that the date for the production of documents does not allow sufficient time to respond and that the government will endeavour to provide a final response to the order as soon as possible.

Illicit tobacco

The Clerk: I also table a letter from the Attorney-General, dated 26 February 2024, in response to a resolution of the Council on 7 February 2024 on the motion of Mr Limbrick relating to Better Regulation Victoria's review of Victoria's approach to illicit tobacco regulation. The letter states that the date for the production of documents does not allow sufficient time to respond and that the government will endeavour to provide a final response to the order as soon as possible.

Port of Hastings

David Davis: On a point of order, President, the Hastings documents – this goes back to November. I seek input from the Leader of the Government. Maybe she can provide some light on why the government is not providing these documents. There is time. It is now months and months later, and it is an outrage.

The PRESIDENT: Mr Davis, you can move that the response from the minister on the production of documents be taken into account on the next day of meeting.

David DAVIS (Southern Metropolitan) (13:12): I move:

That the response to the Hastings documents order tabled today be taken into account on the next day of meeting.

Motion agreed to.

*Business of the house***Notices**

Notices of motion given.

General business

Evan MULHOLLAND (Northern Metropolitan) (13:22): I move, by leave:

That the following general business take precedence on Wednesday 6 March 2024:

- (1) order of the day 24, second reading of the Offshore Petroleum and Greenhouse Gas Storage Amendment (No New Oil or Gas Activities) Bill 2022;
- (2) notice of motion given this day by Mr Somyurek on ASIO and their finding that a foreign spy unit had recruited a former federal member of Parliament;
- (3) order of the day 1, listed for a future day, resumption of debate on the second reading of the Bail Amendment (Indictable Offences Whilst on Bail) Bill 2024;

- (4) notice of motion 313, standing in Mr Davis's name, referring the appointment of Jeroen Weimar as deputy secretary of housing implementation to the Ombudsman for investigation and report; and
- (5) notice of motion 292, standing in Mr Davis's name, on the Melbourne Youth Orchestras funding.

Jaclyn Symes: On a point of order, President, I draw your attention to some concerns I have about the motion that Mr Mulholland has proposed today. My specific concerns relate to the attempt to bring on the Bail Amendment (Indictable Offences Whilst on Bail) Bill 2024 on Wednesday. As many people in this house will recall, we dealt with a substantive government bill which passed this chamber on 5 October 2023. I would be interested in your views in relation to whether the bringing on of this bill is in contravention of standing order 7.06 in relation to the same question rule, which states:

No question will be proposed in the Council which is the same in substance as any question which has been resolved during the previous six months in the same Session.

Effectively the bail bill that the government brought in repealed the offence of committing an indictable offence whilst on bail. There was an amendment proposed by the opposition. I think Mr Mulholland's words were, 'The changes dealt with in our amendment will change it back.' The effect of the amendment proposed by the opposition was to not have that offence repealed. That amendment was defeated and the bill passed with the support of the opposition. I am also interested in standing order 7.09(1), which states:

No amendment will be proposed if it is the same in substance as an amendment already determined to the same question, or would have the effect only of reversing an amendment already agreed to by the Council.

I am not sure how that rule plays out in a private members bill, but on the face of it I think there is potential contravention of both of those standing orders, and I would be interested in Mr Mulholland's views in relation to the timing of this debate given the standing orders.

David Davis: Further to the point of order, President, I understand the point the member is trying to make, and her point about 7.06 is around the same question rule, but that misses the point that the context is now different. The bill has passed, people in the community have been able to examine what this might mean more broadly and certainly the opposition has had input from a number of people that this is a problem.

Jaclyn Symes: It has not even been enacted.

David Davis: No, that is right, but the bill has passed.

The PRESIDENT: I think, Mr Davis, you are debating the previous bill.

David Davis: Further to 7.09, raised by the minister, which she says reverses an amendment agreed to by the Council, it is open to members – a different member – to bring a matter forward. It is open to a member to bring a new matter forward. The question also would be the timing of the debate.

The PRESIDENT: I think the crux of the same question rule is that the chamber do not spend time debating something they have already thoroughly – or maybe not thoroughly – debated in the previous months and therefore time used in this chamber could be time debating other matters. I will put it to the chamber that I would prefer not to put Mr Mulholland's motion until maybe after members statements, if it is okay with the house, so that I can digest if it is a fair point of order that it is the same question.

Committees

Economy and Infrastructure Committee

Membership

Rachel PAYNE (South-Eastern Metropolitan) (13:28): I move, by leave:

That:

- (1) David Ettershank be discharged as a member of the Economy and Infrastructure Standing Committee;
- and

- (2) David Ettershank be a participating member of the Economy and Infrastructure Standing Committee.

Motion agreed to.

Motions

Middle East conflict

Samantha RATNAM (Northern Metropolitan) (13:28): I move, by leave:

That this house:

- (1) notes that since the Council's resolution on 17 October 2023, which stated that this house 'stands with Israel', over 30,000 Palestinians in Gaza have been killed at the hands of Israeli defence forces;
- (2) further notes that there are growing reports of mass starvation and that Gaza is on the verge of famine due to food aid being denied; and
- (3) does not support the state of Israel's continued invasion of Gaza.

Leave refused.

Members statements

Gardiner Preschool

John BERGER (Southern Metropolitan) (13:29): I have three separate matters for the house today. Last week I visited Gardiner Preschool in my community of Glen Iris and met educational leader Danni Brown and president of the committee of management Claire Saliba. Despite hard times, they have built a reputation for excellence, and I am looking forward to working with them this year.

Fordham Avenue Kindergarten

John BERGER (Southern Metropolitan) (13:29): For my second matter I cross the border into the electorate of Hawthorn. I had the opportunity to catch up with former member for Hawthorn John Kennedy – someone who I understand is missed not only by the people of Hawthorn but also by the backbenchers of the Liberal Party. In Hawthorn I had the chance to meet with the team at Fordham Avenue Kindergarten. I want to single out the president, Rosie Ellis, who like me has six kids and manages to juggle her full-time work and her role on the committee of management. Fordham is a great local kinder, and I am looking forward to working with them and local council on areas of interest.

Glenferrie Festival

John BERGER (Southern Metropolitan) (13:30): My third matter involves having joined the mighty Hawthorn branch of the Australian Labor Party at the Glenferrie Festival. The day was a great success, and I want to pay tribute to two people whose work was vital to this: branch president Peter Kriesner and secretary Michael Campbell, who helped organise many of the volunteers. Michael has a bright future ahead of him in the Australian Labor Party and the wider community.

Wyndham Community and Education Centre

Trung LUU (Western Metropolitan) (13:30): It is well known that education changes lives. It provides choice and a pathway to freedom for many. I want to acknowledge the great work of the Wyndham Community and Education Centre – Wyndham CEC – and CEO Jennie Barrera for providing for this community in the west. As part of its service Wyndham CEC has delivered a year 11 and year 12 senior secondary program for students aged between 15 and 19 as a non-school senior secondary registered provider since 2005. The centre has catered for thousands of students over the years who have become disengaged due to mental issues and just need extra support or have just not experienced success in the mainstream.

Importantly, I want to inform the house and congratulate Wyndham CEC for officially being granted registration for Werribee Community College as a school for year 11 and year 12 by the Victorian

Registration and Qualifications Authority. Now all young Victorians who could not obtain qualifications through the mainstream schooling system for various reasons can obtain a secondary VCE vocational major or Victorian pathways certificate through Werribee Community College. True to the CEO's words, Werribee Community College recognises that all young people have the right to equal educational opportunity to improve their lives and strengthen their capacity for success in the future of their life and work. I congratulate and say well done to Wyndham CEC for the opportunity to give to and foster the west.

Food labelling

Georgie PURCELL (Northern Victoria) (13:32): A few weeks ago my friend was eating a protein bar and asked me if it was vegan. I checked the ingredients and noted that while it did not have milk it did have carmine. They asked me what it was, and I said, 'It's boiled crushed-up beetles to produce the colour red, babe.' It made me reflect on the fact that secrecy and a lack of transparency are not confined to slaughterhouses themselves. No, the intentional deceit is in the labelling of ingredients derived from animals to the concealment of animal cruelty.

Gelatine is an ingredient seen in lollies, cosmetics, marshmallows and more that actually refers to a protein taken from boiling crushed bones, cartilage and skins from cows and pigs. Even beer and wine often are not free from animal products. Isinglass, a gelatine-like substance collected from the bladders of fish, is used in the clarification process of many beers and wines – you are essentially drinking fish glue.

In disguising the names of these gross ingredients posing as vegetarian, people are left in the dark about what they are actually consuming, and the industry itself is able to mislead you from the slaughterhouse to the supermarket shelf. But the good news is we do not need these ingredients to enjoy our favourite snacks. There are many alternatives to these products, such as vegan lollies, marshmallows and an array of vegan wines and beers, and I hope my colleagues in this place can consider our animal friends next time they decide to have a little treat.

Michael Galea

Georgie PURCELL (Northern Victoria) (13:33): Finally, I would also like to take the opportunity to congratulate my gorgeous friend and colleague Michael Galea and his partner Luke on their engagement over the past weekend.

Michael Galea

Jacinta ERMACORA (Western Victoria) (13:34): I would like to reiterate those sentiments from Ms Purcell to Mr Galea.

Veterans support

Jacinta ERMACORA (Western Victoria) (13:34): Last week I had the great pleasure to represent Natalie Suleyman, the Minister for Veterans, at the Warrnambool veterans and family camp. The weekend, organised by Warrnambool RSL, was an opportunity for veterans and their families to participate in fun activities focusing on their health and wellbeing. The accommodation and activities at the Warra Gnan camp in South Warrnambool were free for the 20 families from across Victoria who attended.

The level of participation showed that veterans are keen to engage in healthy activities in a social setting to build and maintain post-service health and wellbeing. The Allan government values the service of our veterans and wants them and their families to build their futures in Victoria. We are working to ensure they have access to the foundations needed to build a good life, such as housing, fulfilling employment, connection to others and support in maintaining wellbeing. The Veterans Card Victoria is one such example of that and provides a range of services that are free for our veterans, and I recommend that all veterans take that up.

Victorian arts funding

David DAVIS (Southern Metropolitan) (13:35): I want to say more about the state government's plans to attack local history, the state government's plans to cut funding to history and the arts. The state government is clearly in a very serious position with respect to finances, but they have launched an attack on the arts more broadly. We have seen a number of the youth orchestras, which we have just talked about, affected but also a number of the smaller groups that have a really critical role in the arts. If the state government's idea is that as they come towards the budget they are going to take an axe and swing the axe on arts funding, I think it is disgraceful.

Labor members should stand up on this. They should say that this is wrong, and they should be quite clear that the reason the state government is swinging the axe on arts funding is because of their incompetence and inability to manage money. They have allowed the budget to sweep right out of control. They have wasted squillions of dollars, if I can use a colloquialism – at least \$40 billion in cost overruns on major projects. These are projects which may or may not be worthy in themselves, but the huge cost overrun – more than \$40 billion – has gone straight to the bottom line, and now we are in serious debt. Arts funding is suffering because of Labor's inability to manage the budget, and the latest attack on the Public Record Office Victoria is part of that serious attack.

Middle East conflict

Katherine COPSEY (Southern Metropolitan) (13:37): I was proud to join the school strike for Palestine last Thursday. We marched through the streets with a diverse group of passionate young people, and the solidarity extended beyond those who were marching. There was spontaneous and real support from people passing by, with buskers joining in and accompanying the chants and people driving by honking their horns and holding up their fists in solidarity. A former director of Human Rights Watch has warned we are on the brink of ethnic cleansing in Gaza, and the UN has warned the Palestinian people are at grave risk of genocide.

In this place I call on the Victorian Labor government to be clear and transparent with the people of Victoria about their relationship with Israel's Ministry of Defense, with whom the government quietly signed a memorandum of understanding in 2022, and with Elbit, the largest Israeli weapons manufacturer, which Victorian Labor gave funding to in 2020–21. Elbit's weapons are killing children in Gaza right now, and Victorians deserve to know the details of what is being done in their name and with their taxpayer dollars. We need a permanent and lasting ceasefire now.

Kindergarten funding

Ryan BATCHELOR (Southern Metropolitan) (13:38): I recently visited two recipients of the bush kinder grants program in Southern Metro: Olympic Avenue Kindergarten in Cheltenham, which has been a very important and lovely part of the early childhood education and kindergarten scene in the local community since 1958, and Hunt Community Child Care and Kindergarten, which has a very modest street frontage in Brighton but backs into an absolute oasis of a garden out the back. Both kindergartens have recently received \$6000 to establish nature programs where children can regularly get outdoors as part of the bush kinder program.

As parents we know that kids love getting covered in dirt, and it is actually really good for them, developmentally, being out in nature. They can learn and play with natural materials. It is a very important part of their development. That is why the bush kinder grants program is providing \$3.6 million over four years and 150 grants to kindergartens this year to undertake educational sessions in the outdoors. I want to thank Sue, Serena and Bek from Hunt community centre and Denise from Olympic Avenue for having me at their centres and showing me how they plan to use the grants to benefit learning within their kindergartens. It was a great chance to spend some time talking to them more broadly about investments the government is making in early education across the state.

Western Victoria fires

Joe McCracken (Western Victoria) (13:39): I would like to acknowledge all the first responders to the fires at Beaufort and surrounds. I am from Beaufort. I grew up there, and a lot of the people there I have known for a long, long period of time. First responders, CFA volunteers and SES volunteers are absolute heroes, and they worked tirelessly to protect communities during a bushfire that was scary for a lot of people. I visited a relief centre in Ballarat, and I can say that the care that was received by locals was excellent. They should be commended for that. It is important to note that a lot of locals have stayed and fought the fires, and I think some of their efforts also contributed to the fires being under control a lot quicker than perhaps they otherwise might have been. To put it on the record, locals have stayed around and provided advice and support to many government agencies that have also contributed to ensuring that the fires did not risk property, people, livestock, assets and all those other things. It is something that has hurt, but it has also been an opportunity for the community to come together and unite, and that has certainly happened. Friends, families, relatives – everyone – have made an extraordinary difference, and I want to put that on the record and thank them sincerely.

Whittlesea Colour Carnival

Richard Welch (North-Eastern Metropolitan) (13:41): Just over a week ago I had the pleasure of attending the Whittlesea colour festival, the Holi festival, in South Morang. This is a festival now entering its second decade. Holi symbolises the victory of light over darkness – and with colour. Like so many of our cultural traditions, not only has it been shared with us by the Australian–Indian community but it is something that has been embraced by the wider Australian community. It was a fantastic opportunity for so many local groups and performing artists to share that, and it was a very, very diverse attendance. I wish to commend Nishtha and Sunil from Mission Smile for their extremely well run and inclusive event.

Albury–Wodonga regional health summit

Wendy Lovell (Northern Victoria) (13:42): Last Friday I spent the day in Wodonga at the Albury–Wodonga regional health summit, together with my Liberal–National colleagues Georgie Crozier, Gaelle Broad and Tim McCurdy. Albury Wodonga Health consists of two campuses, with hospitals on both sides of the border run by the Victorian Department of Health. The summit discussed the future of health services delivery in Albury–Wodonga and heard that a 2022 election commitment of \$225 million from the Victorian government, with matched funding from New South Wales, cannot possibly deliver the hospital that was promised and is needed. The \$450 million was meant to build the first three of several stages, but we heard that this will not even deliver stage 1. We heard that a plan to meet the actual demand for beds and theatres has been discarded in favour of a plan designed to fit the budget.

The forum was well attended by a wide range of stakeholders, including representatives from the national health bodies, the Commonwealth and New South Wales governments, local Liberal and National MPs, a New South Wales Greens MP and federal Liberal and independent MPs as well as CEOs and mayors from councils that form the catchment area of 300,000 residents. Missing from the summit was the Victorian government, conspicuous by its absence. Not a single representative from the government – no minister, no parliamentary secretary, no local MLC and no Victorian Labor member – and no health department representative was in attendance. They should have been there, and they should have been listening.

Business of the house**General business**

The President (13:44): I thank the chamber for your licence for me to consider Minister Symes's point of order regarding standing order 7.06, being the same question ruling. It has given me time to digest that. The point the minister is putting is that there were amendments to a bail bill that the opposition produced and argued for about five months ago that are now being proposed as a new

question in the form of a private members bill. I uphold Minister Symes's point of order. I will also say that my view – and I have been pretty clear on it – is that I like to see the standing orders as a way for people to be able to do what they would like to do on behalf of their community, but in this instance I cannot actually say to Mr Mulholland that he is not in breach of the same question ruling, so therefore he will not be able to proceed with his private members bill in the form that he has gone forward with at this point. But there may be some options for Mr Mulholland. One option is that if he brings the private members bill back after 5 April, it will not be offending the same question ruling. There is another option: he can seek to suspend the same question ruling to allow the debate to go forward.

Evan MULHOLLAND (Northern Metropolitan) (13:46): Having had a very cordial conversation with the Leader of the Government, I acknowledge her point. I move, by leave:

That:

- (1) the following general business take precedence on Wednesday 6 March 2024:
 - (a) order of the day 24, second reading of the Offshore Petroleum and Greenhouse Gas Storage Amendment (No New Oil or Gas Activities) Bill 2022;
 - (b) notice of motion given this day by Mr Somyurek on ASIO and their finding that a foreign spy unit had recruited a former federal member of Parliament;
 - (c) order of the day 1, listed for a future day: resumption of debate on the second reading of the Bail Amendment (Indictable Offences Whilst on Bail) Bill 2024;
 - (d) notice of motion 313, standing in Mr Davis's name, referring the appointment of Jeroen Weimar as deputy secretary of housing implementation to the Ombudsman for investigation and report; and
 - (e) notice of motion 292, standing in Mr Davis's name, on the Melbourne Youth Orchestras funding; and
- (2) standing order 7.06 be suspended to the extent necessary to allow debate on the second reading of the Bail Amendment (Indictable Offences Whilst on Bail) Bill 2024 to occur.

Motion agreed to.

Notices of motion

Lee TARLAMIS (South-Eastern Metropolitan) (13:47): I move:

That the consideration of notices of motion, government business, 202 to 325, be postponed until later this day.

Motion agreed to.

Bills

Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023

Second reading

Debate resumed on motion of Lizzie Blandthorn:

That the bill be now read a second time.

David DAVIS (Southern Metropolitan) (13:48): I am pleased to rise and make a contribution to this bill, the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. I propose to make a number of points here, but I do want to provide some context shortly too. I am going to first lay out the main provisions of the bill. Secondly, I am going to point to the process that has occurred here. Thirdly, I am going to lay out some concerns and issues that we have going forward.

I want to first point out that the bill is related to workplace injuries and the scheme known as the WorkCover scheme. It amends the Workplace Injury Rehabilitation and Compensation Act 2013 to insert a definition of 'mental injury'. It makes further provision for the circumstances in which benefits

are paid for mental injuries. It introduces an impairment threshold for assessing eligibility for the payment of benefits beyond a period of 130 weeks and provides for a process for review of the operation of the proposed amendments. It amends the Accident Compensation Act 1985 to introduce an impairment threshold for assessing eligibility for the payment of benefits beyond a period of 130 weeks, and it amends the Occupational Health and Safety Act 2004 in relation to the use of this information.

The bill came to the chamber late last year, and the chamber will recall that the opposition moved that debate on the bill be adjourned until this week in 2024. We did that because the bill in its current form is entirely unsatisfactory. We could see that this needed further investigation. The bill had been crunched through the lower house with undue haste and inadequate examination. That of course is par for the course in the Assembly, where procedures and rules are routinely flouted, as we are indeed seeing today with the bill that they are dealing with down there which is related to the SEC – the briefings were not provided in the normal way and the bill is having its debate truncated. So the problems and the lack of democracy in the Legislative Assembly are well understood. It is for that reason that our chamber, the Legislative Council, needs to stand as a bulwark against these undemocratic tendencies that are so profound and out of control in the lower house. I mean, it has been put to me by a number of officials around Australia that the Victorian Legislative Assembly is the least democratic house in Australia. Ours, I might add, is a much more democratic house, but it does mean that it falls to us to scrutinise legislation and to hold governments to account.

For that reason, the opposition moved the amendment that this bill be referred to the Economy and Infrastructure Committee for a short, sharp bill inquiry. I want to state that I was very pleased that the chamber did agree with that, because it provided an opportunity to scrutinise the failings of the bill, to propose some ways forward and to at least get some measure of improvement in the bill. I want to put on record my thanks to the parliamentary staff who did the work: Michael Baker and his team. It was a short, sharp inquiry. There were three days of hearings in December. There were many witnesses, of a wide variety, who were able to give evidence, including employees who had been injured and were able to put their case very clearly, the major union groups, the major rehabilitation providers and others, and also the major employer groups. A number put submissions which were considered by the committee, but they were not able, because of the tight time frame, to give evidence.

The end result is the report of the inquiry dated February 2024. In the first instance there is a raft of findings and the recommendations, which were agreed by all on the committee, and I think that this was an example of parliamentary committee work at its best.

Melina Bath interjected.

David DAVIS: Yes, Ms Bath, you made a significant contribution there too. Mrs Broad did as well. And people talking behind the scenes as well as at the actual hearings made a contribution to how this bill could be improved.

I am going to summarise in short description. There was a clear finding by all – this is not disputed by the government members – that the government had not properly consulted with employers, with employees, with rehab providers. The government had brought forward this bill, this approach, without having properly engaged, including with medical providers, the AMA and other groups. That is a finding that was made. The committee believed that the government should undertake that consultation, that deep consultation, to understand. We have asked that the government make some statement to the chamber, some report about the consultation that they have undertaken since, when this bill comes on today. I have certainly flagged with the Leader of the Government here Jaclyn Symes – but also my colleague Cindy McLeish has been discussing this with Minister Pearson – that in fact we want to see some evidence that the government has engaged in that full consultation. We really want to see that proper consultation has occurred. We also want to see that the government has understood that there have to be some changes in its approach.

I am going to put on record that this is a pretty harsh bill. It is pretty harsh for many employees. I think we should not be under any illusion that it actually shifts the balance in a way that will not work to the benefit of every employee, but it does strike a balance which is designed to make the system sustainable. I understand the government's points about the system careering out of control. I am going to say something about the government's failure to tackle that at an early point in a moment. But the government's argument is that the system is now unsustainable, and we accept their general point on this. Our criticism of the government is that they knew this years ago and they did not make sensible, modest, incremental changes that would have actually protected the rights of injured workers but also ensured that employer premiums were struck at a rate that is reasonable. We have seen in this last year a 42 per cent rise in employers' premiums, and I have engaged with many employers who have told me numbers that are far in excess of that. We can accept that this is what has actually happened. We do not like it, and the government should have acted earlier.

Some of the failings in the system that came to light in the hearings are very clear, and one of the key failings is around return to work. Again, I pay tribute to my colleagues on the committee of all sides. One thing that became quite clear to I think all of us is that the government had no proper return-to-work framework. Let us be clear what is going on here. If you have got an injured employee, they need early support and intervention. There needs to be early diagnosis, there needs to be early support to actually ensure that they get the support and treatment they need and there needs to be early work to work out how they are going to be restored to the workplace in a constructive and forward-thinking way. Our point essentially is that this return-to-work function of WorkCover had failed and failed quite severely. One of the recommendations of the committee is that there be a proper return-to-work committee formed which answers to WorkCover but drives some of these changes. The committee has recommended that a third of that be employer representatives agreed by the employer groups, a third be from trade union and other employee groups and a third be specialists who have an understanding of the field, particularly rehab specialists, so that that committee sets some frameworks for reporting to the board inside WorkSafe and making sure that the outcomes are achieved.

There is a point which is to everyone's benefit, and that is that the early support and early return to work, with the buttressing and assistance that is required, is in the interests of employees. It is not in the interests of employees to be left languishing at home without support, without the assistance of proper medical or rehab providers and without the social engagement that is so much a part of work. It is not in the interests of the employee for that to occur; it is certainly not in the interests of the employer, whose premiums will go up because the length of time people are off work will explode, and that is what we have seen; and it is not in the interests of the scheme overall and its sustainability to have a system where there is no proper framework and support for early return to work. One of the major recommendations out of the inquiry is that a return-to-work committee be established.

I am yet to see the final proposals from the government. I am hearing some of this second-hand, and I think the Leader of the Government and I are in a similar position here. The minister Mr Pearson and the shadow minister Cindy McLeish have been engaged in significant consultation, and both of those I understand have been talking to many in the sector. There are, I think, emerging points of agreement. We want to see final details as the day progresses. We are concerned particularly on that return-to-work focus. We are also concerned about the issues around the premiums. There is a minority report by the opposition members which lays out some of our additional concerns. I am not going to detail all of those – I am conscious of the time I have – but I will ask some questions in committee and I will make some points there about that.

Another conclusion of the committee is that aside from this bill and the minutiae and the particular provisions of this bill, there needs to be a broader, deeper inquiry into WorkCover. That was accepted by all on the committee, including, to their credit, the government members. That should be a broad-ranging inquiry. We were very clear that the minister cannot just choose a couple of patsies who will do whatever he wants. Our recommendation was that the unions and the employer groups agree on somebody who has the capacity, integrity and independence to undertake such a broad inquiry. There

is a series of points that are laid out for that inquiry to consider. We would expect that to start within months – the government has said they will do this, and we are taking them at their word on that – and that that inquiry will occur over 12 months, hopefully reporting by about Christmas or somewhere there. That will chisel down, it will drill down, into understanding the deeper problems in WorkSafe. It is clear that there are deep, ongoing problems. It is clear that the system has careered out of control and done so in an unsustainable way.

FOI work by my office obtained – after a long fight, I might add – the *Financial Sustainability Review WorkSafe Victoria December 2020* report, the so-called Finity report. That Finity report lays out in a very comprehensive way – it is quite a good report, I have got to say – the problems with WorkSafe at December 2020. So 2021, 2022, 2023 – we are more than three years down the track. This document is now a public document, and people should read it. It is in the report. We attached it as an appendix to the minority report because we wanted to show very clearly that the government's own internal documents in December 2020 had shown that the system was unsustainable. I am going to read some here because I think it is very important to get these on the record. At page 4 the Finity report, in the summary, says:

However, WorkSafe is now at a tipping point in its history –
this is December 2020 –

and is facing both internal and external threats to its financial sustainability.

This is the government's own report – the one they tried to keep secret, the one they fought hard at VCAT. There were VCAT hearings, and I pay tribute to the ability of VCAT to cut through on some of these things and to assist those who were seeking through FOI to get to these documents. It continues:

That is, unless changes can be made to improve claims performance then the scheme is on an unsustainable financial trajectory that will require either significant premium increases or legislative reform, or both, to address the trajectory.

There is a very instructive table, table 1, which lays out key observations. It states:

However, current performance is particularly adverse and multiple areas are threatening financial sustainability:

- RTW rates continue to deteriorate.

This came through very clearly at the committee. We are hearing this from workers, from employers and from rehabilitation providers. The return-to-work approach of WorkCover is not sustainable. It is deteriorating, and that is both cruel and costly. That is the area that we need to significantly put a lot of effort into. The table continues:

- The capacity test is failing, with materially more claims gaining access to long term benefits.
- Mental injury claim growth is unsustainable.

And they talk about dividends, but in the 'Overall conclusions' at page 6 it states:

In summary, the current financial trajectory is unsustainable over the longer term ... it is changes in the recurrent claim costs that need to be addressed to fix the issues WorkSafe is facing.

Required changes to 'right the ship' could include:

- Material increases in premiums: we do not see a pathway back to a –

break-even point –

... of 1.272% (without benefit changes at least)

The costs on employers are now at 1.8 per cent.

It goes on to say:

Greater work on prevention of mental injury claims and understanding drivers of duration including secondary prevention and even so far as WorkSafe's role within a system of support: these types of claims are the largest (but by no means the only) driver of the scheme's recent adverse performance

They single out return to work. This is the government back in December 2020 – they knew, they culpably knew, and failed to act. In fact WorkCover had for decades been providing a dividend stream to government that dried up in the period around 2018–19, and then the government was having to prop up WorkCover by injections of taxpayers money every year – \$500 million one year, \$300 million the other year. Instead of taking the dividend out of the scheme, ideally, running neutrally, it is now needing a massive input of taxpayers funds to keep it afloat. On return-to-work improvement:

... RTW rates have been deteriorating over many years, and unless these can be improved the end result is more claimants on benefits for longer

Termination provision use: these provisions have been the single biggest 'enabler' of a low premium rate since the early 2000's, because they have acted as a gateway to manage the number of claims getting onto long term benefits

But it goes on to say:

Put simply, 'pulling one lever' will not be sufficient to rectify the current financial trajectory; compounding the difficulty of managing this, the two biggest response levers – premium change and benefit design – are outside of WorkSafe's direct control.

That is actually true. These are government inspired. We saw this when I asked Minister Stitt in this chamber about WorkCover minutes a year or so ago and about the recommendation from WorkCover that the premiums increase, which was rejected by the expenditure review committee. It was a government override. They said, 'WorkSafe said it's unsustainable. We need to increase premiums.' The government did not do that. What they did was just squash that and let the system career on year after year without proper attention to the structure of the scheme, the return-to-work arrangements and the premiums.

It goes on to say:

The recent deterioration means key financial metrics are now looking more like those seen in the 1990's or early 2000's (noting that the balance sheet has responded to claims deterioration via increased liabilities, however the average premium rate has not ... been increased).

This is obviously before the increase in premiums that occurred in the last financial year. Employers – after the state election, I might add – got the shock of their life when they got a 42 per cent increase in one hit. No clever, sophisticated approach to how we can reform WorkSafe and do that in a way that actually enables employees to get a better deal and improve those return-to-work and rehabilitation objectives; none of that – just an unsophisticated whack on employers. In some industries it has been a massive increase, and it goes straight to the competitiveness of Victorian industry in a national and international context. There are real risks that, adding to all the taxes and charges that are piled up and up and up on employers, WorkCover will actually have some really significant negative outcomes on the state's competitiveness and the state's viability.

At page 25, Finity talks about government sector performance.

The simplest way of explaining this is that public sector annual costs have roughly doubled in five years, whereas for other employer segments the increases have been between 25%–35%, as can be seen in Figure 3.8 below.

...

Given the concentrated nature of this workforce, it may be that the public sector would benefit from specific targeted strategies that are tailored to its behaviours and needs.

It goes on to say – return to work is singled out:

... in short, we see no reason why the upward pressures the scheme is facing will not continue to emerge in the public sector, and so a more forward looking pricing approach may assist with messaging this.

Again, the real growth has been in the public sector, not in the private sector. There are massive cross-subsidies in the scheme, and this is one point that the review can look at closely. There was agreement that the review could look at this and the review could be in a position to make longer term recommendations about how the scheme can be improved. My bottom line on this is protecting workers on the one hand and protecting the state's economy on the other, and I pay tribute to the work of Cindy McLeish. She has been working with Danny Pearson, but she has been working with employer groups, working with unions and working with others to try and find a way through on this that is less harsh but actually more sustainable in the longer haul.

What is required here is to understand that WorkSafe is an insurance scheme. It is a scheme that takes a premium from employers, and it provides medical support and support for wages and for rehabilitation costs. Where they can be truncated and shortened so that people are able to be returned to work quicker the outcomes will be better, largely for those who have been injured, but they will also be better in terms of the sustainability of the scheme and employer premiums.

There are a number of key points that we have wanted to make with regard to this scheme. When it comes to the surge in charges on employers, that has got to be stopped. We have seen huge tax increases on employers – 53 new taxes in the state, massive increases in the taxes on employers, land taxes and others – and these are making Victorian industry unsustainable. WorkCover charges are another layer of these tax imposts in effect on businesses that impact directly on the sustainability of our businesses comparative to other states, comparative to other jurisdictions. We have to do the work to make sure that our businesses are sustainable and are competitive.

The opposition has called for a two-year freeze on premium rate increases. There have been negotiations with government. I cannot actually give you the very latest on the discussions with government, but it is our view that a two-year freeze would be preferable because it would give employers that period of time. Some of these changes that are being made in the bill now would make the scheme more sustainable, and some of the changes that have been negotiated through the committee and through the recommendations of the committee and the discussions between the minister and the shadow minister regarding return to work are actually central to making the scheme sustainable and to actually taking some of that pressure off over the longer haul.

There is a way forward. There is a way that we can get a better system. There is a way that we can get a system that does not completely clobber and smack the businesses and the productive side of our economy, noting that the key objective of the scheme is of course to protect employees and to rehabilitate them and to return them to work as far as possible in a good time period with the minimum negative impact.

I want to say something about the prevention aspect too. I think WorkSafe has lost a bit of its focus on prevention. I think that there is a legitimate argument for reforming the board. I am going to be critical of the board for a moment and say that I do not think the board has been up to scratch. Colin Radford was there as the CEO, and I do not think he was up to scratch, and I do not think some of the other board members have been up to scratch either. It is the committee's view that there can be reform of the board, and certainly the opposition believes the board should have representation of employee groups, representation of employer groups and others who have got specific knowledge of rehab and so forth included. But I think the days of putting on Labor patsies, time servers, those who would just jog along but not criticise or scrutinise or hold to account – those days are over. We need a really hard-nosed board that is actually going to make the changes that are necessary and that is going to take on board some of the changes the government proposes now – some of the agreed amendments – and again I await the final agreements between Cindy McLeish and Danny Pearson.

We have negotiated in good faith. I do want to again reiterate the work done by the committee. Michael Baker and his staff did an excellent job, and I think the committee members – the crossbench, the government and the opposition members – worked quite hard in the committee to try and work forward on matters that we could agree on, to work forward on matters that would improve the position of WorkCover, that would improve the condition of employees and that would recognise that we cannot endlessly thump and clobber employers with higher and higher premiums. In part those higher premiums are because the state government has not got some of the prevention aspects right and the state government, through WorkCover, has not got some of the key return-to-work objectives right.

What I have tried to argue for here, and what the inquiry tried to bring forward, is a balanced way forward. It will not be to everyone's liking, I get that, but we have tried to sincerely engage with the fact that we have a system that is careering completely out of control. It is the government's fault that they let it drift for years. The Finity report from December 2020 – they hid that below the radar, fought the release of minutes and fought the release of other documents. There are other reports we have only now just managed to force the release of, but the point here is that the government ought to have acted in a timely way. They ought to have reformed WorkSafe at that point. They ought to have turned their focus on to prevention, on to return to work and on to making sure that the system and the scheme is sustainable in the long run. Those are my essential points.

I will have some questions for the Leader of the Government in the committee stage. I have circulated a number of those questions to her; I am not wanting to spring a surprise on her, as it were. I am wanting to get a pragmatic, sensible way forward. I again reiterate the work of the committee, the good work of Michael Baker and his team and the work of my fellow committee members, who I think approached this with a thoughtful set of steps and we were able to find some common points. This is parliamentary committee processes working at their best. It is parliamentary committee processes working to try and find points of commonality and points of agreement, and I think we were successful in doing that – not wholly successful but largely successful.

Jacinta ERMACORA (Western Victoria) (14:18): I speak today on the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. Victoria's workers compensation scheme, or WorkCover, is a Victorian Labor legacy. WorkCover was introduced by the Cain Labor government in 1985, primarily to support workers with physical injuries.

If I look back to that time, I was at university in the 1980s and I was doing work as a waitress, like many university students did at that time. I found myself at an opening of this Parliament out on the lawns as a young girl with a tray in my hands, so I share a history with the wait staff in this place. It was such a long time ago I had quite forgotten until I was reflecting on this today, but one of the MPs stepped backwards and stood on my foot. He turned around and it turned out to be Premier John Cain who had done that, and he was so warm and respectful and recognising of me and my role as a young female staff member in an environment that at the time was predominantly male and intimidating that I felt very respected. Those are the values that I see that he brought into the establishment of the first WorkCover scheme in Victoria, which forms a legacy for our government today.

I am very proud of our party's record on looking after workers in this state. I am proud to say our party does not just partner with the union movement, but the union movement is intrinsic to the heart and soul of our party. Supporting workers, and supporting vulnerable workers, is central to the value structure of our party and central to the systems and structures that our party maintains. As the Allan Labor government, we proudly bring these values into action – in this case, by modernising and preserving the financial sustainability of the WorkCover scheme.

The WorkCover scheme has been there to support Victorians over many decades now, including during the pandemic, where we all had to grapple with changes in how we had to work. However, workplaces are very different now. Technological advancement has changed the nature of our work, and our workers compensation scheme must adapt to that change. Where the risk of physical injury

was initially the focus of WorkSafe Victoria, addressing the rise in mental injuries in Victoria is now the priority. Since 2010 WorkCover's claims liability has tripled, driven by the increased cost of weekly income support, many workers staying on the scheme long term and the rise in mental injury claims – now representing 16 per cent of new claims – which was never envisaged when the scheme was initially designed. Also return-to-work rates are declining. These drivers must be addressed to ensure the scheme is financially sustainable well into the future.

Victorian workers deserve a workers compensation scheme that is there to support them when they need it most following a workplace injury. We must modernise the WorkCover scheme so it can continue to support injured Victorians well into the future. If we do not, the vital support WorkCover provides injured workers will be at risk. That is why in May 2023 we announced this government would make vital changes to the WorkCover scheme to ensure it remains financially sustainable and can continue to support injured workers into the future.

The WorkCover scheme was designed by Labor, and only Labor can be trusted to modernise the scheme now. We have a strong record on preventing workplace injuries and a commitment to continue to focus in on the prevention in the first place of workplace injuries. Every Victorian deserves to be safe at work. The Allan government is committed to upholding workplace safety and the prevention of workplace injuries. Under the Occupational Health and Safety Act 2004, employers must identify and control hazards, including psychosocial hazards. WorkSafe does not hesitate to take action against duty holders who put the health and safety of workers at risk, including prosecuting employers who put workers lives at risk. We are also continuing to strengthen our OH&S framework by developing the psychological health regulations to better prevent psychological hazards and workplace mental health injuries.

The Allan Labor government's priority is to ensure the WorkCover scheme continues to be contemporary and fit for purpose and that it supports workers. Our focus will always be to ensure injured workers have the support to return to work safely and as soon as possible. Work provides us with a sense of community, a connection that is so important to our wellbeing. Work provides a level of dignity and belonging to us all. Holding down employment provides a sense of contributing to our society, to our community, to our families and to our friends and social networks. That is why, alongside reform of the WorkCover scheme, we will establish Return to Work Victoria.

There is nothing safe about being sick and languishing on WorkCover for years, if not decades. It is not good for a worker or their family. Workers are best off when injuries at work are prevented or, in cases where they are injured, when they can be supported to return to productive work in a supportive environment. The longer a worker remains off work the harder it becomes for them to ever return. That is why Return to Work Victoria will bring a renewed focus on early intervention and supporting more workers to return to work, because we know that work plays an important role in rehabilitation and promoting a better recovery. Return to Work Victoria will be established within WorkSafe, centralising the provision and oversight of existing and new return-to-work initiatives. Work is already underway, and Return to Work Victoria will be operational alongside reforms to the WorkCover scheme.

I want to take a moment to also acknowledge the work of the inquiry. The Legislative Council Economy and Infrastructure Committee did important work on this inquiry and the final report. The committee process highlighted the interest the Victorian community has in ensuring the long-term sustainability of the WorkCover scheme and making sure that it continues to support injured workers well into the future. I thank all of the committee members for their focus over the summer in doing so. Our union movement and health, legal and business communities as well as injured workers themselves all made clear the importance of having a fit-for-purpose workers compensation scheme in Victoria. In particular I highlight the contribution of the Victorian Trades Hall Council and their member unions for their considered and expert contributions to the inquiry. Their contribution covered a range of areas relevant to the WorkCover scheme that will be subject to further work in the next period of time.

Victorian workers deserve a modern WorkCover scheme that is fair, adaptable and fit for purpose. Every Victorian worker deserves the dignity of safe and meaningful work and to be supported in the unfortunate event that they suffer injury at work. Labor built the WorkCover scheme, and only Labor can be trusted with modernising this scheme today.

David ETTERSHANK (Western Metropolitan) (14:28): I rise to make a brief contribution on the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023, and I state from the outset that Legalise Cannabis Victoria cannot support this bill in its current form. The government has been talking about the urgency of passing this bill, that it is the only way to ensure the financial sustainability of the WorkCover scheme so that the Victorian government can, and I quote the minister here:

... continue to support positive outcomes for Victorian workers into the future.

When this bill was before the Assembly, the Minister for WorkSafe and the TAC pleaded that any delay in implementing the bill would be catastrophic, that the scheme would collapse, that Victoria would be left without a workers compensation scheme. The scheme has evidently been in trouble for a long time, most likely the entirety of this government's current tenure, which makes it all the more unfathomable that the government has not done the necessary work to consult and compromise and develop a bill that would actually support positive outcomes for Victorians into the future. Instead we have a bill that shifts the government's failure to address the problems with the WorkCover scheme back onto injured workers, their families and our already strained mental health sector. It is a sad, sad day when we see a Labor government abandon thousands of workers with mental health injuries. While we can all recognise the dire financial constraints on the government, we should not be calling upon vulnerable workers to pay the price.

This bill is half baked and ill considered. Despite the government spruiking its many months of consultation between business, unions and stakeholders when it introduced the bill, a common, and I would say almost unanimous, theme amongst the workers, the unions and the business groups – everyone who gave evidence at the recent inquiry into this bill, from the head of Trades Hall to the Victorian Chamber of Commerce and Industry and the Australian Industry Group – was the degree to which the government failed to consult anyone on the development and the outcomes of this bill. Had they done so, the government might have come up with something better, because, to quote Victorian Trades Hall Council secretary Luke Hilakari:

... business and unions are highly aligned about what would fix this Bill or what would fix the problem.

I would even go so far as to say that it was rather weird that in the committee Mr Hilakari described the bill as 'a dog's breakfast' while Mr Guerra from VCCI described it as a 'dead cat'. Notwithstanding the sensitivities of my friend from the Animal Justice Party to an excessive number of animal-based analogies, both Mr Guerra and Mr Hilakari agreed that there had been some consultation prior to the drafting of the bill but none either during or after the drafting.

This bill has created a historic unity between employer and employee peak bodies. In short, both sides of the labour divide agree that this is an atrociously executed bill, and it enjoys no confidence from either party. Accordingly, it is no surprise that the number one recommendation of the bill inquiry is:

That the Victorian Government conducts urgent and meaningful consultation with stakeholders, with the Bill proceeding after consultation is completed. The Government should table a consultation report in the Parliament prior to the Bill proceeding.

The government has ignored that and other recommendations of the inquiry, choosing instead to make a deal with the opposition, those well-known champions of workers rights, to get this bill passed. Make no mistake, this bill will not fix the underlying problems with WorkCover, but it will see workers with mental health injuries worse off, some of whom will certainly be forced into poverty. Furthermore, we are likely to see more workers with mental health injuries accessing the scheme while we wait for the government to finalise the psychosocial health regulations that were expected to commence in 2022.

The regulations are supposed to guide employers on how to identify and control risks to protect workers from mental injury and include a monitoring and reporting regime. These regulations, the draft of which I have been told by experts in the field is very good by the way, will require employers to identify psychosocial hazards. These hazards include but are not limited to bullying, sexual harassment, aggression or violence and exposure to traumatic events or content, and that is just the beginning of the list. And if mental health related claims are a growing issue, these will be an invaluable tool in assessing the context in which an injury has occurred. They would make workplaces safer and improve the operation of WorkCover by putting preventative measures in place that could help stem the tide of mental health injury claims in our workplaces. But in their absence what is to stop an employer from saying, 'Well, there are no regulations, so we don't have to do anything.'

It is a sad, sad indictment that Victoria was the first state, and this government was the first state government, to commit to developing and implementing these regulations, but we are now the only state not to have implemented them. All of the other states have psychosocial regulations, except for Victoria. So when will we see them? That is a good question. It was a question I asked on 21 February when I put it to Minister Pearson, asking when we can expect these regulations to be released. I would like to thank the minister for his speedy response, but I note that that response contained no hint whatsoever as to when these regs might actually be in place.

Another commitment that is lost somewhere between a great media release and reality is the much-vaunted Return to Work Victoria. According to a media release in May 2023 from then Premier Daniel Andrews and the now Minister for WorkSafe and the TAC Danny Pearson, Return to Work Victoria will:

... help people get back into the workforce as part of new reforms to ensure Victoria's WorkCover scheme is sustainable and fit-for-purpose.

Return to Work Victoria, with input from employers, unions, mental health and occupational health experts, will pilot supports for injured Victorians and those experiencing work related mental stress to return to work or training pathways.

Stakeholders all agree that returning to work is critical to reducing long-term absence and claims. The Australian Psychological Society has stated that:

The introduction of initiatives for prevention and identification of early signs of stress via Return to Work Victoria is ... constructive and could lead to a reduction in future claims for bullying, harassment and other psychological injury.

This reality is also reflected in that same media release when they state:

Health outcomes for workers are worse the longer they remain on WorkCover, and can lead to prolonged injury and unemployment – the longer a person is away from work, the less likely they are to ever return.

Sounds great. There is obviously a meeting of the minds here. Get Return to Work Victoria up and running to reduce long-term absence in the context, hopefully, of the psychosocial regulations to provide a sound base to underpin that, and then obviously you would implement reforms to the scheme – a perfectly logical, sequential process. The problem is nobody – but nobody – can tell us anything whatsoever about Return to Work Victoria. Does it exist? No. Do we know when it will exist? No. Does it have a budget allocation? No. Does it have any enabling legislation in the works? No idea. Is there an operational or a governance model? No.

There are a number of quotes at the end of this media release, and the one attributed to Minister Pearson says it all:

We're modernising the WorkCover Scheme and establishing Return to Work Victoria, so that no injured worker is left behind.

Admirable! He is right – for workers with sustained mental health injuries, under this legislation they will not be left behind. They will be kicked to the kerb and left to fend for themselves.

Let us move on to some of the more egregious provisions in this bill. We will start with definitions. The proposed definition of ‘mental injury’ is too narrow and does not reflect how practitioners in the mental health and wellbeing sector understand mental health conditions. In particular, the reliance on diagnoses under the diagnostic and statistical manual, the DSM, is very problematic, and bear in mind that the measurement – the quantification – of impairment is a critical factor at multiple points in this bill and the journey of injured workers to enter, to progress and to potentially be ejected from the WorkCover system. We know that WorkSafe Victoria utilises the American Medical Association guidelines to determine an impairment – AMA edition number 4. In assessing impairments, those very guidelines state:

It must be emphasised and clearly understood that impairment percentages derived according to the Guides criteria should not be used to make direct financial awards or direct estimates of disabilities.

They should not be used to make that assessment, so how can the government possibly be using these guides to determine whole-person injuries, when that is exactly what those guidelines themselves say they should not be used for?

Then there are the changes to the initial eligibility for WorkCover, which rule out work-related stress and burnout as compensable if these are considered to be usual or typical and reasonably expected to occur in the course of the worker’s duties, unless the injury is predominantly caused by traumatic events that are reasonably expected to occur in the course of their duties. So that would appear to protect one class of worker – let us say someone who signs up for a job where they can expect traumatic events to occur. I want to come back to that, and I think we will certainly come back to that in committee, because this is a highly problematic area. But it does not, for example, cover someone who has been exposed to unreasonable stress or insane workloads and suffers burnout. That is terrible. That is a terrible exemption. Does that mean that the onus is entirely on the worker to manage the degree of stress and burnout they are exposed to at work? Does it mean that WorkSafe will no longer prioritise complaints from workers injured by workplace hazards such as overwork and burnout because they will no longer be compensable? It certainly looks that way. If only we had a set of psychosocial regulations that were designed to remove those sorts of hazards – that would be useful. But they are not there.

On top of that, there is a very good chance that these new eligibility requirements will fall hardest on women workers, who are statistically more likely to be diagnosed with stress and anxiety conditions and more likely to work in industries where these kinds of work hazards are more prevalent. Fun fact: under the Victorian Gender Equality Act introduced by this government in 2020, the Victorian WorkCover Authority, which is a defined entity under that act, is required to produce a gender impact assessment when developing or reviewing any policy, program or service that has a direct and significant impact on the public. I have not been able to find that assessment so far, but I imagine it will turn up sooner or later, maybe with those legendary psychosocial regulations that we will all be so keen to see.

Moving on, clause 16 of this bill introduces an impairment threshold to assess a worker’s eligibility to continue receiving compensation beyond 130 weeks. New section 167A defines a worker’s degree of impairment, and it states that:

The degree of impairment of a worker is the greater of the worker’s –

- (a) degree of impairment resulting from one or more compensable injuries that are physical injuries;
or
- (b) degree of impairment resulting from one or more compensable injuries that are psychiatric or psychological injuries.

Effectively, a worker can only be assessed for one type of injury, either physical or mental; you cannot have both. This is ridiculous. People cannot leave their psyche at home in safe storage while they are exposed to the workplace. When they head off to work, there is a reality that is the whole of that person. Obviously traumatic physical injuries can and do lead to substantial and ongoing mental injuries. This is, if you will pardon the pun, a no-brainer.

There is also a staggeringly bizarre use of terms here that I would like to reflect on briefly. The bill repeatedly uses the term ‘whole-person impairment’, WPI. Let us give that its plain English meaning: it is referring to the whole of the person, their totality. But when it is time to assess that whole-person impairment, the bill says that you can assess either their physical injury or their mental injury but not both, not the whole person. This bill is cruel. It is a moronic piece of legislation constructed entirely on an oxymoron. If a worker is injured at work, leaving them with physical injuries as well as mental injuries associated with the trauma of the incident, we are asking that worker to pick one even though their mental health injury occurred as a result of, for example, their physical injury and even if combined their injuries would far exceed the 20 per cent threshold. It is nonsensical, and it is out of step with contemporary medical practice.

Workplace injury lawyers have informed us that the threshold for physical impairment alone is staggeringly high, almost impossible to meet. To give you a good example of how difficult it is to meet the 20 per cent impairment for psychiatric or psychological injuries, I would like to quote Luke Hilakari, who shared this case at the recent WorkCover bill inquiry. Be warned, this is a very disturbing example. I quote from his evidence:

So what type of people are we talking about missing out? A recent good example would be of a 33-year-old emergency services worker – I will let you guess which emergency service they worked for – who had been employed by the service for 14 years ... He had witnessed multiple traumatic events, and then one day he presented at a car accident. He saw that a kid had been decapitated and another kid had been crushed to death. That worker got diagnosed with severe PTSD, now regularly sees a psychiatrist, has suicidal thoughts, cannot leave the house, is on medication and his mum had to move back into the home to look after his kids.

That worker got a whole-person impairment of 15 per cent. If that worker could not reach the proposed threshold of a 20 per cent whole-person impairment for his psychological injuries, it is hard to imagine how anyone could. Let us face it: the inability to reach those impairment thresholds is exactly the cruel intention of this bill. The government talks about, for example, that WorkCover is ‘fundamentally broken’. But what is the remedy? To effectively preclude injured workers with mental health injuries from eligibility under the scheme. Is that really how you fix a fundamentally broken scheme?

There are many problems with this bill that I know other speakers will address. I want to finish up by reiterating what a sad set of circumstances we have before us. The WorkCover scheme has been underfunded for years, including by this government. There have been a number of reviews, including two by the Victorian Ombudsman, with recommendations on how the scheme could be improved. It seems the government has ignored these recommendations. We understand that the increase in mental health claims was not something that was envisaged when the scheme was first introduced, but it cannot be fixed by dividing workers into the deserving and the undeserving. It is interesting that during the bill inquiry we learned that mental health claims are predominantly coming from the public sector, with teachers and police having the highest proportion of mental health injury claims. The government really needs to be working with its own departments if it wants to reduce the number of mental health injury claims that are supposedly bankrupting the WorkCover scheme.

What we need is a scheme that focuses on prevention and rehabilitation. We understand that the scheme needs to be reformed and modernised, but the sustainability of WorkCover cannot be at the expense of workers struggling to deal with the totality of injuries that leave them unable to work. This bill needs to be scrapped and redeveloped after proper consultation with workers, with their unions and with employers, all of whom have called for systemic reform. We need a workers compensation scheme that sees people in their totality and compensates them accordingly, not this regressive bill that fails injured workers and their families and pushes the burden of their care onto an already overstretched health and mental health sector.

Gaelle BROAD (Northern Victoria) (14:51): I rise to speak about the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. It is certainly a great title, but the content is not so deserving. I want to thank David Davis, who has talked at length about the bill and about the need for further review. This is legislation that the government

tried to rush through last year, and the Liberals and Nationals advocated for a parliamentary inquiry, because Victoria's system has not been working. I sat on that inquiry, and I listened to the concerns raised by witnesses, including representatives from WorkSafe Victoria, the union movement, employer groups, a panel of injured workers, Mental Health Victoria, the Australian Industry Group and a range of health providers. Key industry stakeholders from business and also from the unions, when they were asked about the bill, said they were consul-told rather than consulted about this bill. And the inquiry was rushed; there were just three days of hearings just before Christmas and not much time to report, and I was very disappointed that the hearings were not broadcast live, because transparency is crucial in government. These were meant to be public hearings, but they were not broadcast to the public. I want to thank David Davis for his work. Through freedom of information he obtained the Finity report. This was back in December 2020. It highlighted that WorkSafe was at tipping point at that stage, so it certainly shone a light on the failings of the WorkCover system. It exposed some major issues that the government sat on for, now we have seen, three years, and they did nothing to change the system.

This bill is an attempt to save a broken WorkCover scheme, but there is still much more work that is required. We know that Labor ignored the warning signs that WorkCover was heading towards collapse. Over the last two years \$1.3 billion of taxpayers money has gone into propping up the scheme. On top of that, last year the government announced a significant 42 per cent average increase to WorkCover premiums, which applied from 1 July last year, and local businesses started receiving their renewal notices. I know that the cost to business is huge. We see predictions based on those premiums increasing that that is an \$18 billion slug to Victorian businesses over the next 10 years. WorkCover insurance is compulsory if you employ one or more workers in Victoria and expect to pay more than \$7500 in remuneration in a financial year. Under Labor Victoria has a record debt, and 700,000 small businesses across our state have been left to face increased premiums, taxes and rising costs with very little relief. Businesses who are doing the right thing and providing a safe and supportive workplace are being forced to pay for Labor's incompetence and mismanagement. I have spoken with businesses who experienced skyrocketing WorkCover costs, and when businesses faced higher costs, they had to pass on these costs to customers. That is all of us.

The cost of living we know has increased dramatically in Victoria. The National Debt Helpline have had an increase of 47 per cent in their calls over the last year. We know that this is a very hard time for businesses in Victoria. This government does not know how to manage money or manage projects, and Victoria now has the highest debt of any state in Australia. Since they were elected 10 years ago, they have introduced 53 new or increased taxes. Adding taxes to business and to households simply puts them under even more pressure, and rising WorkCover premiums impact business owners, their employees and the viability of their business. The state government keep introducing and raising taxes to pay for their waste, so we are now the highest taxing state in Australia.

That added pressure on business has seen recent figures showing that the number of business insolvencies jumped by nearly 30 per cent in the past year. Industry representatives have also voiced concern over the impact that state taxes are having on the viability of starting and operating a business in Victoria. As well as businesses closing down, we are seeing businesses fleeing the state. The Australian Bureau of Statistics figures released in February confirm that Victoria has suffered the largest fall in net business registrations in the nation. Nearly 3000 fewer businesses registered in Victoria across the December 2023 quarter, and when businesses face higher costs, we all do.

Recently, Nationals Senator Bridget McKenzie joined me in Bendigo, and we held a round table with the freight industry. We met with those businesses, and they expressed great frustration at the WorkCover increases. In the freight industry WorkCover premiums increased by 82 per cent. That is a massive jump. When they opened their bills, that was a huge shock. Freight trucks carry goods across the state – food, medical supplies, building materials and equipment – and when their bills go up, our bills go up too. I spoke with another local business owner who has never made a WorkCover claim. They need to find the funds to pay for an enormous jump in premiums. They describe the exorbitant

rise as a kick in the guts. They are now due to pay another \$11,000 in WorkCover this year on top of their insurance bills and other costs, and their comment was that the government is destroying our state. Small business owners have done it very tough over the last few years, and with the COVID-19 pandemic many have incurred extra debt and are still under pressure trying to find staff and coping with rising energy bills and increased costs. But local businesses need a strong and sustainable WorkCover scheme that works for them to help care for their most valuable asset, which is their people.

It was good to be part of the committee's inquiry. The report that was prepared is available online, and I would encourage people to have a look at that. There was a dissenting report that we also included, which had a number of findings. One of the findings of the inquiry – the first one – was:

Employers will be unable to sustain a further increase in WorkCover premiums

The second was:

The Labor Government failed to act on WorkCover despite knowing the scheme was unsustainable

Number 3 was:

The Labor Government manifestly failed to consult on the Bill

Finding 4 was:

Inefficiencies in the current system are adding to the cost of operating the WorkCover scheme

We heard from witnesses during the inquiry who talked about having up to 20 different caseworkers dealing with a case, which is incredible. Finding 5 was:

The Labor Government has failed to deliver on recommendation 16 of the Royal Commission into the Mental Health System, which calls for action to foster mentally healthy workplaces

Finding 6 was:

The public service is responsible for a disproportionate amount of mental injury claims in Victoria –

which David Ettershank just mentioned during his talk as well. Finding 7 was:

The Labor Government has failed to outline the composition, roles, functions, and responsibilities of Return-to-Work Victoria, undermining the proposed solution to the underlying issues with WorkCover

In our dissenting report we do talk about a number of the recommendations and things that we would like to see, but certainly there is a lot more work that needs to be done.

I want to thank Cindy McLeish for her work in looking at what needs to be done. The Liberals and Nationals have been working to secure a freeze on the premium increases at the current average of 1.8 per cent over the next financial year. We want to see an independent inquiry to review the impact of these new reforms on WorkCover, which would report back to Parliament by the end of 2024; the establishment of a return-to-work advisory subcommittee which would draw from expanded membership, which again is important and was something that was highlighted during the inquiry; clarity around the structure and objectives around Return to Work Victoria, which needs to provide greater support to injured workers; and an additional consultation process with core business, union and health stakeholders, which will take place in the next week. I want to thank Cindy McLeish for her work on that, but it is clear that greater oversight of the operation of WorkCover to help the scheme become sustainable into the future is needed, because we need a better scheme for our injured workers and our employers.

The Liberals and Nationals have made it clear that we do not want to see premiums continue to rise, and there are other things – and we have talked about this during the debate – around the importance of prevention, the importance of rehabilitation. We heard talk during the inquiry about what has been done overseas to assist with that return to work, which is so vitally important, reaching out to employees and helping them and supporting them on that journey. But we do not want to see premiums

continue to rise, and we want the government to rule out introducing any further new or increased taxes in the upcoming state budget.

Georgie PURCELL (Northern Victoria) (15:02): I rise to speak in strong opposition to this bill before us today, which can only be described as fundamentally flawed from its very inception. My colleague Mr Ettershank touched on this, but the bill was described in very un-animal-friendly language as ‘a dog of a bill’ and ‘a dead cat’ during the bill inquiry process. Frankly, it is astonishing that is even back before us here today. Several witnesses and stakeholders declared that they had not had proper consultation with the government prior to this bill, nor had the government provided sufficient public information on the proposed changes. We have been told consistently from stakeholders across unions and across business that there was no consultation on this bill at all. In fact they have told us that they were consul-told.

Similar to the rushing of this bill, the inquiry itself was intentionally overwrought with time constraints, with hearings having to be completed the week before Christmas and the final report due the first sitting day back. This was done at the government’s request in here. They moved an amendment to change the reporting date, which I, as the chair of the Economy and Infrastructure Committee, foolishly supported at the time, only for our hard work and genuine concern as a cross-parliamentary committee to be flatly ignored. I sat as the chair of this inquiry and heard firsthand the detriment this bill would cause to the lives of thousands of Victorians – that it would leave them severely injured without any government support. Ironically this bill delegitimises the impact of stress and burnout at work. My fellow MPs, the week after the final sitting week, sat through a week-long inquiry process and hearings, and most importantly, the committee staff in this place worked tirelessly over what should have been the Christmas break and delivered a thorough and comprehensive inquiry report on time. The government has chosen not to respond to the report but to ram this bill back through.

The theme of this government is becoming increasingly clear: to ignore evidence and make a mockery of parliamentary procedure. After the government went against its own number one recommendation from its own inquiry to ban duck shooting, it came as no surprise to me to learn that they have no intention of responding to the inquiry report at all. Yes, I will work it in at any stage. This bill has been rushed back in so that it does not have to hold itself accountable for the universal criticism that it has received. To waste the time of the people in this place but most importantly that of the stakeholders, some of whom I know are in the gallery watching today, and the witnesses, who took time away from their families and loved ones during the holiday period to express their major concerns only to be ignored, shows the disrespect this government has for all involved.

A member interjected.

Georgie PURCELL: It is contempt. It is willing to put the health, safety and livelihoods of Victorian workers on the line, all so that it can broadcast a political win for itself, no matter who it hurts in the process.

We as members of Parliament have a whole lot of privilege in our jobs. We can take leave when we want to. If we are sick, whether that be mentally or physically, we can step away from our jobs without reporting to a manager or having a claim approved. It is disgraceful that we are here today doing this, when we and the government sit within the safety of our own offices each and every day, never exposed to the dangers and injuries on worksites or experiencing the fear of having a claim for a traumatic workplace injury rejected. It seems this government now thinks itself better fit to make decisions for hardworking Victorians on the ground than those workers themselves, because that is what we have been consistently told from the moment the bill was proposed. Workers hate it, and the unions that represent them and protect them hate it as well.

The second recommendation from the inquiry was to establish an independent inquiry by an expert panel into the operation and viability of the WorkCover scheme, frankly because the government neglected to turn its mind to how this bill would actually function in the workplace. I know that this

has been touched on, but can anyone tell us what Return to Work Victoria is, because we still have not got answers?

A member: A joke – a sad, sick joke.

Georgie PURCELL: It is a sick joke – it is a media release. What is of most concern is that the government is seeking to back-pedal on the progress made by this state in recognising and addressing mental health issues. This is something that I have spoken about before in this chamber as someone with lived experience of mental illness: I have a diagnosis of anxiety and PTSD. I have had that for over 10 years, and because of the work of this government previously in normalising and destigmatising mental injuries, I felt comfortable to finally say it. But this bill's definition of 'mental injury' has been found to be not fit for purpose, and it would further contribute to the stigmatisation of mental health and psychological injuries. We are taking a step backwards if we pass this bill today. What this bill says is that the government do not want to hear about workers' mental health; they only want to talk about mental health when it is convenient and promotional for them.

Stress and workload burnouts will be excluded in mental injury assessments under this bill, contradicting the most up-to-date science on how stress levels, toxic work environments and unmanageable workloads contribute significantly to a person's wellbeing and health and their ability to perform their job safely. How can we tell the children of this state that their mental health matters, when they are to go into a job with a government protection scheme that later tells them, 'We don't want to hear it – your suffering is not tangible enough for us to care.'

This bill would also introduce an unreasonably high 20 per cent threshold in a whole-person impairment assessment test for workers to be able to stay on benefits. Additionally, it will cut off injured workers entirely after 130 weeks, irrespective of their injuries and recovery time frame. My colleague Mr Ettershank said this, but mark my words: this bill is going to send Victorians into poverty and some of the most vulnerable Victorians into poverty.

Despite these significant proposals, the government has not bothered to do the calculations on the real effect of these implementations. They do not know how many people this is going to impact. They are neglecting to determine how many injured workers will be cut off from support completely. They are going into this blindly, and they are not the ones who will be paying the price – it will be Victorian workers, and it is simply not good enough.

Lastly, we know that this bill disproportionately impacts women. We know that stress and burnout claims are often a result of gendered violence or sexual harassment at work. We know that the changes to mental injuries will largely impact the public sector – and as a proud CPSU member, I just want to acknowledge the work of Karen Batt, who has been an active and vocal opponent of this bill – because the public sector is a female-dominated workforce. In the inquiry we recommended that the government be asked to indicate if they had undertaken a gender impact assessment and, if they had not done one, to undertake one urgently. They have not done either of those things. They have not even bothered to answer the question. It is a shameful indictment on them in this International Women's Day week.

Workers have been begging the government to reform the WorkCover scheme, asking for more support and timely management so every worker can return to work. Something that needs to be said is that these workers want to return to work; they just need the support to do so. Yet the government has responded to these calls by cutting back funding, drawing back support, excluding mental injuries, slashing workers' eligibility and reducing the duration of their support. We are already in a cost-of-living crisis, and this bill will have far-reaching impacts on housing, family violence and other vital services when injured workers are pushed off the scheme against their own will and before they are ready to go back to work.

Make no mistake, this is a bill that not a single union supports. We all know that many of the government's MPs do not support this bill, and I note the many absences on that side of the chamber today.

Nick McGowan interjected.

Georgie PURCELL: That is correct: they are too ashamed. The public are certainly not in support of this bill. This begs the question, based on the speeches here today: what MPs and what parties are really on the side of Victorian workers in this place? Not the Labor Party today. I understand there will be a reasoned amendment and some other amendments brought forward today in an attempt to improve this bill, and of course I will be supporting those, but ultimately it belongs in the bin. I note that is a recommendation that Ms Copsey, Mr Ettershank and I tried to get through in the inquiry process, but it was knocked back by the major parties. It never should have been written. I urge everyone in this place to do the right thing and vote against this dreadful anti-worker legislation before us today.

Ann-Marie HERMANS (South-Eastern Metropolitan) (15:12): I also rise to speak today on the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. We have always had grave concerns since the bill was first proposed to us. We looked at it; I looked at it in great detail, having had the portfolio for some time and having had to listen to the incredible impact it was having on businesses in terms of WorkCover premiums. Some of the stories that small businesses in Victoria told me absolutely appalled me. To think that people could be wanting to abuse a system that is set up in order to protect Victorians in the workplace. I am yet to meet one Victorian who is against WorkSafe Victoria in theory and in practice. In every business I go to and every manufacturing area, every place I have ever seen and all of the business owners I have ever met, they always stress the importance of WorkSafe and work safety issues in the workplace. Out of the people I have met there is not a single person that has a business that does not care about what happens to their workers. I am not saying there is not anybody out there, but the reality is the majority of Victorian people who run businesses are doing the right thing by their employees. They care about what happens to them and they want the structures in place.

There is a place for making sure that we have the right sorts of structures in place. The problem we have is when, unfortunately, a few people spoil it for many. When we have people sitting on WorkCover for years and years and years, it makes it almost impossible for them to even have the ability to go back into the workplace because they have lost their confidence and perhaps have not used their skills for a period of time. It might have been a safeguard in the beginning, but it becomes a lifestyle. It is not a lifestyle that, number one, is going to help them ultimately in the long run when they actually lose their confidence and their skill set diminishes, but it is also not going to help them in the long run in terms of having the satisfaction of being able to work and provide for their own needs and their families. It is incredibly important to encourage aspiration in our state. There are many, many people that come to this country because they are aspiring – they desperately want a better life for their family. This is a place that offers it to them, and they do not expect to get it for nothing.

The fact that we offer much safer conditions in our workplaces is a great credit to us as a nation and as a state, but clearly there is more work to be done. I have listened to the crossbench talk about some issues that they say are terrible. I must admit when I first looked at the bill I was sitting there going, 'Oh, my goodness,' because I could see flaws in it. They were kind of glaringly obvious, and I sat there going, 'Well, we can't ignore it and do nothing or, as some people are saying, just leave it as it is.' We cannot do that. We cannot do that with an economy that is going down the toilet and with a WorkCover system that is fundamentally broken. Everybody here has so far agreed that this is a WorkCover system that is fundamentally broken, and one of the reasons it is broken is it has been under a Labor government and Labor has broken it. The reality is it has not put in place the things that it needed to put in place in order to not only protect the workers but also to protect WorkCover itself. WorkCover is requiring us to continually put money into it to sustain it, and there are unfortunately people looking to take advantage of it. If you make a lifestyle out of WorkCover, that is not –

A member interjected.

Ann-Marie HERMANS: The reality is that that does happen, because I had those stories come across my desk when I was the shadow minister. Like I said, it only takes just a handful of people to do the wrong thing and everybody suffers. Sometimes people do not go in with the intention of doing the wrong thing. I can say as a person who stayed home with my children that going out of the workforce for any period of time has its own challenges. When you decide you want to go back into the workplace you do have that sense of feeling uncomfortable and uncertain, and there are a whole lot of issues that go with that. The longer people remain out of work, the more difficult it becomes to return for those very reasons. Having a system that works but is also financially sustainable is incredibly important. I do not think there would be an electorate for any of us where there is not a section that you go past with empty shop buildings, empty street fronts or business that have gone under. You cannot help but meet a businessperson that says, ‘You know what? I’m thinking of selling up. I don’t think I can do this anymore.’ And what is one of the things that has contributed to that? Without a shadow of a doubt, for many, many of these businesses it has been their WorkCover premiums. The threat of WorkCover premiums being hiked up even further is very, very real for them. Victoria is not becoming a place for the aspiring young new business owner. It is just not the place to be. It is not the place to set up these businesses, to take those risks; and more and more people are going interstate, more and more people are going overseas, and many others are just closing their doors.

We had a look at how much WorkCover has had to be propped up. The scheme has required a \$1.3 billion injection. What was it – \$300 million one year, \$440 million another, \$550 million another. Over the last three years, by this government, it has just kept going. It is the gift of debt that just keeps giving – such a broken system. So we do not have a choice in terms of attempting to be part of the solution. It is part of making responsible contributions in Parliament to be looking at legislation that is actually going to help Victorians get back on their feet. I can say, as someone that has talked to people in this space, I know that even those that work in the field know that it is a broken system. They can tell stories of people that are bleeding the system. In fact they even know the loopholes, and one has to wonder why on earth government sectors have the highest mental health claims.

I think the internal issues as well as the external issues are very clear in terms of contributing to how WorkCover is broken and why we actually need to have legislation that is going to help the state get back on its feet. People are trumpeting, ‘What’s the opposition doing having conversations with the government?’ The reality is we can wait until 2026, when we get into government, to fix these things, and that would be great, but there are more and more Victorians who are suffering and more and more Victorian businesses that are going under, that are having to close their doors, and our debt is spiralling out of control – \$11 million. Each hardworking person is having to contribute to this. The \$11 million is the interest on the debt alone. Three states combined have less debt than this state. So with WorkCover bleeding our state, it is just not an option to not make an attempt. It would be irresponsible to just turn our back and say we will do nothing, that we will not make any effort. But we are so aware that businesses cannot afford these hikes in premiums. Putting the premiums up is not the solution. It is making the doors close on businesses, so we want to see that frozen. That is incredibly important for understanding how the economy works. It is incredibly important to all Victorians, because at the end of the day we all have to pay when there is a debt.

I have met people that have genuinely had to stop work because they have been injured, unfortunately. Yes, it is a concern when we look at the whole body and the 20 per cent, and it will be interesting to see whether in the years ahead there will be people where we will have to come and say, ‘How on earth did this person not get looked after?’ I mean, that would just be a tragedy. At the same time what we cannot have is people making WorkCover another form of revenue for a lifestyle. It is not good for them and it is not good for anybody if that is the case. Like I said, it only takes a few people to make it impossible for everybody.

We are all in this together in Victoria. We are all paying for a state that has been mismanaged financially. The reality is the WorkCover system is so broken that it is going to take a lot of legislation and a lot of considered work to see ourselves get back to a place where things actually work. There is not a silver bullet to fix this. It is difficult to be looking at how we change things. For some people it is not convenient. They would rather just pretend there is not an issue – ‘Let’s turn our back on it,’ ‘Let’s just keep going,’ but we cannot do that on this side because we are people who take the responsibility for the livelihood of Victorians very seriously. We always have and we always will.

We will always support Victorians who want to work, so the return-to-work concept is something that is of particular interest because we do need to see people supported so they can return to work. One thing I will say about the bill is that it has defined mental injury and it has made some provisions for that, because what we have found – and this might shock the average Victorian out there who could be listening to this – is that you could have somebody on burnout for over 12 months. I mean, seriously is that what we are paying our taxes for? I am a workaholic myself. I understand that it is very easy to have burnout. But there comes a point where you have to say it would not pass the pub test, put it that way. I think that is what we need to be thinking about – the average Victorian is working hard and practically bleeding to just feed their family and to pay their bills and to be able to put petrol in their car. They are bleeding to do it, and we cannot have a system that is going to cause more anxiety for more Victorians because they are having to pay for it. We do need to make changes. There does need to be revision. This is something we cannot turn our back on. That is why we have come to the table, because we are aware that this government has a broken system and it had no idea how it was going to fix it. It came up with a bill that we looked at and we went, ‘We need to have a proper inquiry. We cannot just go ahead with this as is.’ That is what we have engaged in.

I want to commend all of my colleagues: the shadow minister Cindy McLeish, the leadership and all those who were involved in the review – giving up, as has been mentioned, some of their summer in order to do it, because it is important to us. It is important to us to find solutions that are going to work for this state. It is important for us to help Victorians to be able to go back to work. Sure, wouldn’t we all love to be able to sit on the beach in our bathers and just have the money rolling in? But at the end of the day we need to do our part to make this state work and to make it function. We need to do our part, to be part of the solution and not part of the problem.

Once again, I want to remind people about this 42 per cent hike in premiums – for some businesses it was significantly more than that. I have spoken to people about 70 per cent or 80 per cent. Some people’s premiums went up so high and they had not made a claim. I also heard of others that had the most ridiculous claims. The owners were just heartbroken that the system could allow people to do that. I sat there, honestly, with my mouth open as I looked at situations and just went, ‘How on earth did we get to have such a broken and such a failed system under this government?’ It is not about, ‘What on earth are we doing being in the conversations and taking a look at it?’ We are taking a look at it because we genuinely care about what happens. We genuinely care about Victoria.

Jeff BOURMAN (Eastern Victoria) (15:28): We are here today for the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. It is no surprise to anyone that the system is broken. What is a surprise is that politics again has produced strange bedfellows – it looks like the opposition are now on board. That did not appear to be the case last year, but there you go.

This is also one of those strange things where both the unions and employer groups agree that it is, to be nice, far from perfect. That should have sent a warning to the government. Perhaps they should have listened to Trades Hall, or the unions, and the employers and adopted the suggestions that they made. I have been working with Trades Hall. With that in mind, I have some amendments which I will move during the committee stage. I will flag and circulate them now.

Amendments circulated pursuant to standing orders.

Jeff BOURMAN: I will go into detail when I move the amendments. It looks like just a whole lot of numbers and clauses, but I have got a better explanation. If I were to ask for anything, it is that we inject some humanity back into this. One thing that I have brought up before and I will bring up again in this place is that sometimes we think about that political to and fro and we forget that there are real people at the end of all of this. There may or may not be people taking advantage of the system, but there are a whole lot of people that need the parachute that this provides, because the mental health injuries are probably the hardest of all. It is not just the police, the firies, the ambos, the CFA volunteers and the SES, it is also prison workers. One of the things I grew to appreciate only years ago was that there are people like train drivers who get caught in the middle of someone wanting to end their own life and the things that happen to them, and there are all the people in situations where they end up with a traumatic situation as a result of their work. These people do not ask for that. In fact in a lot of situations it is not even a reasonable expectation. Even with the police, given the job, it is not reasonable to expect to be left hanging at the end of the time. Everyone's piece of string is different. I got out of the whole thing relatively unscathed; other people did not. It is just the way it is. But what we do need is a system that is there.

What I really do not get is the 20 per cent impairment business, particularly when it comes to mental illness. How on earth do we decide what is 10 per cent, 15 per cent or 20 per cent? Going with the example that Mr Ettershank gave, which was from Trades Hall, just on the face of it that is not 15 per cent; that is kind of like 90 per cent. What actuarial system are we using when we assess someone's illness or injury, particularly with mental illness? It is a lot easier, I guess, in general with physical injuries. Either you have got something or you do not have something that is broken or that is bruised. But then you get someone like a prison guard who has been seriously, seriously assaulted. You get someone like an SES worker who has had to clean up a road accident or the firies and people like that. These people are people. Some of them, most of them, will probably get on with their life and not have a problem, but some of them will not, and that is what this is meant to be there for.

I accept that the system needs changing. I accept that if we do not do something soon it is going to be busted. I am not going to apportion blame. I am just going to say that this was a golden opportunity where we could have had our cake and more or less eaten it, but unfortunately it appears that the government does not think so – or at least not the wider government. There are a lot of people in the government, I read at the weekend, that would like to see the amendments that I have proposed on behalf of Trades Hall adopted. I would have gladly handed them to the government, because this is about getting the job done, not about getting glory for myself. I am still going to put them up. I am still going to go for it and I am still going to give it a go, and in the end it will be what it will be. I look forward to the committee stage because I have got quite a few questions.

Richard WELCH (North-Eastern Metropolitan) (15:33): I rise to speak on the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. I thank the crossbench for their contributions today. I probably agree with a lot of what you are saying – not everything, but I am certainly not going to say anything that necessarily contradicts what you are saying.

We live in a competitive world. Victoria is competing with New South Wales, South Australia and the rest of the world, and that competition takes two forms. One is that our businesses need to compete, but also we need to compete in the workforce so that we attract talent to the state and so that people find Victoria an attractive place to work as well. That competition goes on. Unfortunately we are failing at both ends of that equation. We have the costliest WorkCover in the nation, so we are not competitive there. We have a growing list of cases, so we are not winning there either. The government admit that WorkCover is fundamentally broken. There have been two critical Ombudsman reports. There have been six consecutive years of declining performance, the quantity of claims has doubled – so much so that the alarm bells were ringing sufficiently in 2020 that the Finity report was commissioned. But rather than address that at the time, we are standing here in 2024 where we have slapped \$1.3 billion onto taxpayers and slapped a 42 per cent increase onto employers without

addressing any of these things – competitiveness or worker welfare. So effectively the reforms have just been another tax on employment here, plus they are putting employee welfare at risk. That is all we have done.

There is nothing in this bill that could not have been done three years ago. You could have rewound and we could have saved the taxpayer \$1.3 billion, we could have saved employers a 42 per cent increase on their premiums and we could have reformed the welfare laws for employees, but none of those things happened. Nothing that we are discussing today could not have already been done – nothing. We could have done the consultations, we could have worked with employers and there could have been businesses that are now out of business still operating. There could have been all those things. Clearly the need for reform was obvious then as it is obvious now.

Notwithstanding the very good work of the committee, the fact is there are a number of questions still to be answered. Vague law is bad law, and what you are left with are assumptions. We have got a whole bunch of assumptions baked into this bill. We think we have got a rates freeze for one year, but what happens after that? Where is the certainty for employers? Are they going to get a double whammy the year after or the year after that? Where is the certainty? An employer needs certainty. A commitment to an employee is a long-term commitment. If you are managing your cash flow and you want to squeeze an employee in or not let one go, you need to know what is happening with your cash flow. If you do not know what is going to happen and if you do not provide businesses with certainty, they will be conservative on both those measures. They will either let the person go or they will not hire them in the first place – or they will start taking shortcuts elsewhere.

Having bailed this out by \$1.3 billion and then put this bill through, we can only assume that baked into this is a guarantee there will be no further bailouts required. Surely you do not put a bill like this up with the presumption there is going to be another bailout – or do you? I do not think so. I think anyone in the street would say, ‘You’ve bailed it out by \$1.3 billion and said, “Oh my god, there’s a problem. Let’s put a new law up.” Surely that law means there are no more bailouts, right?’ Or have we baked failure into this bill? Who knows. We do not know; we can only assume. We can only assume there is a guarantee there will be no further bailouts.

We also have to assume – or presume – that any retrospective elements of this bill will address things fairly. Retrospective law is a very dangerous device; no-one really likes it, but it applies in this case. If we are going to apply it, where are the safeguards? Surely if you are going to retrospectively amend the law, you have already thought that through, just like you have thought through bailouts.

With the reporting and accountability, you do not get to a state where you have to commission an emergency report to find out what the hell is wrong and then not build in reporting and accountability and measurements of success and failure. None of those are defined, as has been pointed out many times already. For the back-to-work body or committee – we do not know what it is – none of those things are defined, so we have to assume, just like we have to assume there will be no more bailouts and just like we have to assume that the retrospective law will deal with things fairly. We will also have to assume that this time now – having identified the lack of oversight – there will be proper oversight with measures, because surely you would not put a bill like this up if that was not the case. You have to assume there is going to be better accountability.

Are there going to be warnings for business about when and how this is going to be implemented in the future, what the cost to them is going to be and what support is going to go to those businesses if these further changes are going to put pressure on their ability to either operate or employ? Is further consideration being given to splitting state from private WorkCover arrangements as they do in New South Wales? Surely when you have had a \$1.3 billion blowout and you have had an increase in cases, and there is clear data around that, when you put a bill up you would be considering that as well, but that is again something we have to assume in all of this. The other presumption is that in consolidating the operations under Return to Work Victoria there are going to be cost savings. If you are going to reform a scheme like this and you are going to consolidate six or seven different independent bodies

into one and have proper oversight, surely there is going to be a cost saving. But we have to assume that as well.

There are a lot of assumptions in this bill, and none of this is anything that could not have occurred three years ago. This really speaks to competence, because the consequences are a 42 per cent impost on employers, \$1.3 billion against the taxpayer and probably the biggest consequence is uncertainty. I appreciate the fact that there is going to be a further inquiry. Obviously it is necessary, but that in itself is an admittance of how inadequate the bill is. But of course the house is on fire, and when the house is on fire you do not get to be picky – any improvement is an improvement. At least we have got an admission that there is a problem to be solved, but it is the fourth attempt at it.

I look forward to the further inquiry. I think that is really, really going to be really important for employers, for employees and for taxpayers.

David LIMBRICK (South-Eastern Metropolitan) (15:42): I also rise to speak on the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. Hearing the debate in the chamber on this bill, it seems unanimous that everyone agrees that the WorkCover scheme is broken in one way or another. It was clear from the information that was provided to me, and to everyone else I suppose, that the current scheme is not financially sustainable in its current form, and the government in this respect, as in many respects at the moment, is going to have to make some hard financial decisions. In this particular case, as far as I can see, they have got three options to deal with the long-term sustainability of this scheme: they could raise premiums, they could do a capital injection or they could change eligibility requirements through legislation. The government has opted for the latter. It is my view that the other two options were not possible.

If we look at firstly raising premiums, I have met with many businesses recently. Most recently last week I met with a bunch of manufacturers from the South East Melbourne Manufacturers Alliance, and they were very concerned about the recent increases in the land tax bills on their factories. They own substantial properties that are used to manufacture all sorts of wonderful things, such as yoghurt, plastics and also machine parts that are used for things – coincidentally many of them are used for government projects. These manufacturers in some cases faced increases of over 300 per cent in a year. Not only were they hit with the land tax increase because of the increases in property prices – the valuation process for which is a mystery to them – they were also hit with this COVID levy.

I recall very clearly through the pandemic when the government was handing out all this free stuff. They kept calling it ‘free’ – RATs that they would pile home with kids so the cupboards were full of them and you did not know what to do with them; these HEPA filters everywhere, which are of questionable value; and a whole bunch of other things. It was all ‘free, free, free’. Of course the Libertarians were asking the whole time, ‘How are we going to pay for it?’ One of the ways they are going to pay for it is by slapping a fee on manufacturers, and of course that affects jobs. The manufacturers that I spoke to were very concerned about, on top of these land tax increases, having a premium increase. They are very concerned about it. Are they going to have to downsize their business? Are they going to have to let people go? Are they going to have to wind up? In some cases, businesses are failing in Victoria. I have heard some on the crossbench talk about how awful it is for people to be denied access to schemes and things like this, and it is. But it is more awful if you get made redundant because your employer goes bust, or you lose your business and you go under. It is my vision that Victoria becomes a mecca for manufacturing. It is certainly not that at the moment, but there are some really brave and ingenious entrepreneurs in this state who are doing their best and who are in some cases very successful, but in other cases some are being trodden on by the government, and we need to stop that. So I do not think it is possible to raise premiums significantly to cover it.

Capital injection, the other option – where is that money going to come from? The state is in big trouble financially already. I have not spoken to the Treasurer recently, but I imagine they are very concerned about a credit rating downgrade. If their credit rating were to get downgraded, the \$11 million a day interest or whatever it is at the moment would rise significantly. They would have higher prices on

bonds that they issue. They are not like the federal government, they cannot just print money; they have to actually borrow it or get grants from the federal government. That would become more expensive, and that would be a very, very big problem: on top of all of the debt we have already got, having our interest rates go up due to a credit downgrade would be catastrophic. We do not have the money to do capital injections, so the government has opted to limit availability. Some of these things are very sensible. I think that having a definition of ‘mental injury’ sourced from the *Diagnostic and Statistical Manual of Mental Disorders*, the DSM-5, makes a lot of sense. The scheme was not originally set up for mental health injuries and never really took this into account. It has sort of been struggling with it ever since, so having something diagnosed under a set definition makes a lot of sense.

However, I do concur with what many others have said: this is like the house is on fire, as I think Mr Welch said. We need to do something now to make sure that it is financially sustainable, but there are a lot of things that we need to look at. I am glad that we are going to have some inquiry ongoing into this – in particular, why the mental health claims for the public sector are so much higher than the private sector. What is happening with cross-subsidisation here? It seems extremely unfair to me that private sector employers are effectively paying for the mismanagement of the public sector. That is somewhat outrageous. I am actually quite interested in Mr Welch’s suggestion of splitting the scheme to better account for pricing of risk in those different markets.

I think the government will be looking at the budget. But in the longer term, the scope, the scale and the size of the public sector, the scale and the size of government in this state, is unsustainable. It needs to be downsized. We need desperately to downsize the size of the state. We cannot keep increasing taxes and remain competitive both nationally and internationally; we will fail. As has been pointed out, in regard to land tax, WorkCover, energy prices, whatever you care to name, we are not even competitive in our own nation let alone competitive with other nations. If we want to have a prosperous future for this country, we need lower taxes, we need a more competitive environment so that we attract businesses to this state, so that people want to set up factories in this state, so that they see us as a wonderful place to set up factories and make things and employ people and develop technologies. But they cannot do it when the government is treading on them. I do not want to see a situation where Victorian businesses are so restricted that they are considering moving interstate or offshoring their operations and this sort of thing. That would be a sad thing for Victoria, a sad thing for workers and entrepreneurs in this state.

I will be supporting this bill in its current form, regardless of the fact that I do acknowledge that there is more work that needs to be done here. We need to look at some of the root causes of some of the problems that are happening with the scheme. We need to look at efficiencies that could maybe be brought into the scheme and even look at some of the ways that pricing happens, perhaps through looking at splitting the public and private sector components; that would be something that I would be very interested in looking at. But nevertheless, as has been said, the house is burning and we need to get this under control.

I am very happy to hear that there has been a commitment to not increase premiums at least for the current financial year. I am sure – and I acknowledge the work of the opposition on this – many businesses would be very relieved to hear that, especially after the land tax valuations that they have recently been lumped with. Many businesses have spoken to me about this. They are very fearful of it. They do not want to lay off staff. They want to grow their business. They do not want to start downsizing and stopping production of products and that sort of thing; they want to grow their business. They do not want to lay off workers. They invest a lot of time, energy and money into training their staff and into finding staff – it is really hard to find good staff at the moment, especially engineers and especially scientists, chemists and those sorts of people. They do not want to lay these people off. I hope the government, looking forward, in the future will figure out ways that they can downsize the public sector, lower taxes and make Victoria a competitive place to do business.

Melina BATH (Eastern Victoria) (15:52): I am pleased to make a contribution on the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023. I have been listening to the debate. I think this is what this place is about: putting ideas and interrogating bills. It has been good to listen to varying degrees of opinion but also to see that there are some collective opinions in relation to supporting workers who have been injured at work. It is certainly the responsibility of a civilised society to create a net for workers who have been injured, whether they have sustained a mental or physical injury, so that there is a support network in terms of compensation or funding but also a pathway, where possible, back to employment and back to further engagement in life.

I have a friend who was injured at work probably about 30 years ago, and it is not fun to be in that space. Not only is there ongoing pain and medication, not only are there return visits to health professionals, there is that strain on relationships and there is that diminished capacity to fully participate in life. Quite often people who are suffering the long-term effects of a workplace injury have to reinvent themselves where possible. It is wonderful that this particular friend has done so in a number of ways, and all hail to him.

When there is an injury at work it is very important to get that critical support early on, a diagnosis early on and treatment early on. Over the last nine years we have come to know that to get to see a healthcare professional the waitlist is forever ballooning and our hospitals are triaging at an alarming rate. Also, trying to get into rehabilitation and to see occupational therapists, physiotherapists and the like, in country Victoria it is often a challenge to get access to those services at a time when people who are injured want that support. Again, early and critical support, triage and treatment can be the difference between a quick trajectory back to work or a slow and laborious one.

I am not going to go through a great deal of detail about individual cases, but it certainly is the right of employers, whether they be in the private sector or the public sector, to support workers back to work. It is also the responsibility of workers to put themselves forward in the best light to try to get back to work and to be gainfully employed, not only for the economy and the state et cetera but also for their mental health and wellbeing. We also know that this WorkCover bill captures both the public and the private sector, and we have heard in this debate that it is certainly the private sector that is propping up the public sector, as it always does in terms of taxes and premiums, but also that that triage and that waitlist is ballooning unfortunately in the public sector.

I have spoken to a lot of teachers over recent times, and they certainly feel quite a deal of burnout in their work – and even bullying; there are cases on our web page in terms of the education inquiry where there are cases of workplace bullying that need to be taken seriously, and they can vary as to the extent and who is doing what to whom. But our WorkCover premiums are certainly compulsory, and we have seen that the private sector has been under threat in this state over time. We have seen that small businesses and indeed all businesses have been squeezed with, as we have seen and heard over recent times, 53 new or increased taxes. We have seen small business bearing that burden, and it is unfair and unsustainable to do that. We saw the ABS, the Australian Bureau of Statistics, in its last financial year speak about an increase in businesses exiting Victoria – a 7606 decrease in businesses in Victoria. Where did they all go? Well, Queensland – they went north. New South Wales and Queensland had an increase of a substantial amount. You cannot lock down the state for such a long period of time without having that impact. We triaged many people that came into the office during that time, and small businesses had to shut their doors.

In particular – and I do not like using these statistics, but I think they are important to put on record – we see that, by LGA, the Latrobe City Council had a decrease in that last period of time, so the full 2022–23 financial year, of 218 businesses. We have seen this government try and prop things up, and unfortunately with the pressure that it has put on that fantastic region that my office is in and that I work so heavily in, 218 businesses have had to close their doors. I will go to East Gippsland – 44 businesses there had to close their doors just in that one-year period; and in the Mornington LGA, 213. I say this because we have a loss of talent, we have a loss of skills, we have a loss of that

entrepreneurship that I have heard others speak about and we have a loss of taxes when businesses shut their doors. So it is a crying shame that we have seen this. There would be a WorkSafe component in that, there is no doubt about it, but there has also been this government ‘anti’ agenda on businesses as a whole.

What I have just heard from the Animal Justice Party is that this bill is anti-worker legislation. It is interesting that for the Animal Justice Party, and I will spend only a couple of moments on that, when there is a bill that goes towards supporting people who work in livestock industries, who work on farms or in abattoirs, you just name it – beef, the pork industry – well, they are anti those workers through and through. When we hear others speak about protections – there were protections for working on a worksite in a forest coupe – we have had people, members in this house, vote against those protections. If you are going to talk about anti-worker legislation, be fair dinkum and have pro-worker legislation across the board. Do not pick your favourites or have opposition to certain industries.

Coming back to the bill itself, this bill seeks to address this increasing financial pressure – and I will go to that in a moment – on the scheme from rising mental claims, which we have seen blowing out; and with the extended payments period, where we have seen the tail lagging longer and longer, and it does this by the tightening of eligibility requirements. I know my colleague Mr Davis covered that off very well. One of the things that we also looked at – and Mr Welch and others have all raised this, but I think it is worth me putting it on record – is that the government did know about this in 2020. The government had a report – its own governmental report, the Finity report – that spoke about the terrible drain that was occurring, the loss. I will quote it:

Until recently WorkSafe had been remarkably stable over ... 20 years, despite comparatively little supporting legislative change over that time. This stability is in contrast to many of the other schemes around Australia ...

However, WorkSafe is now at a tipping point in its history and is facing both internal and external threats to its financial sustainability.

We know that the government had to prop up WorkCover to the tune of \$1.3 billion. That is taking \$1.3 billion of taxpayers funds over a number of years to prop this up so that it did not implode entirely. That is not good governance; in fact it is extremely poor governance. The Finity report also said:

WorkSafe’s expenses (including agent fees) are currently around \$0.7 billion per annum – a not insignificant amount –

here we go; agents’ fees and the like –

that requires careful control – however, when compared to premium volumes of \$2.5 billion and outstanding claims of just over \$20 billion it is not possible to materially improve the financial sustainability ...

just focusing on expenses.

We have seen for other businesses overall an average premium increase of 42 per cent. If you increase something by 42 per cent and load it up and load it up again, you are going to put more pressure on these businesses. We do not want to see another exodus of 7606 businesses in this financial year – that is absolutely unsustainable. We are going to become a whole welfare state and indeed a crippled, crippled state. We have seen those increased taxes, we have seen this black hole of debt and we have seen projects blow out under this government, with the former Premier and now the current Premier.

Moving forward on this, much of the commentary from the government has been about Return to Work Victoria, but the bill is actually quite silent on Return to Work Victoria. I looked it up to have a bit of an investigation, and it does have a website.

Members interjecting.

Melina BATH: There are some boxes to click and a media release by the government. Yes, indeed. I was a little bit confused whether it is just a promotional idea or it is an actual process and embedded

in that process is the will and the need to return people to work and return people to self-esteem. It is not clear what it is doing. There is very good reason – not only that – to have an inquiry.

I know we annoy the government from time to time. It is our job as members of Parliament, in opposition and on the crossbench, to annoy the government – to forensically analyse what is going on with legislation and what is going on particularly with this one. We saw a multiparty investigation over the holidays, short and sharp, and that is what we can do in this place – a short and sharp inquiry into the bill itself. There were many interesting findings and recommendations. One of them that we heard about was from stakeholders – that there was a lack of consultation. There were many comments in relation to that. This is such an important element that there does need to be that analysis. We need to hear from unions, stakeholder groups, professionals, the AMA and the medical profession, and small and large business organisations. We need to hear from those employer groups. That was the start of some very positive recommendations that came through about establishing a proper process that we see here and that we are debating today.

I congratulate my colleague Gaelle Broad, who was part of that inquiry and attended those meetings, on providing a very good snapshot of them. Some of the findings and recommendations in the minority report from the Liberals and Nationals were very good: the findings that employers will be unable to sustain a further increase in premiums, and that is something that Mr Welch very clearly touched on and I concur with that; and that the Labor government failed to act on WorkCover despite knowing the scheme was unsustainable, and we saw that with the Finity report in 2020. We also saw, in finding 3, that Labor failed to consult, and we saw that and heard that not just here but in the inquiry. Another finding was about the inefficiencies in WorkCover, and on it goes.

Finally, we have seen some concessions. I would like to put on record my thanks to Cindy McLeish, our shadow minister, who has been negotiating with the Labor minister to put a freeze on premiums. We have heard the comment about two years – two years would be ideal. At the moment it is one. We need to see what is going on and we need to have that discussion during the debate. We want to see a return-to-work advisory committee and we want to know that it is an actual productive, functioning committee that supports, as I said, those people who are on WorkCover to get back to work and that need for a greater level of scrutiny. I look forward to listening to further debate and having that teased out in the committee of the whole.

Samantha RATNAM (Northern Metropolitan) (16:07): I rise today to speak on the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023 on behalf of the Victorian Greens. I think at the outset it is worth noting what is happening in this chamber today and bringing to the attention of everyone who is watching out there the state of this chamber, and that is that since the debate on this bill began this afternoon we have had a maximum of two government MPs at any time in this chamber. For those who do not tune in weekly to the riveting happenings of the upper house of the Victorian Parliament, I will fill you in. Usually we see the government filibustering the life out of what would be less significant bills, should I say. But here we have one of the most significant bills for the future of workers in this state, what should be one of the most significant bills for the Victorian Labor Party, the Victorian government, and yet they are missing in action. Dare I say, they are hiding, embarrassed by the bill they are putting before this chamber, and they should be.

This bill is not a modernisation of the scheme in any sense of the word. It is draconian. It strips workers of their rights, and it will take us back to the dark old ages when workers had to fight through the courts to get compensation after being injured at work and when mental health issues were stigmatised. Quite simply, it will hurt workers more.

The parliamentary inquiry report that has been referred to multiple times during this debate this afternoon rightly condemned this bill, which was introduced without any real consultation with industry stakeholders, unions, health experts and injured workers. Worker groups reported being effectively blindsided when it was introduced. As one union witness at the inquiry stated, engagement

in the lead-up to the introduction of the bill could not fairly be characterised as consultation but rather as being consul-told. It was clear that there was a predetermined outcome, they said.

If the Labor government had meaningfully consulted with stakeholders, it is safe to say this bill would look a lot different. This Labor government loves to lecture and condescend the Greens. It consistently derides our policies as idealistic or simplistic, something I find incredibly rich coming from those responsible for this novel idea of saving an injured workers' scheme money by cutting off access to support for said injured workers. Groundbreaking stuff, indeed! If it was not so insidious and harmful to Victorian workers, it would be laughable, but there is nothing remotely funny about what this bill sets out to do. The inquiry highlighted just how poorly thought out these so-called reforms are. It was damning. None of the witnesses who appeared before the committee other than those from government agencies were supportive of the bill – not one.

The changes in this bill fly in the face of the findings and recommendations of the Royal Commission into Victoria's Mental Health System and the government's own mental health policy. The royal commission made recommendations to create mentally healthy workplaces and to support people experiencing mental illness at work. The proposed changes go directly against these recommendations and instead stigmatise and punish people who are experiencing mental illness. The government tried to rush this bill through the lower house in the final sitting week of last year, with changes planned to take effect on 1 January this year. This bill makes various amendments to the Workplace Injury Rehabilitation and Compensation Act 2013, the principal act; the Accident Compensation Act 1985; and the Occupational Health and Safety Act 2004.

Let us be clear and up-front about what this bill specifically aims to do, because the government certainly has not been. It proposes to cut money from the scheme by cutting workers off. It is putting the burden of the government's failure onto the backs of workers. It does this by proposing much stricter eligibility requirements for mental health claims. It narrows the definition of a mental injury. It specifically excludes stress or burnout unless it can be proven that the injury was caused by a single triggering traumatic event. It proposes the introduction of a whole-person impairment test of more than 20 per cent for workers on the scheme after two and a half years, or 130 weeks, and disputes of eligibility may no longer go to arbitration and must go to the courts instead. The proposed changes to mental health claims are incredibly concerning, and mental health advocates voiced their concerns to the inquiry. Workers have had the right to claim for a mental health injury for 70 years. This government wants to strip that right away – this Labor government wants to strip that right away.

We have come a long way in destigmatising mental illness since 1985, when WorkCover was designed, and it has taken a lot of hard work to get to this point. The changes will have serious far-reaching effects on our hospital system, on emergency departments and on injured workers themselves. Ironically, the reforms will increase demand on the state's mental health system because people will have no other support. We know that for many workers it is ongoing exposure to traumatic events that leads to a mental health injury rather than a single precipitating event, yet stress and burnout claims will be ineligible under the changes, with the new criteria stipulating that the mental health injury be caused by a single traumatic event. Workers who suffer mental injuries due to vicarious trauma, ongoing exposure to distressing events or unreasonable workload will most likely have their claims rejected. Employees who are working excessive overtime because they cannot argue against it or do not want to risk their chance of getting a promotion will just have to suck it up according to this government. A stress and burnout hotline is not going to cut it for these workers.

The inquiry found that the bill's proposed definition of 'mental injury' is not fit for purpose. Again, why the government did not seek to consult with the health sector when designing these reforms beggars belief. These reforms are going to damage a workforce that is already stretched, stressed and close to burnout. The fact that these changes are being proposed off the back of huge cuts to the public sector workforce shows just how out of touch this government is. Witnesses at the inquiry also expressed concern that these changes will disproportionately affect women. Recommendation 9 of the inquiry report calls on the Victorian government to release the outcome of any gender impact

assessments conducted in relation to the bill. If the consultation process is anything to go by, it is extremely unlikely this has taken place. The Victorian Greens echo the report's recommendation that if an assessment has not yet been conducted, the government should release its rationale.

The bill also seeks to limit support to workers who experience mental health injuries to 13 weeks of provisional payments, which only cover medical expenses. With provisional payments, WorkSafe only pays the scheduled fee. The injured worker must pay all fees up-front and be reimbursed down the track. Mental health injuries can take weeks, months or even years to effectively be treated. It can take weeks or months to simply access support, such as medical treatment, or to see a mental health specialist. Medication for mental health injuries can take weeks or months to start working and often requires trial and error. The effects of these changes will be to place an even greater strain on our already struggling mental health services, with people simply being forced to miss out on treatment and support.

The new requirement for injured workers to have to prove a whole-person impairment of more than 20 per cent in addition to having no work capacity on an ongoing basis to remain on the scheme for over 130 weeks is concerning. As for finding 4 of the inquiry, it is unclear what, if any, data or modelling was used by the government to arrive at this figure, nor is it clear just how many workers will be affected by this new requirement. No figures have been released. Let us hope in the conduct of the committee and debate process this afternoon some of that data will be released if it exists. Whole-person impairment is not a suitable benchmark, given different types of jobs have different requirements. The American Medical Association's guides used to determine whole-person impairment are problematic in that they measure the severity of impairment rather than disability. They were never intended for use in compensation for impairment. They use a whole-person impairment that accords higher priority to body regions that are deemed more important to functionality. They are overly complex and difficult to use, which can lead to inconsistent and inaccurate evaluations of impairment. In addition, the AMA guides do not consider the unique circumstances of each individual case, such as a patient's occupation, age and overall health. Consider the differences between a shoulder injury for a manual labourer over the age of 55 compared to an office worker in their 20s. This one-size-fits-all approach is going to result in injured workers being unable to work and unable to receive payments. Furthermore, under the changes injured workers can use only one injury – either mental or physical, not both, even if they are caused by the same incident. Despite being called a whole-person impairment test it will separate the mind from the body. We need to carefully consider what these changes will look like in practice and how they are going to affect everyday Victorian workers.

A witness to the inquiry spoke of a 33-year-old Victoria State Emergency Service worker, a worker of 14 years who had witnessed multiple traumatic events throughout his career. One day this worker was called to the scene of a car accident where he was confronted by an unimaginable scene, a child had been decapitated and another crushed to death. The witness told us that worker got diagnosed with PTSD and now regularly sees a psychiatrist, has suicidal thoughts and cannot leave the house. He is on medication and his mum had to move back into his home to look after his kids. The worker who gave his life to the service and to the state got a whole-person impairment test of 15 per cent. That is the worker who is going to be kicked off the scheme at 130 weeks. That is the worker we are talking about.

As well as ignoring all the evidence to the inquiry about the problems in this bill, the government are point-blank refusing to release the modelling they have undertaken on the impacts of the bill. They are telling us the reforms are necessary for the financial viability of the scheme but will not tell this Parliament or the public how much money they expect to save through these reforms. We know from the committee hearings there is a high estimate and a low estimate that the government is keeping secret. But what is even more damning is that they are refusing to make public how many workers will be impacted and how they will be impacted by these changes. The disdain and contempt for Victoria's public sector workforce is on clear display here. It is our view that no-one in this place

should even consider supporting this bill without the government releasing its modelling. I therefore move my reasoned amendment:

That all the words after ‘That’ be omitted and replaced with ‘the bill be withdrawn and not reintroduced until the government has publicly released all modelling undertaken on the financial and human impacts of the bill.’.

We all agree that the WorkCover system is in need of reform. It is evident that the current system is weighted against workers and designed to minimise claims and maximise profit. But limiting eligibility, stigmatising mental health and penalising workers to make up for the shortfall is not the solution. The system is broken. It is confusing and adversarial and often exacerbates a worker’s initial mental injury. Delays in payment are a common source of complaint by injured workers and service providers alike, and they cause considerable financial and psychological hardship. This view was echoed by injured workers, unions and other stakeholders at the inquiry.

The WorkCover system can work better and be fairer for people who need it. There have been a number of reviews and recommendations in relation to WorkCover in recent years, including a range of measures to improve the scheme. What is needed is a far broader look at WorkCover, with a focus on prevention, rehabilitation and the overall operation of the scheme, one that takes a consultative approach and that has the best interests of workers in mind and one that looks at how workplaces can be made safer, particularly the government’s own workplaces – our schools, our hospitals and the public service.

We need to look at how injured workers can get back to work sooner and how they can get treatment sooner without having to constantly jump through hoops. Instead, we have been presented with this unsophisticated, cost-shifting approach that will cut injured workers off the scheme and send them into the public health system, a system that is not funded or equipped to deal with them. The fact that the government tried to rush through these ill-conceived reforms without meaningful consultation with the health sector, the unions or injured worker groups strongly suggests that Labor itself knows that deep down this is a short-sighted, overly simplistic cost-shifting approach, and perhaps their absence from the chamber just confirms that for us today.

The Greens are not going to support a bill that restricts people who have suffered a mental injury at work from accessing WorkCover or throws them off the scheme despite being unable to work. These reforms proposed by the Labor government, the so-called ‘party for workers’ – and there are big quotation marks around that, especially after today – will only leave workers worse off. This bill comes on top of continued attacks by the Victorian Labor government on the rights of workers and on top of deliberately keeping wages low with its harsh public sector wages cap, cutting over 4000 public sector jobs in the last budget and undermining federal industrial relations reforms. This government is acting like a heartless insurance company instead of a responsible government that helps people who are injured in their workplace and prevents it from happening in the first place. Rather than working with the progressive crossbench to improve the WorkCover system, we have seen Labor choose to work with the anti-worker Liberal Party to pass anti-worker legislation. The Greens firmly oppose this bill and urge other parties to oppose it too.

Nick McGOWAN (North-Eastern Metropolitan) (16:24): It is with some loathing that I actually get up to speak today, which is perhaps not surprising to some of those present. If you stick around in politics long enough, you are going to see everything. Here we are today, and we see the Labor Party absolutely abandoning its base and absolutely taking a baseball bat to the workers of Victoria, starting off with nobbling them at their knees. Well done, Labor Party. Well done, government of Victoria. If that was your intention, you are about to have your dream come true. I can only hope that the workers of Victoria repay you in kind at the next election and put you last. I do not care who they put first so long as it is not you guys, because this is a disgusting, disgraceful act.

It is telling, Minister for Mental Health, that you are the only one here. It is telling that you have no other backbenchers, not a single person behind you, supporting –

Ingrid Stitt interjected.

Nick McGOWAN: You are not the champion of anything. If you were the champion of something, you would have stood up in caucus this morning and you would have defeated this disgusting bill. You did not do that. Neither you nor your faction did that. None of you had the guts to stand up for workers and actually get stuck into this bill. You can shake your head all you like, but I tell you what, when there were 100,000 people marching on the steps of Parliament back in 1992 – you might remember that.

Ingrid Stitt interjected.

Nick McGOWAN: You were there? Well, what hypocrisy. What disgraceful, disgusting hypocrisy. You want to sit in this chamber and tell us you were on the steps of this Parliament in 1992 protesting the Kennett government changes. What you are doing is worse than that, because after those exhibitions, as you know, the Kennett government actually changed the retrospectivity –

The ACTING PRESIDENT (Michael Galea): Mr McGowan, I ask you to direct your remarks through the Chair.

Nick McGOWAN: What an absolutely disgraceful admission. You want to sit here as a senior minister in this government and make such an appalling decision. I hope the unions, one of which you are a member of, do the same. I hope they all get back out there on the steps of Parliament and tell you, your colleagues and your entire caucus what they think of your disgusting attack on workers in Victoria.

Ryan Batchelor: On a point of order, Acting President, Mr McGowan is not directing his remarks through the Chair, which is probably only the first thing we could raise objection to in these comments. I will start with that.

Nick McGowan: On the point of order, Acting President, I was responding to an interjection, and as you know, and as is long-established practice in this place, when you have an interjection there is some certain leeway given to the person on their feet.

The ACTING PRESIDENT (Michael Galea): I uphold the point of order. Mr McGowan, please direct your remarks through the Chair and please be relevant to the bill.

Nick McGOWAN: I intend to be very relevant, so thank you for that. I appreciate the opportunity to return to my place. Teachers and police in Victoria should be disgusted with this bill. They should be disgusted by the fact that you are making it retrospective. As has been pointed out today by many of my colleagues right across the political spectrum, your actions will leave thousands of teachers and thousands of police officers who have lodged claims and whose claims have been accepted on the scrap heap. That is exactly what you are doing. You are throwing them onto the scrap heap with absolutely no regard whatsoever for their welfare.

If I hear another Labor minister in this place or the other place ever talk about mental health, I will laugh them out of the chamber – laugh them out of the Parliament. Mental health? You have got to be kidding me. You have lost any moral integrity, any moral right to ever stand up in any place, much less in public, and talk about moral fortitude and talk about mental health, because what you are doing today is an act of disgusting barbarism against workers in Victoria, and you know it. At least half of your caucus knows it as well. They have to sit there and listen to the rubbish that is being peddled by the leaders and by a minister who cannot be arsed doing all the proper work he should be doing to find better ways to come to a tangible solution. It is not the job of this opposition to do that for you. It is incompetence.

Ryan Batchelor: On a point of order, Acting President, I am just concerned about some of the language that Mr McGowan is using in his contribution. It may be unparliamentary.

The ACTING PRESIDENT (Michael Galea): Mr McGowan, I ask you to withdraw your unparliamentary language and to address all comments through the Chair.

Nick McGOWAN: For the sake of not wasting my time, I withdraw whichever comment was deemed to be offensive. I guess it is ‘arsed’, but there it is. I withdraw that comment, thank you very much.

Ryan Batchelor: On a point of order, Acting President, although I am new to this chamber, I do understand that withdrawals should be made absolutely and without qualification. I do not think that was the case.

The ACTING PRESIDENT (Michael Galea): Mr McGowan, I ask you to withdraw your comment without qualification.

Nick McGOWAN: I withdraw the comment unreservedly. But let us talk about what is unparliamentary, given that is the point of order. What is unparliamentary is making sure that we screw every Victorian worker out of their entitlements in the future. That is absolutely appalling. This is what this government is trying to do, make no mistake about that. Not only, as we have heard today in this chamber, are they mixing and playing with the rules to make sure that people cannot have claims and we can make sure that those people who have genuine health concerns and have genuine mental health problems do not even get a leg up – forget that – but those receiving claims will be cut off, absolutely cut out.

This is not a new problem. As I said a moment ago, it is not for this opposition to be providing the solutions to this incompetent government. That is clear. Time and time again the Liberal Party has had to step into the void – the last time it was left by the Cain–Kirner incompetent, despicable, hopeless governments. They left it unfunded, with unfunded liabilities. Do not ever forget that. Take a walk down memory lane. We had the Woodhouse report. That was in the dark old days. This is when it was all in development, workers compensation and so forth. Then we had the Harris inquiry. That was under the Hamer government. That was a good one too. I think at the time – the report was in 1977 – it stated that the provision of compensation was a social responsibility. That is a fair comment. Perhaps the Labor Party of today might want to give that comment some contemplation: a social responsibility – not a social abrogation or a social failure, which is clearly what they are trying to pursue in this disgusting, despicable bill. But that is okay. Let us move on and get beyond that.

Then we had Rob Jolly. I think some of you might remember Rob Jolly – even members opposite might remember Rob Jolly. Rob Jolly was part of the Cooney inquiry. Also included in that was Bill Landeryou. They tried to have some sort of night-time hearings to try and resolve the backlog because the workers compensation scheme back then had blown out to such proportions that they did not even consider the claims within 23 months. So not even compensation – we are talking about actually considering claims. So Rob Jolly had to get involved. He had to make all sorts of inquiries, because that is what they do. He was the Treasurer of this state, as some of you might remember – highly incompetent, but there it is.

In July 1985 this is what he said – this is the Labor Party; this is the Treasurer of the Labor Party in one of their prized governments back then, Cain–Kirner:

To do nothing would mean sentencing Victoria to economic stagnation and sentencing all employees in this State to a system which was designed to meet the needs of early industrialization.

It is quite haunting, isn’t it? It is like we are going – well, we are just repeating ourselves. This is their proposed changes back at that time, 1985:

A vote against the Bill is a vote against preparing Victoria for the 21st century. It is a vote against an equitable, just and humane society.

Oh, where is Rob Jolly now?

It is a vote in favour of the personal trauma that the present workers compensation system enforces.

Then we moved on from that. We had Lord Alfred Robens and his committee of inquiry. After that we had *The Next Step*. Remember, that was Cain's response to the Cooney inquiry – because the Cooney inquiry did not quite say what Cain and the rest of them wanted it to say. That was quite embarrassing, really, so they fudged that. They did some interim stuff and, lo and behold, really what that paved the way for was WorkCare Day. Do any of you remember WorkCare Day? It was on Sunday 1 September 1985. That was spectacular – this was Labor's relaunch of everything. Every time they are in government –

A member interjected.

Nick McGOWAN: Were you there? Well, kids got free tickets to tourist attractions. This is how excited they were by that little development – so the kids could go off to the zoo and have their free day to celebrate Victoria's WorkCare Day. I wonder whether the minister has got anything planned – maybe that is a great question for committee – to celebrate this new piece of draconian legislation. I know the teachers of Victoria will not be celebrating – no way.

That brings me to an important point, and I can see I am rapidly running out of time. Let us talk about teachers and police for a moment – those we trust most. Those are, we have to say in regard to teachers, predominantly female, and when we talk about police, they are those we trust to enforce our laws but also those who do all the sorts of things that we ourselves do not like to do. And yet, without question, without a doubt, as the Leader of the Greens has already said in this place, we have no visibility of what this is going to mean for those workers – none at all. It is not a surprise. None of us should be surprised that you are wanting to hide the detail, because the detail is disgusting. You should be ashamed of yourselves. I hope later on when you are all voting you will sit there with absolute shame and embarrassment, because that is what you deserve. I hope the union movement come back to the steps of Parliament. I hope they protest every day that you are in government for the remaining three years, which are starting now. I would like to think they will do that. I would like to encourage them. I would be happy to join them on the steps.

A member interjected.

Nick McGOWAN: Perhaps you would like to join us too, Minister. You can join us for the second time running in the last 20 years. That would be great to see. I mean, it is ironic that you have got a position of influence now and you are not using it. Anyway –

A member: They should be all the way down Swanston Street.

Nick McGOWAN: That is exactly right. But what this actually means is that having proven to the whole of Victoria that you are incompetent at being good employers, your sole solution to the problem is not to fix the way you are as an employer – 'No, no, we'll just cut them off', as many to my left have already said and observed today. That is your sole solution: 'We'll cut them off at both ends. We won't let them get into the system, and then when they are in the system we'll make sure we cut them off real quick smart.' So no matter way which way you cut it, there is more compassion in making minced meat than there is for Victorian workers under the Labor Party in this state. That is how drastically despicable you have all become – drastically despicable. More compassion for minced meat than the workers of Victoria – that is the modern Labor Party in Victoria. I hope that the voters of this state leave in their tens of thousands. That would be the appropriate thing to do from my perspective.

It is fair to say that in the days ahead I hope that the community actually do make very clear what they think of these changes, because these changes will impact everyone. We all sit in this place and pretend like these things do not matter in some respects – 'It'll never impact us or those we love or care about.' But the truth is, as the truth comes to light we will find out more about who it is you are actually targeting, who it is you think is not worthy of ongoing compensation. Notwithstanding that their claim has been accepted and notwithstanding that they have had a mental health injury, somehow you think they are not worthy of your continued support. They are not worthy of your continued support because you have grossly mismanaged this. There are all the reports I have already listed, plus others I have

not even gone into today, because my colleagues have already mentioned those ad infinitum – not just months, not just weeks but for years. Then on top of that there is the complete lack of preparedness for this government to actually engage in any genuine consultation whatsoever – to not even seek to engage in any constructive discussions with any of the crossbench about how we might do things properly.

No-one has even spoken today in this chamber, I do not think, and I apologise if somebody has, about how we actually stop crap employers being crap employers, and the number one crap employer in Victoria is the government of Victoria. If you were not injuring them in the first place, you would not have to compensate them. The cost would be zero. So why are we not talking about that? Why are we not talking about how we can prevent teachers from being injured so they can stay in the classroom and teach our kids, because we happen to have a teacher shortage at the moment. No-one is concerned about that. I do not hear anyone talking about that. I would love to see the caucus talk about that. Perhaps they could talk about that the next time they meet and back such despicable acts. There is more spine in a bag of prawns, I tell you, than within the Labor Party caucus at the moment. No-one has got the spine to stand up for anything: invertebrates – clearly no spine whatsoever.

If you are going to come into this chamber and be part of the union for years and go to all these marches and do all this flag-waving and all this sort of tokenistic, wokenistic, garbage sort of talking, well, why don't you back it with your own actions and back it up with legislation that matches what you –

Members interjecting.

Nick McGOWAN: Sorry, Mr Batchelor, you have something to add? You can shake your head, and so you should. You should shake your head in shame at what your party is doing. You should have the courage to cross the floor on your own party. I would appreciate that. There are many others probably there with you as well who would like to cross the floor. I would encourage you all to cross the floor and show your new Premier what you really think of this disgusting piece of legislation. I encourage you to do that. There are a number of you, I am sure, who are actually very reasoned in your thoughts and probably think that workers in Victoria should come first. God forbid you might think that. I mean, you might have to find yourselves a new party. There is one party here you can join. The Greens might take you if they are feeling welcoming towards you. The Legalise Cannabis Party – have a good word with them. David is here. He might even consider putting you in there as well. Georgie – I do not know. After what she said today, I think there is no chance for you there. But we will keep an open mind if you decide you are going to turn your back on the stupidity that is the modern Victorian Liberal Party. You know, the last generation of Labor leaders would turn their heads in shame at what you are doing and what you have done.

Members interjecting.

Nick McGOWAN: What's that?

A member: You said 'Liberal'.

Nick McGOWAN: Liberal? Labor. I unreservedly take that back.

A member: It is on the record now.

Nick McGOWAN: There is too much on the record. It does not matter. Just keep going through, as they say. What is clear is not very much except to say that this is a disgusting, deplorable act. And while I laugh at my own stupidity, we should countenance from time to time that what is not stupid and what is not laughable is that the workers of this state will be much worse off for what is about to occur. Those who need to take responsibility for that are the Victorian Labor Party. You should be rightly ashamed of yourselves. This is probably the darkest day in your party's history. The fact is the caucus was unable to stand up to a minister who had put little thought and even less effort into finding a productive way through this impasse, and the impasse is the economic failure of the program caused by the Labor Party of Victoria. The fact that no-one could actually muster up the courage to do that,

that they did not have enough spine to do that, is an absolute indictment on this state, it is an indictment on this Parliament and it is going to stand in time as an indictment upon all of us.

Evan MULHOLLAND (Northern Metropolitan) (16:39): I am really excited to speak on this bill, having been part of the Economy and Infrastructure Committee inquiry into it. I seem to remember a lot of comments from those opposite and a lot of comments from the minister disagreeing with our successful bid to move this to a parliamentary inquiry, saying that premiums would go up, saying that we had to pass it by Christmas. It had to go to an inquiry when we knew there were a number of flawed parts of the bill. I am very glad that we were able to work on that over the summer holidays. I want to again express my thanks to Michael Baker and the staff of the Economy and Infrastructure Committee as well as the chair Ms Purcell for an incredible amount of work. I want to thank my colleagues David Davis, the deputy chair, and Bev McArthur, Gaelle Broad and Dr Heath, who put in an incredible amount of work as well.

I was listening as Dr Ratnam was talking about workers in her electorate, which also happens to be my electorate. I also am very concerned for workers in my electorate of Northern Metropolitan Region, and I will just give you one of hundreds of examples that were sent to me by people in my electorate. This person says:

I've been employing people in small business in Pascoe Vale and Coburg since 1990.

... (2022/23) the Workcover bill for our business, Atlas Steel Fabrication, was ... \$35,000.

This year the premium has increased nearly 50% to \$52,000 ...

Atlas Steel Fabrication employs about 16 people, 5 family members and 11 staff.

How does the Vic Gov think small businesses can continue when, among other things, they double their Workcover bill.

Add to that, the payroll tax and the land tax we have to pay, and we are almost at the point of closing our business down and selling up.

It would be a complete betrayal of those workers that work for Atlas Steel Fabrication, those 16 workers, if this Parliament were just to sit here and do nothing or, as Dr Ratnam suggests, withdraw the bill or try to obfuscate it with further amendments.

I am sure many other members of this place have received countless inquiries from small businesses and manufacturers. I know the mighty manufacturers of the northern suburbs, particularly many in Campbellfield and Broadmeadows, have reached out to me about their WorkCover bills. It is not flash getting a 50 per cent increase when you are an employer. I know that employers a lot of the time get a bad rap. They do get rapped over the knuckles by the union movement and their friends in the media. But at the end of the day many of these small and medium-sized businesses have mortgaged themselves to the hilt to be able to employ people, to give people a go in their business and to contribute to the Victorian economy. It is a story in the northern suburbs that people do that – in Campbellfield, in Broadmeadows, in Greenvale, in Mickleham. Many small businesses are struggling with their WorkCover premiums, and combined with that is land tax and payroll tax. So many businesses have contacted me with pretty heartbreaking stories about not being able to afford their land tax bill this year, because the State Revenue Office sent out those notices. I know there have been many constituents in my colleagues' electorates as well, like Mr McCracken's, Mr Welch's and Ms Lovell's, that have written in about their land tax increases.

I think it is responsible and it shows signs of being responsible parliamentarians to work together on this. Yes, we thought as this bill came through last year that it was somewhat flawed. But it is up to responsible and mature politicians and members of Parliament, who are elected to do a job, to make things better for our constituents. Throughout this whole process, whether it was last year when the bill came forward, whether it was having to miss a few play dates planned with my kids to come in for WorkCover bill inquiry hearings –

Jaclyn Symes: You just said that for your wife's benefit, didn't you?

Evan MULHOLLAND: Perhaps that is true. It is up to us to represent people we serve, and I represent many businesses, just like Atlas Steel Fabrication in Coburg and Pascoe Vale, who are reliant on us to do the right thing.

I am very pleased with and grateful to our Shadow Minister for WorkCover and the TAC Cindy McLeish for the body of work that she has done, the enormous amount of work that she has done, working sensibly with the minister to secure a number of changes that we wanted to see. This follows years of mismanagement by Labor. They are right to say that WorkCover is fundamentally broken; they did break it. We have consulted with employers, employees, allied health representatives and return-to-work specialists and secured the following changes. We have secured a WorkCover premium freeze at the current average of 1.8 per cent of remuneration for the 2024–25 financial year. That is a great relief for businesses in my electorate – businesses that employ people in places like Pascoe Vale and Coburg and in places like Campbellfield and Broadmeadows. I know some that I have already spoken to that are very appreciative that we have managed to secure this freeze for them. It is just that minor relief for them that they are not going to be compounded with additional costs. Many of them are already feeling the increased land tax bills that are coming in from the State Revenue Office thanks to the State Taxation Acts and Other Acts Amendment Bill 2023 that was passed. This just makes it easier for them.

We have secured an independent inquiry to review the impact of these new reforms to WorkCover, which will report back to Parliament by the end of this year, and established a return-to-work advisory committee as a subcommittee of the existing WorkCover advisory committee, drawing from the expanded membership and chaired by the WorkSafe Victoria board chairperson. They will also receive clarity around the structure and objectives of Return to Work Victoria, which will provide greater support to injured workers, so it seems to have progressed a little bit from a media release or a page on a website. We have also secured an additional consultation process with core business, union and health stakeholders to take place next week.

Fundamentally we believe businesses – the employers, who are employing workers across our state – should not be the ones to pay for Labor’s mismanagement of the WorkCover scheme. As I said, the Liberals and Nationals have secured that critical freeze to WorkCover premiums – much-needed financial relief to businesses across the state who could really do with that relief. Listening to some of the commentary in this place, it is often easy to describe businesses and these organisations and companies that do employ people as some sort of predatory body, some sort of non-existent body. But I know this from growing up in a small business family: behind a lot of these small businesses is someone, or a family, that is mortgaged to the hilt to keep the business going. My colleague Mr Welch knows this. It is a family; it is also a workforce. We know that small business employs the majority of workers. About 55 per cent of workers are employed by a small business. It is very, very easy and I almost think cowardly to hype up everything as anti worker and pro big business. Big business is very low on my priority list, but those small and medium family businesses are so important to our state and are so important to our economy. They are the backbone of our economy. They are employing people off their own bats and giving people a start in life, starting new businesses in our economy, and they are so important. I am so glad that we have been able to offer some sort of relief.

I have to say, I got a bit worried over the weekend when I saw an article appear in the *Age* headed ‘Allan faces caucus backlash over proposed WorkCover changes’. It says:

Members of Allan’s own Socialist Left faction are among those angry with cabinet’s decision to ... “ram through” the changes, with one MP telling *The Age* the issue was going to “blow up”.

I am glad they did not. It continues:

... Victorian Trades Hall secretary Luke Hilakari wrote to all 70 Labor MPs urging them to lobby Pearson to ditch the draft laws ...

...

Sources ... said angry MPs were motivated to challenge the proposal after hearing that Pearson was on the cusp of announcing a deal with the Coalition to pass the long-anticipated changes through parliament.

...

One ... MP from Allan's own Socialist Left faction, speaking to *The Age* on the condition of anonymity ... said ministers were "panicking" ahead of the meeting, with some MPs and union officials preparing to make threats to cabinet members over ... future support.

...

"Jacinta [Allan] doesn't have the same power as Daniel [Andrews]. You've got a caucus that has never seen this."

...

... That has rattled caucus members ...

I am glad there are some people who stood up, and I want to thank for their previous contributions people like Jacinta Ermacora, who said that:

If the changes are delayed much longer, the government will simply have no choice but to increase premiums to an average of between 2.4 to 2.5 per cent of remuneration.

I am glad that did not happen. I also want to thank people like Ryan Batchelor, who said last year:

We do not want delay, and we do not want business to face the uncertainty of potentially quite significant premium increases as a result of this Parliament's inability to pass legislation because of the obfuscation that we are seeing from certain members of this place ...

I am really, really glad that we did not see those premium increases as a result of obfuscation and delay, and I am really glad that we were able to work quite constructively. We were very critical of the minister, and we were very critical of the government for breaking the scheme. I mean, we have got the Finity report – it was tabled in the report on the bill – and the government has known about this for a long time. As my colleague Mr Welch said, we have could have been here quite a long time ago talking about this and fixing it up.

I want to thank the minister for speaking to my Liberal and National colleagues, and I really want to thank Cindy McLeish. She has done a huge amount of work steering the passage of this bill. I am looking forward to seeing that review made public by the end of the year, particularly considering a separate scheme arrangement for public and private sectors. We would like to see perhaps premium discounts for good employers as well, but I think this is a sign of the Parliament working together and doing the right thing by small businesses and family-owned businesses in this state.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (16:54): I will take the opportunity to run through a few things and certainly thank contributors to the bill today. I think, as many people have reflected, there is no joy in being here today. It has been a challenging reform to develop to bring to the Parliament, and I know a lot of people spent their time over the summer mulling over the challenges and hoping that they could come up with solutions that looked a bit different to the ones before us today. Unfortunately, no-one has come up with better solutions than what we are proposing to do today.

As I said, it is challenging. I know that people have had a lot of opportunity to speak to people they know, small businesses, unions, family and friends who have had experience in the field, and I know that that has been hard. I think a lot of people have reflected. I had the opportunity to listen to quite a few people, and I came in to hear Mr Mulholland's words when he was giving a few mixed views from his side. In terms of the views of Mr Mulholland, I think I certainly agree that it is incumbent upon government and indeed this Parliament to make tough decisions when it is required. The reality is, and I think a lot of people have articulated this, that without the changes the current WorkCover scheme will cease to be financially viable, and it is not just about the finances here; it is about people and what it would mean to people if the scheme was no longer able to function. It was the Cain government that created WorkCover, and it is the Allan Labor government who will ensure it has a

future. The current scheme is indisputably costing a bomb, and it is not working for all the workers that it needs to. In fact it is making many injured workers sicker.

We can do better and we must do better. That is why we have the bill today. It is designed to help Victorians get healthy and back to work after injury and to build a modern WorkCover scheme that supports Victorian workers and also businesses. When the scheme started in 1986, mental health claims – and I think a few people have mentioned this, and they are pretty damning stats – were at 2 per cent of the scheme. Today they represent 16 per cent of new claims and around 50 per cent of costs to the scheme, and I suspect it is much higher than that because those are taken from the annual report in 2022. But we do know that mental health claims will represent 30 per cent of all new claims by 2030, rendering the scheme unviable unless we make some changes, which effectively is what we are here today to do.

The government's priority is about making necessary reform so it is contemporary, fit for purpose and can continue to support Victorian workers into the future. As I said, therein lies the reason that we are here with this bill – to do things differently and to do things better. Some of the elements are to ensure that there is more consistency and rigour in diagnosing mental illness injuries. We are introducing a definition of 'mental injury' and making it clear that injury must predominantly arise out of a worker's employment to be compensable. Workers who experience stress and burnout who cannot receive weekly payments will importantly still have access to 13 weeks of provisional payments to support their treatment and return to work. As many people have mentioned, frontline workers and workers who are routinely exposed to traumatic events at work will continue to be eligible for compensation, as is appropriate. To align with other states and territories, we are updating the test for workers receiving weekly payments beyond 2½ years by introducing a whole-person impairment test of more than 20 per cent to more objectively measure the degree of physical and mental impairment. To ensure fairness and consistency in decision-making on WorkCover claims, all initial eligibility decisions must be determined by the courts in the event conciliation is not successful. We are improving information sharing across WorkSafe Victoria's health and safety and insurance business units to allow for more efficient and targeted allocation of resources, with the aim of protecting workers.

The reforms will come into effect from 31 March if the bill passes the Parliament today. We have committed to setting up an independent inquiry which will commence within three months. I know that this was a topic of deliberation for the committee, and much of the establishment of that inquiry will draw on the recommendations and suggestions that that parliamentary committee formed in their report. Indeed I know many of those members spoke directly with the minister once the report was tabled. The inquiry is in addition to the statutory review, which is part of the legislation, which will take place in 2027 to review the effect of the changes made by this bill, and that is the operational and financial impacts of the changes to ensure the scheme is working as it should and that workers are getting the support they need.

Alongside reforms to the scheme, the government is establishing Return to Work Victoria. We know that when an injury occurs in a workers compensation setting the chance of a poor outcome is about four times worse than if the same condition happened outside the compensation scheme. So obviously workers are better off when injuries at work are prevented or if, in the case they are injured, they return to productive work in a safe and supportive environment. Return to Work Victoria will bring a renewed focus on supporting more workers to return to work, because we know that work plays an important role in rehabilitation and promoting better recovery and has overall benefits for workers, their families and indeed the community. Return to Work Victoria will be established within WorkSafe, centralising the provision and oversight of existing return-to-work initiatives and really putting an energised focus on the important pursuit of ensuring people can return to work.

I think that this is an exciting opportunity to reset and make sure that people are given the dedicated and targeted support to do what is in their best interest, and that is return to work, not just be forgotten about and remain on WorkCover. I know people that have been in the long tail of WorkCover, and of the people that I know that are in that long tail, none of them want to be there, so I am excited about

the opportunities that a dedicated unit of Return to Work Victoria has for building on people's experiences. All of the people that have contributed to this bill, a lot of people with lived experiences, have got a lot of valuable input to put into the creation of that body. Work is underway now, and return-to-work initiatives will be operational alongside reforms to the WorkCover scheme.

I do want to thank the Economy and Infrastructure Committee for its work on the inquiry and certainly welcome their report. The government is still considering the entirety of that report, but as you will appreciate it has formed a lot of the thinking in relation to the progress of this bill. What the committee process did show is that it is vital for us to have a workable, modern and agile workers compensation scheme in Victoria, but it also showed how difficult the current situation is that we are facing. A lot of people have said they do not like this bill, but very few people have come up with a better option that is going to bring about the results we need to ensure that this scheme does what it does, and that is protect workers and ensure that there is a safety net for them and that there is a system in place to ultimately support return to work or indeed support injured workers who cannot return to work.

The committee heard from witnesses that the types of workplace hazards and injuries experienced by workers are certainly vastly different to what they have been in the past. It is important that we always continue to listen to experts, unions, stakeholders and, as I have said, people with lived experience, and we should be innovative in how we prevent and respond to workplace injuries. That is why we will also be implementing the committee's recommendation that the bill be amended to create a return-to-work advisory committee, which I will shortly talk to when I circulate my amendments. It is important that the function of Return to Work Victoria is driven by best practice, particularly because we want to identify early intervention and tailored support for injured workers.

I am aware there has been a lot of commentary around the engagement undertaken on this bill. I do want to put on the record that since February 2023 we have proactively been engaging with a number of stakeholders – a variety of unions, Trades Hall, businesses and lawyers. We have spoken to them all about the problems facing the scheme and indeed the proposed reforms. Throughout 2023 we consulted on a regular basis with the people I have mentioned, as well as Australian Industry Group, the Victorian Chamber of Commerce and Industry and the Australian Lawyers Alliance. Prior to the bill's introduction we broadened the consultation to additional health, legal and business stakeholders. We have listened to stakeholder feedback. There have been changes to the response. We are certainly aware that not everybody supports the bill, but everybody has had an opportunity to give their views in relation to it. We are of the view that the reforms strike the right balance and ensure that the WorkCover scheme is here to support workers into the future.

As I mentioned just before, the committee inquiry made recommendation 17, that the bill be amended to create a return-to-work advisory committee accountable to the board of WorkSafe for the coordination of return-to-work initiatives at WorkSafe. I will take the opportunity to circulate my house amendments, which give effect to that commitment as well as fixing some minor clerical errors, which I do not think anyone will have a problem with.

Amendments circulated pursuant to standing orders.

Jaclyn SYMES: The return-to-work advisory committee will draw on the wideranging experience of the current workplace advisory committee, but it will include people that have experience with accident compensation and the provision of hospital services and medical services as well as unions and employer groups. I know there have been a lot of questions from people about who will be on the advisory committee, and I want to assure people that those that are interested will be represented, as I have outlined. It is a committee that is going to provide advice to the WorkSafe board on promoting the occupational rehabilitation and early return to work of injured workers and also the establishment, administration and operation of occupational rehabilitation services, vocational re-education facilities and programs available to injured workers. The chairperson of the WorkSafe board will chair the return-to-work advisory committee, and this is consistent with existing practices. As I said, there are

also some minor amendments that correct words in relation to clause 5 and clause 12, which are pretty mundane fix ups.

Victorian workers deserve a modern WorkCover scheme that is fair and that is fit for purpose. We want every Victorian worker to have the dignity of safe and meaningful work. The reforms strike the right balance. WorkCover will always be there for workers who need it. This will ensure the scheme's long-term viability. Months of consultation with stakeholders from the beginning of 2023 is how we have formed the reforms in this bill. As I have said, the WorkCover scheme was designed by Labor, and it is certainly our intention as the present Labor government to ensure that we can have a modern scheme now and into the future, because workers rely on it.

Council divided on amendment:

Ayes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Noes (26): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Amendment negatived.

House divided on motion:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 (17:22)

David DAVIS: I just want to, in the first instance, place on record again my thanks to the many members of the committee for the work that the committee did, but in follow-up I have written to the Leader of the Government with a set of questions, many of which she has responded to in the third-reading process. But what I would like to do, with the leave of the committee, is just respond to the recommendations and the findings and so forth of the committee that I put in the letter to Minister Symes a couple of days ago, just to expedite the process in a reasonable way. Unless, Minister, you want to just run down that list and respond to them item by item – is that the easiest way? Do you want to just run through it, or shall I ask you one by one – is that okay?

Jaclyn SYMES: Yes, let us do that.

David DAVIS: You will see that recommendation 1 of the report asks for consultation. In a sense you have acquitted some of that, but I just thought you might want to respond directly to the request for consultation by the committee.

Jaclyn SYMES: Just in terms of consultation?

David DAVIS: Yes.

Jaclyn SYMES: Mr Davis, as you did indicate, I ran through a number of organisations that the government has been in ongoing consultation with for some time. Obviously as the bill has been progressed through the parliamentary committee, it has continued to be subject to –

David Ettershank: On a point of order, Deputy President, just for the fullness of discussion and suchlike, is it possible that we could know what the question is that is being answered?

Jaclyn SYMES: It was about consultation.

David Ettershank: Yes, but Mr Davis has talked about correspondence, that there is a particular question that has been put to the government. I think it would be really informative if we knew what the question is rather than just that.

The DEPUTY PRESIDENT: Mr Davis, perhaps you could read out the question that you included in your correspondence.

David DAVIS: I asked the minister: have you now consulted with stakeholders, pursuant to recommendation 1, and will you table a consultation report?

Jaclyn SYMES: Mr Davis, since February 2023 the government has been proactively engaged with unions, businesses and lawyers on the problems that the scheme has faced as well as the proposed reforms. Trades Hall, union affiliates, Australian Industry Group, Victorian Chamber of Commerce and Industry and the Australian Lawyers Alliance are the main players that we have been engaged in consultation with. Obviously we have had a lot of engagement with members of all persuasions within the Parliament in relation to this bill. Prior to the bill's introduction we broadened the consultation to additional health, legal and business stakeholders, and a lot of that feedback has resulted in changes to the bill. It will be our intention to continue to consult once this bill, hopefully, passes the Parliament today and becomes something that we will be working on not just in terms of the reforms that come about as a result of the bill and what will become the act but obviously when we have an advisory committee to establish. When we have the new Return to Work Victoria, that will continue to involve stakeholders' views as they evolve.

David DAVIS: The second question I asked was: will you establish an independent inquiry by an expert panel into the operation and viability of the WorkCover scheme within three months, and this is pursuant to recommendation 2 of the inquiry? There are some points about this, in particular obtaining the agreement of employee and employer organisations before the appointment of reviewers and to publicly report on the outcome of the inquiry within 12 months. And – I think you partially answered this – specifically there are a series of recommendations that refer to the expert inquiry, the independent inquiry, and I would be interested to know which of those are picked up in the terms of reference.

Jaclyn SYMES: Mr Davis, yes, the government has committed to an independent inquiry, and we will draw on the report in relation to finalising the terms of reference and will certainly engage with stakeholders in relation to membership.

David DAVIS: The third question was: will you release the Occupational Health and Safety Amendment (Psychological Health) Regulations, pursuant to recommendation 3?

Jaclyn SYMES: Mr Davis, my understanding is that an exposure draft will be available, and that will then draw on whether any further information needs to be provided before those are finalised.

Mr Davis, I can only reiterate our commitment to that. I cannot be specific on the timing right now, but we will continue to consult in relation to that as well.

David DAVIS: I think question 4 you have largely acquitted. It was: have you undertaken a detailed and thorough consultation process focused specifically on the bill, and there was a list of groups pursuant to recommendation 4? I will move on from that. Five: have you consulted with peak bodies listed in recommendation 5 and other relevant stakeholders in relation to the proposed mental health injury amendments? And pursuant to recommendation 6, has the consultation included the definition of ‘mental injury’ and the appropriateness of the use of the word ‘significant’?

Jaclyn SYMES: There has been consultation, and obviously the bill has been available for some time, so the content of the bill has certainly been the topic of many conversations. WorkSafe Victoria will continue to consult with health stakeholders in relation to the specifics of what you have just raised.

David DAVIS: The sixth question was: have you or will you release the outcome of any gender impact assessments conducted in relation to the bill pursuant to recommendation 9?

Jaclyn SYMES: Mr Davis, I am advised that the department have undertaken a gender impact assessment of the reforms and that the overall impact was found to be neutral.

David DAVIS: So does that mean it will be released?

Jaclyn SYMES: Mr Davis, I am sure that I can pass on that request to the minister, but as you would appreciate it is not specifically part of the bill. I have got advice that the assessment was undertaken and the impact was found to be neutral, and I will certainly pass on your interest in any further material in relation to that assessment to the minister.

David DAVIS: I think the chamber will look forward to seeing that. Question 7 was: pursuant to recommendation 11 will you table in Parliament or otherwise get to Parliament an explanation of how the government determined the 20 per cent threshold for the assessment of the whole-person impairment (WPI), including modelling? I note that the Greens sought that modelling with their reasoned amendment – or data used to assist with the decision-making.

Jaclyn SYMES: Just in relation to the whole-person impairment test, this will provide a more consistent and objective basis upon which to assess ongoing eligibility for weekly benefits. It would mean Victoria moves to a similar threshold to New South Wales with the whole-person impairment test of more than 20 per cent. It is, as I indicated in my summing-up, more aligned to other jurisdictions and again this will obviously be something that I know the review will look at and the advisory body will have some views on as well. But in relation to any further information, I do not have anything to table. I know that there have been conversations around modelling and the like. I would put on record there are a number of variables that impact financial modelling, and any current projections that we were able to provide would be speculative and would depend on the impact of the 2023–24 premium increases over time and market fluctuations.

Just pre-empting some of the conversation that the Greens were interested in in relation to the number of people, at the end of the day we want more people back to work. One of the purposes of these reforms is to ensure that we have a dedicated unit that is designed to ensure people are supported back to work, but these reforms are also about putting more obligation on employers to deal with issues such as mental injury or stress and the like. Rather than directing people to make a WorkCover claim, how about we deal with it in the workplace? That is going to be a good outcome for many people that are having troubles at work or indeed need some medical attention. We know that many people that end up with a WorkCover claim can end up in a WorkCover scheme and in many instances are not able to return to work even if they wanted to because they were not able to deal with the issues early on. We think that there will be less people than would ordinarily have ended up in the long tail, because there is an obligation upon not only the new body of Return to Work Victoria but also broader employers to assist workers to get the help they need. One of the best therapies is ensuring that they remain in work or are aided to return to work as soon as possible.

David DAVIS: I wholeheartedly agree with the sentiment there. Notwithstanding that, I do not think it is beyond the government's capacity to include that modelling and data and make that available to the chamber. In that context I would ask if there is an estimate of the number of people currently on WorkCover whose injuries exceed a 20 per cent whole-person impairment and whose injuries do not exceed a 20 per cent whole-person impairment, including how many have not exceeded the second entitlement period. I appreciate you may not have them all today, but I think in good faith the provision of those numbers would provide a baseline to enable us to assess steps into the future.

Jaclyn SYMES: Mr Davis, I think what I would say in response to that is no, I do not have any modelling to table. As you would appreciate, I do not have that advice, but I think there is a lot of attention on this reform, as there should be. So we are going to want to know how successful Return to Work Victoria is, how many people are making claims and the like, and I think because of the oversight and because of the reviews that we have committed to to facilitate these reforms, more of that information will become available as the reforms become embedded.

David DAVIS: I think the government could do a little better there and actually provide that information, and it might be that those questions go on notice. The eighth question: will you introduce discounts for employers demonstrating strong injury prevention and return-to-work arrangements pursuant to recommendation 3 within our minority report?

Jaclyn SYMES: I am not in a position to provide a commitment in relation to that. The report will continue to be considered by government and a response provided.

David DAVIS: And I ask: in terms of the need to commission an audit of the performance of the Victorian public sector's workplace prevention and early intervention programs within the next 12 months, pursuant to recommendation 8 within the minority report, will you commission such an approach?

Jaclyn SYMES: Again, Mr Davis, the minority report and the recommendations will be considered by the minister and government more broadly in relation to providing a response to you at a later date.

Samantha RATNAM: Characterising these reforms as 'modernisation' is grossly misleading, to say the least. Under the proposed reforms, mental health will be stigmatised and a large cohort of workers who suffer from a mental injury will likely have their claims denied. These reforms are going to damage a mental health workforce that is already stretched, stressed and close to burnout, and ironically, they will increase demand on the mental health system because people will have no support elsewhere. What do you anticipate will happen to the vast number of workers suffering from stress or burnout as a result of their work conditions who will be precluded from lodging a claim under these proposed changes?

Jaclyn SYMES: Dr Ratnam, I would refer you to the body of Return to Work Victoria. I have great optimism that an organisation or a unit that is going to be focused on these important issues of supporting workers is a new opportunity to ensure that people do not just end up on what many would describe as a WorkCover scrap heap. This is ensuring that rather than just putting in a claim and going off on WorkCover, there is an obligation for an organisation – a conversation with employers to ensure that we can do better by these people and help them be retained in work, retrained for other work and given the support to make the decisions that are in their best interests, rather than just going into a system which we know is not making people better.

Samantha RATNAM: In your response you alluded to a worker accessing the system, so Return to Work Victoria would then be able to intervene to support that worker, but we are talking about workers who will not be able to access the scheme because stress and burnout will preclude them from being able to access the scheme. So what does your government anticipate will happen to these vast numbers of workers who are suffering from stress or burnout as a result of their work conditions who will be precluded from lodging a claim and therefore entering the system at any starting point? They are totally excluded, so what is going to happen to all these workers in Victoria?

Jaclyn SYMES: In response, all workers who make a mental injury health claim, including those that have stress-related claims, will continue to have access to provisional payments for psychosocial support for 13 weeks, regardless of whether the claim is ultimately accepted. Provisional payments for mental injuries can cover costs of GPs to develop action plans to support recovery and include payments for psychologists, counsellors, psychiatrists, costs of medication and even travel to treatment and services. It includes workers having facilitated discussions conducted by occupational rehabilitation providers and help for workers and employers to identify and address barriers to returning to work. Further psychological supports will be delivered through Return to Work Victoria.

This is an opportunity for everyone to go about achieving better outcomes for workers and not just relying on a system that has demonstrated that a lot of people do not get good outcomes. A lot of people end up in the WorkCover system without being able to return to work and indeed become sicker, particularly when it relates to mental injury issues or mental health issues. This is an opportunity to ensure that employers are given an opportunity to do better, to avoid injury and to support workers with mental health challenges, mental injuries and disputes within the workplace so that things are dealt with. It is incumbent on them and a good business decision to actually be better and do better at this.

I also make reference to this government's commitment to mental health. We have had a royal commission and we have programs to encourage more people into the workforce, so there are a lot of complementary reforms that the government has that will benefit all people but particularly workers who require health support for mental health or mental injury.

Sarah MANSFIELD: I am just curious to understand how the proposed changes will make any difference to what you describe as 'ending up on the WorkCover scrap heap'. What you have outlined is that people who experience stress and burnout will have provisional payments for 13 weeks and then they will receive no further financial support or payments. I am curious as to how that makes this better than what currently exists.

Jaclyn SYMES: We are straying very much outside the bill.

Members interjecting.

Jaclyn SYMES: Well, you are asking for my opinion, which is not the purpose of a committee stage. But returning to work is fundamentally better for the worker; I do not think anyone would disagree with that. Actually, tell me if you do disagree with that, because that would facilitate my conversation with you a little bit better. It is better for workers to return to work. Do you agree with that premise?

Sarah MANSFIELD: Yes, I do not think anyone in here disputes that it is better for workers to get back to work. But what you are saying is that this bill is designed to facilitate that by cutting off payments at 13 weeks for people experiencing stress and burnout, and that is the extent of support that they will receive as a result of these changes. I am just trying to understand how this is better than what currently exists. You used the term 'ending up on the WorkCover scrap heap'.

Jaclyn SYMES: I said some people use that term.

Sarah MANSFIELD: Some people – well, you described that. I am curious to understand how the changes to mental injury definitions and eligibility improve that situation for workers.

Jaclyn SYMES: Dr Mansfield, we want people to return to work. We think that this is improved with early intervention. It is why we are establishing Return to Work Victoria. We want them to really put some grunt behind innovation, initiatives and programs that ensure people can return to work. I guess the issue that we are not addressing by your questions is that if we do not make changes, there will be no system, and that would be worse for all injured workers. So you cannot really present me an argument saying, 'Well, do nothing and it's better,' because if we do nothing, there is nothing left.

David ETTERS HANK: Could I just get a clarification from the Attorney-General, please? Attorney-General, you said that workers ‘will receive’ 13 weeks of provisional payment. Now, of course that is not what the bill says – the bill says ‘may receive’ – so I am wondering if you could just clarify that for me.

Jaclyn SYMES: I actually read out exactly what is in front of me, and I said, ‘all workers who make a mental injury claim ... will continue to have access to’.

Samantha RATNAM: Just to clarify even further, we are talking here particularly about stress and burnout that we understand will be excluded from claims of mental injury, so I just want to clarify: will stress and burnout be considered compliant with your definitions of mental injury?

Jaclyn SYMES: Yes. It is in the bill, Dr Ratnam. All workers who make a mental health claim, including stress-related claims, will continue to have access to provisional payments for psychosocial support for 13 weeks.

Samantha RATNAM: I might come back to that questioning at a later point. My next question, Minister, is: how many workers does the government anticipate will be locked out of the scheme under these new requirements?

Jaclyn SYMES: I responded to this question through Mr Davis’s line of questioning in relation to the provision of modelling, and it is not something that I have to hand. As I said, it would be purely speculative in any event.

Samantha RATNAM: Further to that point, Minister, if the modelling is speculative, did cabinet make the decision to support these reforms without knowing what the impact would be?

Jaclyn SYMES: Dr Ratnam, I will answer that by saying, without divulging cabinet deliberations, that this has certainly been well canvassed through a variety of government consultations. I am not at liberty to disclose to you what is and is not said in the cabinet room.

Samantha RATNAM: I was not asking you to divulge cabinet-in-confidence discussions. However, given that you have indicated to this committee so far in response to questions of what modelling of the impact on workers was done and exists – and whether it could be furnished to this committee – that it is speculative, my question is: did the government make the decision to support these reforms with speculative modelling? And I would like to understand what speculative modelling is.

Jaclyn SYMES: I am not in a position to detail the policy development that government undertakes in relation to a bill. What I will revisit is that we received advice from the department, we received advice from WorkSafe and, as I have outlined, there has been a lot of consultation with a variety of stakeholders in relation to the development of this bill.

Samantha RATNAM: My question actually was not about the advice that you had received, it was about the modelling that might have been undertaken and if any modelling on the impact on workers exists. You have suggested that the modelling is speculative. My question was: did the government make the decision to support these reforms based on speculative modelling, and what is speculative modelling? Does the modelling exist or not?

Jaclyn SYMES: Dr Ratnam, no, the government did not form its view on this bill based on any specific speculative modelling. What we did was undertake extensive consultation, receive advice from the department and also advice from WorkSafe Victoria. The bill has been amended along the way in relation to consultation and responding to people’s issues. There are lots of things that go into the development of legislation, and I think I have answered your question.

Georgie PURCELL: Attorney, just picking up your point on consultation, you answered Mr Davis’s questions before in relation to the consultation that has taken place since the bill was

proposed in 2023. Can you please advise what consultation has gone on since the parliamentary inquiry, where we were told stakeholders were consul-told, and what was done to rectify that?

Jaclyn SYMES: Many of the stakeholders who have been engaged from the start of the development of this bill have been re-engaged at several juncture points, including up until today, and we will continue to consult through the rollout of any reforms if they are agreed to today.

David ETTERSHANK: Attorney-General, sorry, I am a bit slow here. Obviously I am one of the L-plate parliamentarians. Can I loop back to this question of the provisional payments. What you said I thought was really encouraging, which is that people will be entitled to provisional payments. But I am just looking at the wording in the bill. Maybe we can deal with this later, but I am looking at new section 263AA, 'Definition of mental injury does not apply', which states:

- (1) For the purposes of this Division, the definition of mental injury does not apply.
- (2) To avoid doubt, a worker may be entitled to provisional payments under this Division in respect of a claimed mental injury regardless of whether the worker's claim for compensation in respect of a mental injury is ultimately accepted or rejected by the Authority or self-insurer."

I get that it falls within this clause, but I am interested in the word 'may' as opposed to the word you used, which was either 'will' or 'shall'. I guess I am asking the question: what is the nature of this discretionary provision that is implied by the use of the term 'may be entitled', and how would that be addressed if, for example, a self-insurer says, 'Maybe not'?

Jaclyn SYMES: Mr Ettershank, anyone who brings a claim, whether the claim is successful or not, may be eligible for provisional payments, but that does not mean that everything you claim for is going to be automatically approved. I ask a similar question of you. If I was a worker suffering stress and I had put in a WorkCover claim that ultimately was not accepted, but in the time that it took to determine that, I was potentially eligible for provisional payments, and I said, 'Well, does that mean I can put in a claim and go for a massage every week and get it reimbursed, because I put in a claim that is a stress claim?', the answer is probably not, but it could be assessed. If you are putting in a claim for stress and you want to go to your GP and get a plan that helps you manage stress or gives you health advice in relation to that, that is something that would very likely be captured by the provisional payments. I do not want to put masseuses out of business, by the way; that was just what came to mind.

David ETTERSHANK: You do not want to rub them up the wrong way. I thank the Attorney-General for her response, but I am not trying to focus on the potentially frivolous claim or otherwise. I mean, if someone comes forward with a meritorious claim, then they may be eligible. If they come with a frivolous claim, they may be eligible. But I guess by the fact that it is made, who is going to determine that entitlement to the claim? I am not seeing how that is addressed by the clause other than that it has obviously got a very profound striking out provision in terms of mental injuries generally. Could you help me there in terms of trying to clarify that, please?

Jaclyn SYMES: There is no change, is my understanding, to the current situation. It just is part of the claim lodgement process.

David ETTERSHANK: I am sorry, I do not quite understand that, because obviously the insertion of 'mental injury' is a new provision. This is a provision that specifically strikes to mental health, so I am struggling a little bit to understand how this could not be a new provision.

Jaclyn SYMES: My understanding is that the current practice, Mr Ettershank, is that it is for the agent, not WorkCover, to determine if the claim is eligible. So it is not the worker but the agent, which is what happens already in the current system. Can you talk to me about which clause you want to deal with – but it is the existing act that I am referring to and there is no change, not in relation to lodgement of claims.

David ETTERSHANK: The provision I was referring to is the new provision 263AA, which is in the bill in clause 9, which is basically putting in this concept of the provisional payment as a holding

situation. I think we want to come back to this, because there are obviously a whole range of issues that are associated with the suitability of a 13-week payment. But looking specifically to 263AA:

... the definition of *mental injury* does not apply.

I am looking here at subparagraph (2) specifically:

... a worker may be entitled to provisional payments ...

I am not trying to split infinitives or anything in particular here; I am just trying to understand, irrespective of the merit or otherwise of the applicant, how that discretion is going to be determined if it is about that they may get the payment as opposed to that they will get the payment.

Jaclyn SYMES: Mr Ettershank, this clause is clarifying an existing provision in the system that has existed for a few years now. It is effectively ‘Lodged the claim, eligible for the payment’.

Georgie PURCELL: Attorney, something that we heard in the parliamentary inquiry is that excluding stress and burnout can manifest more complex mental injuries. Just picking up Dr Ratnam’s point on modelling, has the government done any work to determine how many workers will present with a more severe disorder as a result of being excluded from the scheme?

Jaclyn SYMES: Ms Purcell, I know that I have answered the question in relation to modelling, and I know different ways of asking it will not produce a different answer to what I have been able to provide the committee at this stage. What I would continue to point people to is Return to Work Victoria and the ability for that organisation or that body to really get in there and put some effort into ensuring that we have better processes, better evidence and better support for employers in order to support workers to return to work and stay in work for particularly stress-related injuries. It is an area where we do not want people to not do the work that is required here; we want employers to understand stress and how to avoid it and how to support workers. A lot of employers are really good at it and a lot are really bad, and we would really like the ones that are not good to come up to scratch. We think an organisation such as Return to Work Victoria can really aid in that endeavour.

Georgie PURCELL: I am genuinely not trying to ask the same question in different ways. Dr Ratnam’s question was in relation to how many workers will be kicked off the scheme. My question is: has the government looked into how many workers they expect to present with a more severe disorder?

Jaclyn SYMES: What I am trying to get at is that if Return to Work Victoria has the opportunity to do what I hope it could do, as well as broader education for employers we are talking about early intervention. We are not talking about employers going, ‘Oh, just go on WorkCover, because then I don’t have to worry about it.’ This is a call to action. We want employers and we want the community to better understand the ways that we can support workers to do what they want to do, and that is to stay in work. So when we talk about modelling, you are ignoring the interventions that the bill is proposing to make. We want to stop people from having their injuries exacerbated. Your argument is that by changing it, you are going to have this group of people that automatically end up in this worse space. I am saying with Return to Work Victoria we will have better education, a focus on the responsibilities of employers and also empowerment for workers to say they need help and an organisation that actually does things better. A community conversation about this, early intervention and support are much better than somebody who, whether the WorkCover system is there or not, if you can stop it here, is better off whether they need the support from the WorkCover system or they do not, which is what the opportunity of change, we hope, is going to deliver.

Jeff BOURMAN: Attorney, there is some conjecture over the modelling. I have been sitting here and listening for a while. You said just then the intervention from the bill is – I am going to paraphrase here, and obviously you will correct me if I am wrong – what is going to drive down the number of people involved in the ongoing WorkCover scheme. But I also got the impression from earlier questions that the wider modelling is not available. So I guess where I am going with this is, what

number – what rough number, what percentage, pick a way of modelling it or measuring it – of people do you or does the government expect to be reduced by the early intervention, over the current system?

Jaclyn SYMES: Mr Bourman, what is not working is people having to wait 130 weeks before they get tailored support. We really want early intervention and better workplace practices. That would be great, and hopefully we can do much better in that space, because what we are seeing now is not working for a lot of people.

Sarah MANSFIELD: Attorney, a number of times you have mentioned various functions that will be undertaken by Return to Work Victoria. I am just curious to know where in this bill Return to Work Victoria is described.

Jaclyn SYMES: Dr Mansfield, it is a business unit of WorkSafe, so I do not think it needs to be in the bill.

Samantha RATNAM: Just in relation to both Dr Mansfield's questions and my previous questions, Minister, you have referred to people who could access provisional payments for issues like stress and burnout, but it is quite clear that those same people will not be eligible for workers compensation, so their support will run out at 13 weeks. Good luck trying to find a psychologist and get one or maybe two appointments in 13 weeks, and then after that they are cut adrift. My initial question was: what do you anticipate will happen to the vast numbers of workers who will not be eligible for the workers compensation scheme? They may be eligible for provisional payments, but my question was: what does your government anticipate will happen to those workers who will be precluded from lodging a claim under the proposed changes? The question still stands, and I do not think you responded to it previously.

Jaclyn SYMES: I might take the opportunity to talk through Return to Work Victoria and where things are up to in the development or establishment of that body within WorkSafe. It is about centralising the provision and oversight of existing and new return-to-work initiatives. Work is underway now, and Return to Work Victoria will be operational alongside the reforms to the WorkCover scheme that are proposed in this bill. We certainly acknowledge that there will be funding required for Return to Work Victoria to support piloting of prevention programs, early intervention and modern return-to-work initiatives building on WorkSafe's existing return-to-work initiatives, but as I think I have characterised before, this is about really putting some grunt behind that endeavour. We want to build on WorkSafe's employer services. That is an existing program that helps injured workers find new employment. We are also looking at the WorkSafe incentive scheme for employers, which provides financial incentives for employers to take on a new employee returning to work following a workplace injury. There are a lot of ideas that are being explored, and we would certainly welcome any ideas that people in this chamber have in relation to programs that Return to Work Victoria could explore, because this is an opportunity to do things better, scale up what works and roll things out across the state where there is the opportunity to do so.

The focus will be on ensuring injured workers have the best support to return to work safely and as soon as possible, because, as I think many speakers have acknowledged today, the longer a person spends away from work and the longer that they are on WorkCover, the less likelihood there is of them returning to work at all. Research has shown that mental health outcomes are four times worse for those that stay on the scheme long term. That is pretty compelling. We want people to have better outcomes than that. We do not want people feeling as though WorkCover is their only option, that they are precluded from returning to work because of a system that has facilitated people not to take responsibility. We will have an organisation that will be focused on doing better. It will encourage employers to do better, and ultimately that is going to be better for Victorian workers who deserve the dignity of safe and rewarding work.

Samantha RATNAM: I think it is really important to understand what is happening here as we ask these questions, because Return to Work Victoria is not mentioned in the bill. With the woeful

consultation the minister has undertaken with us on this side of the chamber, we welcome some detail finally about what this magical body is going to do. I am glad the body exists. Actually some could argue that you could just introduce that body without this bill and that could make a bigger difference to the WorkCover scheme in the future, and we would have appreciated if the government had thought of options like that. No-one in this chamber has said, 'We don't need to reform WorkCover, but don't reform it in a way that injures workers more and harms workers more.' But in terms of the detail around Return to Work Victoria, it is welcome that it will have those functions.

You mentioned previously workers who will be excluded from accessing workers compensation but may access provisional payments. Will those workers who may access provisional payments for stress and burnout also have access to Return to Work Victoria, and will Return to Work Victoria be working with that cohort who are accessing provisional payments?

Jaclyn SYMES: Yes, Dr Ratnam, and it is that lived experience that we think will ensure the continual improvement of such a body.

Samantha RATNAM: Minister, what do you anticipate post those 13 weeks for those people who have experienced significant stress and burnout, significant enough for them to access provisional payments should they be deemed eligible to comply? What do you anticipate is going to happen to those workers to ensure they recover well, given that what we understand through the mental health literature, for example, is that 13 weeks is a very short time in the recovery of mental injury?

Jaclyn SYMES: Dr Ratnam, Return to Work Victoria would still be there to help someone post 13 weeks. We obviously would be conscious that there will be similar-type issues, and we think that tailored support for the issues as they arise will produce good outcomes for people and their pursuits in returning to work.

Samantha RATNAM: Thank you, Minister. I welcome that information that Return to Work Victoria may continue to provide assistance for those who have accessed provisional payments for stress and burnout but are not eligible for further support or to make a WorkCover claim. Are you saying that the government is proposing that Return to Work Victoria will provide support: the person themselves will not be able to access funded support – that is, mental or health care – but Return to Work Victoria will be providing some sort of support? What kind of support will that look like if they cannot access psychologists and doctors?

Jaclyn SYMES: Dr Ratnam, I think I have outlined the information I have in relation to the development of Return to Work Victoria. As I said, there are a lot of opportunities for that business unit in WorkSafe to really be innovative, and some of the issues that you have raised I will certainly pass on to the minister because they are important for the work of Return to Work Victoria.

David ETTERSHANK: Attorney, thank you for opening up this question of Return to Work Victoria, because I know it is something that we have all been very confused and inquisitive about. I think we all recognise that in an ideal world Return to Work Victoria would be what came first as an enabling support for workers –

David Davis: And working hand in glove.

David ETTERSHANK: Yes.

You saying that work is underway is really encouraging, so thank you for that – that is good news. Can I first of all just try and get some clarity. I know later tonight we will come back to the government's amendment on new clause 21A, the WorkCover Advisory Committee, but could I just ask: what is the relationship between that advisory committee and Return to Work Victoria itself, in its soon-to-be metamorphosis?

Jaclyn SYMES: What I can say, Mr Ettershank, is that the advisory council, which will consist of the stakeholders you would expect – the stakeholders that have been involved in the consultation

et cetera and the development of this reform – would have an opportunity to inform the work and priorities of Return to Work Victoria, absolutely.

David ETTERS HANK: Can I just be clear: with regard to Return to Work Victoria, do you have, or does the government have, any sense of when that will actually be stood up and operational?

Jaclyn SYMES: As I previously indicated, we do not want to pre-empt the passage of the bill today, but work has started in the development of Return to Work Victoria, because we want them to be operational alongside reforms to the scheme. I am not in a position to give a definitive date, but as I have indicated, what we want this unit within WorkSafe to do is something that we all want. We want support for workers to return to work, we want support for workers who are struggling to be retained in work and we want employers to be supported and educated about how they can better provide workplaces that are safe and working for their workforce. I do not have a date for you, but it is a commitment that we have given to go alongside the reforms to this legislation.

David ETTERS HANK: When we were talking about Return to Work Victoria in the committee's inquiry to some related parties, the question arose of how tight the budget and the staffing levels are within the current WorkSafe authority. I guess I am just curious and keen to understand if you can elaborate. You talked about how it will build on employer services, and I think there is a pretty fair level of scepticism around the industry about the capacity of that particular part of the organisation to meet its existing mandate, let alone an expanded mandate. So I guess the first question on my mind is: is it envisaged that this will be more than just a rebranding of internal resources, and will there actually be an expansion of those functions, with obviously an appropriate budget allocation to underpin them?

Jaclyn SYMES: As you would appreciate, Mr Ettershank, I am not a position to say anything in relation to the budget, but what I can assure you is that we really want this to work. That is important to us. We want better outcomes for workers, and I know that the new CEO absolutely wants to turn this organisation around and absolutely wants it to better support workers. This is not a rebranding exercise. We will be held accountable for these changes. We want them to work because we think we can do better by workers. We also have a system that we need to ensure is financially viable, and some of these changes are challenging, which is why we are wanting to ensure that we have got mechanisms to support the reforms so that we get better outcomes for workers now but also that the scheme is able to exist for the long term to support workers in the future.

David ETTERS HANK: Look, I think we are all in furious agreement about the value of a better approach to return to work, and I think we are in furious agreement that the science is in – that if you can get people back to work rather than leaving them in limbo, that is in everyone's interest. But I guess the question that is in my mind, in a way, is why the cart is before the horse here, because it would seem to me that this is the wrong way around. We should be looking at standing up Return to Work Victoria, putting in place those supports and then and only then actually making these potentially very damaging cuts. I just wonder if you could comment on that sequentiality and the logic thereof.

Jaclyn SYMES: Unfortunately, Mr Ettershank, just introducing Return to Work Victoria at this stage would not be enough. We have a system that needs reform to survive. It needs to be financially sustainable, and if we thought that just Return to Work Victoria could put us in a position where we do not have to make changes to the system, then that is something that we would have done. But we do not think it alone is going to be viable, and therefore it would cease or potentially be ineffective because we would not be able to have a system that is supported at all.

Sarah MANSFIELD: Thank you, Attorney. I am curious to understand that more. You said you thought that it would not work to just implement Return to Work Victoria without these other changes. I am curious to understand what evidence you use to inform that. We heard evidence from a number of expert witnesses at the inquiry that identified that schemes that take the approach of focusing on controlling costs by restricting eligibility or cutting people off payments inevitably end up with spiralling costs – it actually makes things more expensive when what you do is focus on costs. That

leads to further attempts to clamp down, restricted eligibility and spiralling costs again. On the other hand, schemes that went back to the drawing board and focused entirely on supporting workers early with timely, holistic specialist workplace rehabilitation get workers back to work, reduce the risk of long-term or secondary injury and save schemes money. So something like Return to Work in and of itself could actually save the scheme money. On the flip side, with this legislation, which is focusing on restricting eligibility in an attempt to reduce costs, the evidence shows that that measure actually has the opposite effect. So I am curious to understand what evidence the government has relied on when expert witnesses provided evidence to the contrary of what you are describing here.

Jaclyn SYMES: Dr Mansfield, there is not a single fix to the situation that we are in. I can assure you if there was a simpler way to get through this, then that is what we would be doing. We have had to make some difficult decisions. We have had to assess the drivers that are a strain on the system, and that is the reform that is before us today. As I said, some people just wanted us to increase premiums as the fix; we did not think that was appropriate. We have struck a balance here, and I know that the theme that we have been discussing here is concern about particularly stress-related injuries. I am coming back to Return to Work Victoria and the opportunity that that unit has to do much better for workers that are currently not receiving perhaps the targeted support that they need at the right time and ending up in a system that is not good for them and a strain on a scheme that we want to support all workers, and that is at risk if we do not make some serious changes. There is unfortunately not just one simple solution; we need a variety of ideas and a variety of measures to get this back on track to ensure that we have fantastic support for workers. Not only is the effort that we put in at the start going to have a better outcome for the viability of the scheme, but for me I am really attracted to the idea that we are really going to focus on ensuring that people get early help, and employers can recognise it and be encouraged to support workers in those early stages. That is what is going to shift the dial here.

Sarah MANSFIELD: Again, I think we all agree that early intervention and early support for workers is something we all want, but this bill does not actually speak to that at all. It is great to hear some details on Return to Work Victoria, but that entity does not yet exist, and there is nothing that suggests that its existence is contingent on the passage of this bill, although I am happy to hear otherwise.

My question before was about what evidence the government has relied on to demonstrate that the measures in this bill will contribute to the financial sustainability of WorkCover. We have heard expert advice saying that by focusing on cutting costs and by restricting eligibility you will end up with a more expensive scheme. This has been demonstrated in workers compensation schemes in other jurisdictions all across the world again and again, including in Victoria, where this has been done before. I am just really curious to understand – it goes back to questions that have been asked about modelling: what evidence are you relying on that shows that this will reduce costs or improve the financial sustainability? This legislation, not Return to Work Victoria but this legislation – how will it do that?

Jaclyn SYMES: Dr Mansfield, what I have attempted to articulate is we need to address the drivers of the strain on the scheme. If we do not, we have been pretty honest that the scheme's viability is at risk. So it is incumbent upon us to make the tough decisions. As I indicated in my summing-up, I think the stats are pretty obvious. Since 2010 WorkCover's claims liability has tripled, driven by the increased cost of weekly income support and many workers staying on the scheme long term and the rise of mental injury claims now representing 16 per cent of new claims. This was never envisaged when the scheme was initially designed. Return-to-work rates are declining, and these are the drivers that we want to address. These are the drivers that we think we can do better on through different interventions, because the current system is not working for individual workers and it is certainly putting at risk the scheme as it was designed for other workers.

Sarah MANSFIELD: Again, we do not dispute those figures about the increasing number of claims, and again, we wholeheartedly agree that we should be doing everything we can to reduce the number of people requiring workers compensation. We want to see them receive appropriate

treatment. Again I come back to the evidence from expert witnesses that we heard that stated quite clearly that the most effective way to address those exact figures and those exact drivers of the increased cost to the scheme was to focus on aggressive early intervention and prevention and invest in that and not to focus on cost-cutting and cost-controlling measures such as restricting eligibility, as to focus on cost controls actually leads to a more expensive scheme. I am still unclear as to how what is proposed in this legislation will actually effectively reduce those numbers that you have talked about and reduce the cost to the scheme.

Jaclyn SYMES: I think we are going around in circles a little bit. The advice that you are relying on is not consistent with the advice that we have received from the department or WorkSafe. It is good that we all agree on early intervention, and aggressive intervention is certainly something that we want to get behind, and I think Return to Work Victoria will have that as their purpose. But it is just one lever; it is not a complete solution, because I can assure you if it was that is what we would be doing.

Sitting suspended 6:29 pm until 7:32 pm.

Samantha RATNAM: Taking up where we left off before the dinner break and talking about Return to Work Victoria and the line of questioning that my colleagues were pursuing, I have a question connected to my previous question about modelling. Given the government does not have a date yet and it seems uncertain about how progressed Return to Work Victoria's establishment is, I am interested to know what modelling has been done upon which the size and scope of Return to Work Victoria will be based. For example, if it is such a crucial part of the implementation of this set of reforms, what modelling has been undertaken to understand how big in nature it needs to be and how much funding it needs for the staff that it will employ? Will it be a small organisation or a big organisation, and what is that based on? How many people do you expect to see through the door in the first year and the years after? I am interested to know what modelling sits behind the establishment and size of Return to Work Victoria and any other details you are able to furnish us with.

Jaclyn SYMES: Thank you, Dr Ratnam. As you would appreciate, we have gone through preliminary detail in relation to Return to Work Victoria. On the specifics that you go to in relation to the evolution of this organisation, I have gone through the principles and I have gone through our aspirations, but this is largely an operational matter for the minister and the CEO of WorkCover.

Samantha RATNAM: I recognise that the minister might have plans afoot and have further detail. But given that in essence you are representing the minister in this committee stage so that we can have the detail that is required to deliberate and make a decision on reforms such as this, I am interested to know what work you have done to underpin how you will set up Return to Work Victoria. Have you done any modelling? Have you done any work to understand how many people Return to Work Victoria should service, will service and for how long? I would like to know over the next few years what plans you have to respond to the need that you say you will anticipate.

Jaclyn SYMES: Dr Ratnam, it is certainly the intention for Return to Work Victoria to have a specific role in a cohort of workers that we have spent some time speaking about, but their remit will be all workers and all employers. It hopefully brings about some cultural change to avoid workplace injury and, where workplace injury occurs, to be better.

Samantha RATNAM: Following on from that, Minister, how many workers will Return to Work Victoria support in the first year of its operation?

Jaclyn SYMES: I am not able to provide you with a figure.

Samantha RATNAM: Are you not able to provide us with a figure because the modelling has not been done or because you do not want to release that figure based on the modelling that you have?

Jaclyn SYMES: Dr Ratnam, I am not in a position to give you a figure. I come back to the answers that I just provided to you before. The remit of Return to Work Victoria would be for injured workers – for programs and education for employers to prevent workplace injury and indeed to respond to issues

such as stress and issues of workplace safety and proper practices as well. It is almost impossible to give you a figure because we want their remit to be broad.

Samantha RATNAM: Minister, you would appreciate that it is important for us to understand what plans the government has on foot to ensure that Return to Work Victoria has the resourcing it requires to acquit the aspiration that you have outlined for us. You have used this as an important vehicle to do some of the preventative work or support work. We are asking: can it actually do that work, and what work have you have done to ensure that it can do the work that you are telling us will help fix the problems that we are identifying with the broader set of reforms before us today? Minister, can you let us know how many staff Return to Work Victoria will seek to employ and recruit in the first year of its operation?

Jaclyn SYMES: As I outlined in my previous answer to a question a couple before this one, these are matters for the CEO of WorkSafe, and indeed I am sure the minister will be in a position to provide information as things progress.

Samantha RATNAM: It strikes me, connected to the questions that we raised earlier in this committee stage about the modelling that sits behind the proposals you have put before us, that the government has refused to produce any modelling. It cited speculative modelling. I am still struggling to understand what speculative modelling means. When I asked if the government had made a decision on these reforms without appropriate modelling, that question was not answered. Now I am asking for modelling that sits behind the establishment of Return to Work Victoria. We are trying to understand: is this an organisation that is going to have two people for a year staffing it to see X number of people or is it going to have 20 people to see X number of people? The government is telling us, 'Believe us when we say Return to Work Victoria is going to be an important part of these reforms to ensure that people get support early.' How can we have confidence in that if we do not know, even in a ballpark sense, how big this organisation is going to be and if the government is going to resource it adequately? It is so important for us to ask the questions of the government, especially at budget time, if it is adequately resourced – this agency. I come back to: what information can the government provide us on the size of Return to Work Victoria and the budget required to acquit its aspiration, or is the government confirming that it has no modelling on the numbers it anticipates to see and has no rationale for budget and resources it requires at this stage?

Jaclyn SYMES: Dr Ratnam, for the purposes of the bill consideration today, I am not in a position to detail the specifics of Return to Work Victoria other than effectively what I have already outlined to the house. A lot of this will build on the existing workforce at WorkSafe, who will be able to facilitate return-to-work initiatives. This is already a function. We want to boost that function; we want to have a dedicated unit within WorkCover to make sure that we do better. I think as I indicated to a member in a previous question, we really want this to work. It is not something that we are setting up and labelling as a distraction, as a false entity. We want this to help injured workers. We want this to help employers help their workforce to remain healthy and safe. This is a fundamental belief of people in the labour movement – that you have policies and support for workers. We are committed to making sure this organisation brings about benefits for injured workers. That is the whole point of it.

Samantha RATNAM: I appreciate that the government says it wants Return to Work Victoria to work, but how is it going to make it work if there are no details about the size and scope of its operation and what modelling sits underneath its establishment or, let us say, expansion to this next phase? Is it fair to say that the government has not done the modelling to understand what kind of demand is going to be experienced by Return to Work Victoria?

Jaclyn SYMES: As I have already outlined, Dr Ratnam, there is a commitment. Work is already underway, and Minister Pearson will certainly be providing more and more details. The bill has not even passed. We want to make sure that the reforms are accompanied by the commitments that we have made, and Minister Pearson will be well placed to provide regular updates in relation to Return to Work Victoria.

Samantha RATNAM: You have mentioned a couple of times the bill having not been passed yet and therefore that somehow limits the ability of the government to give us information about this body. But this body is not in the bill. This body is not part of this.

Jaclyn SYMES: Well, you cannot really ask about it. I am being quite generous in my answers then, aren't I?

Samantha RATNAM: Let us go back a step here.

Jaclyn SYMES: Let me go to the standing orders, if you want me to.

Samantha RATNAM: You brought this bill. I think it is important to understand the context of this debate and this line of questioning. This bill was attempted to be rushed through the Parliament at the end of last year with very little notice and very little consultation. Many of us in the progressive crossbench were treated with contempt by the minister in not furnishing us with any information. That is why we have to come to committee – to ask for information, basic information, that has not been furnished to us by the government. On behalf of workers we have to ask these questions so that we understand the implications of this legislation. Today the government is saying, 'Look, we've got this other body, Return to Work Victoria. It's not in the legislation, but believe us, we're setting it up and somehow it will do all the things.'

The DEPUTY PRESIDENT: Dr Ratnam, do you have a question, because this is not an opportunity for another second-reading speech.

Samantha RATNAM: I am trying to ensure that the minister –

The DEPUTY PRESIDENT: Can you get to the question without debate, please?

Samantha RATNAM: Yes, I am happy to do that. We have Return to Work Victoria, which is being touted as somehow being able to ameliorate the worst impacts of the bill, which a number of us have highlighted in this chamber. It is not part of the bill. It is not contingent upon this bill passing for Return to Work Victoria to be established and up and running in terms of its operation. We are being told that it is important to mop up the damage this bill is going to do. So I am asking: what detail do you have about its establishment and its expansion and how many people it is going to see through the door so we can have confidence, if you want us to support this bill? You are saying, 'Have confidence in us. Return to Work Victoria is going to do the job.'

The DEPUTY PRESIDENT: Dr Ratnam, it is not a second-reading speech.

Samantha RATNAM: I understand that. I am getting to my question.

The DEPUTY PRESIDENT: Can you just get to your question, please, or I will sit you down.

Samantha RATNAM: Yes, I understand. We are trying to understand what the size of Return to Work Victoria will be. I go back to the earlier response you provided, Minister, to one of my colleagues here about not having a date yet for its establishment. Why doesn't the government have a date for the establishment of Return to Work Victoria?

Jaclyn SYMES: The commitment for the establishment of this body is firm, and work is underway.

The DEPUTY PRESIDENT: I am just a little bit concerned about the tone of the committee stage. This is an important part of the bill, and I think that we need to take the level of combativeness down a tone, please, and just ask questions and get the answers on the record.

Samantha RATNAM: I understand, Deputy President, and pardon my frustration, because we have been here now for a number of hours and are still not getting much information. I will ask the question again: why does the government not have a date for the establishment of Return to Work Victoria despite the government saying it is an important part of the reforms that are being proposed today?

Jaclyn SYMES: This is being developed alongside the reforms to the scheme. I have given that answer several times, and you literally just asked the same question twice. As you have identified, this is not part of the bill, which means if I were to ask the Deputy President to rule on the ability for you to ask questions outside the bill, I would be within the standing orders to do so. I have been, in my mind, very generous in continuing to try and provide you as much information as possible. I have not sought to shut you down. But I do pick up on the reflections that the Deputy President has made: when I cannot give you the answer that you want, that is not an invitation for you to repeat the question in an aggressive tone.

Samantha RATNAM: I have asked multiple times why the government does not have a date and what the size of Return to Work Victoria is going to be. It was actually in reference to responses you gave to earlier lines of questioning. We did not actually introduce the concept of Return to Work Victoria in this debate. It was something that the minister furnished as part of the rationale, and therefore we wanted to interrogate it because in many ways it was the first time we were hearing about it. So please forgive us for wanting to understand something that is so integral to the package of reforms that you are putting before us.

Minister, I have further questions about modelling. How many pieces of modelling were done on the financial impacts of the legislation and the human impacts of the legislation?

Jaclyn SYMES: I am attempting to give you as much information as I can, Dr Ratnam. You actually are just repeating the same questions, and I have answered the questions on modelling. There is a lot of concurrent reform happening here, as we have indicated, with not just the legislative reforms but also the introduction of Return to Work. If Return to Work Victoria is as successful as we want it to be, it will have a significant impact on the trajectory of injured workers or workers that are potentially on a pathway to what would exist right now with the long tail of a mental injury. We want to change that trajectory, and therefore we want to change the modelling, because we want more people to benefit from early intervention. We want more employers to be equipped and supported to ensure that their workplaces are as safe as they can be and to ensure that people are kept in work, hanging out with their co-workers and getting treatment early within the workplace, which is the best place for some of these injuries and for some of these illnesses. So the modelling is going to change based on the success of the interventions that we come up with.

As I have said, there is an invitation to anybody that wants to feed into Return to Work Victoria on things that they have heard about that are working positively overseas. Expert opinions will be welcomed. We would love to pilot anything that helps workers stay in work and not end up where many of them are now, in the most awful and longest of tails with mental health issues that are preventing them from getting back to work because the work was not done when it should have been. That is what we want Return to Work Victoria to focus on.

As I have indicated, we have a scheme that is financially broken. If we do not reform, then the whole thing falls over and Return to Work Victoria would not exist either. What we do have is some motivation around the sustainability of the scheme, but we also have motivation to ensure that anybody who is currently on this trajectory of the long tail is supported by a body within WorkCover that is going to be specialised and targeted and have wraparound services. So the model is going to move and change a lot.

Samantha Ratnam: On a point of order, Deputy President, in terms of relevance, I appreciate the explanatory statement that the minister is making, but my question actually was: how many pieces of modelling were done on the financial impacts of legislation and the human impacts of the legislation? Is it zero or more?

The DEPUTY PRESIDENT: The Attorney had not finished her answer, and it is not a point of order to just repeat the question. Attorney, did you wish to continue at all? No.

Samantha RATNAM: Can I just clarify that the government is saying that there was no modelling done on the human and financial impacts of the legislation?

Jaclyn SYMES: Dr Ratnam, I have explained a lot of policy development. There is advice that is provided by the department, by WorkSafe, based on the claims and experiences of people that have been in and out of the system for many years. We have had representations from unions who support workers in accessing the scheme. We have had employer organisations give us feedback on the concerns that they have with the existing system as well. So there is a lot of modelling, because we have people's views on the impacts of the reforms and the impacts of what is happening currently. So there are lots of reforms that we have been talking about today, and they have come from a range of sources in terms of where we come to today in the bill. You can continue to ask about –

Samantha RATNAM: How many?

Jaclyn SYMES: I have answered your question. You just do not –

Samantha RATNAM: You have not given me a number.

The DEPUTY PRESIDENT: Questions through the Chair, thank you.

Jaclyn SYMES: You cannot answer my question for me.

Samantha RATNAM: I appreciate you saying you received advice. I am asking how many pieces of modelling were done. Is the answer zero, Minister?

Jaclyn SYMES: Dr Ratnam, there have been so many reviews of WorkCover. We have had the financial sustainability review that looked at the status of all of our insurance schemes in 2020. There has been a lot of information that has been fed into the development of this bill, and of course we have considered the impact on people. That is the whole motivation – to reform the scheme so that it can help people. Your suggestion that there has been zero modelling is false.

Sarah MANSFIELD: Based on some of the work that has been done, are you able to tell us how much WorkCover expects to save as a result of the changes in this legislation over the next 10 years, based on limiting the mental health claims?

Jaclyn SYMES: I am not in a position to give you an answer on that, no.

Jeff BOURMAN: I need to make my presence known, I think. Attorney-General, I am going to ask a couple of questions about the whole-person impairment.

Jaclyn Symes: On a point of order, Deputy President, we have been very free ranging on clause 1. Do you want to wait for the specific clauses, because at some point we are going to get off clause 1 and start on individual clauses. Deputy President, it might be worthwhile asking members if they have many questions on individual clauses, because I feel a sense of repetitiveness in clause 1, and if we are then going to revisit it clause by clause when we are talking about specific issues, I do not think that is a good use of the chamber's time. However, if members are not planning on asking lots of questions on individual clauses, then perhaps I can be guided by you.

The DEPUTY PRESIDENT: Can we get some indication from members as to the questions that they have for individual clauses?

Jeff BOURMAN: This is the first time I have had this problem. I do not have it written down what clauses they come to or anything like that, which is why I gave you a heads-up of what I want to talk about. I did not want to just launch into the questions. I am not really able to do it. I understand what you want, but in this instance, I cannot do it.

The DEPUTY PRESIDENT: I think the Attorney is trying to assist the house with her suggestion that we go clause by clause, but I am happy to take your questions in clause 1. I would just caution

members about the repetitiveness of some of the questions that we are having at the moment because I do not think that they are being helpful to the committee stage or to the house.

Jeff BOURMAN: My questions are going to be pretty straightforward. Attorney-General, what percentage of workers with an injury are expected to be categorised with a whole-person impairment of over 20 per cent?

Jaclyn SYMES: Mr Bourman, I do not think I will be able to provide you with an answer. It is similar to the questions that have been asked about modelling. But can I just clarify what your question is – what cohort, what percentage of workers? I am unsure what you are asking – all workers? I was a bit unclear about your question.

Jeff BOURMAN: Attorney-General, it is basically the whole-person impairment where the threshold of 20 per cent was given, after which the claim would be paid out or total, however you want to put it. With the way these things are going to be introduced, I guess once you get to over 20 per cent, how many workers are we expecting? Obviously this would have been at least spitballed at some point in time so the government could figure out how much it was going to save. Just a rough number – I mean, obviously we are not going to hold you to account on that number.

The DEPUTY PRESIDENT: Mr Bourman, I think anything said in committee does kind of hold the government to account, so it is a little bit difficult to say you are not going to hold it to account. But the Attorney might wish to make a response.

Jaclyn SYMES: Mr Bourman, I think I might just remind the house in relation to some of the changes. The changes to the mental injury eligibility are about claims made for mental injuries that do not cause significant behavioural, cognitive or psychological dysfunction or are not diagnosed in accordance with the DSM. They will not be eligible for compensation. Where an injury does not have a clear diagnosis from a medical practitioner it will not be considered eligible for compensation. The introduction of a whole-person impairment test alongside the capacity test will provide a more consistent and objective basis upon which to assess ongoing eligibility for weekly benefits. It would mean Victoria moves to a similar threshold as New South Wales with, as you have indicated, a whole-person impairment of more than 20 per cent. I think it cannot be considered in isolation from the other reforms.

Jeff BOURMAN: Attorney-General, I have in front of me a transcript from the Public Accounts and Estimates Committee (PAEC) from earlier in the year and a response given on notice to a similar question. I will quote a little bit from it – it is from David Martine:

Overall, the introduction of the proposed WPI threshold is expected to reduce the Scheme's annual claims costs by between \$150 million and \$400 million.

Obviously that number has come from somewhere. As I said, an approximation – we are after just an idea of where this is going.

Jaclyn SYMES: I have got some figures that may assist Mr Bourman. Some examples of the likely whole-person impairment for physical and mental illness injuries that could be eligible beyond the 130 weeks subject to the capacity test – 20 per cent, lumbar spinal fusion adjustment disorder with feature of PTSD; 30 per cent or more, broken back, burns to upper body, hand-crush injuries with traumatic soft tissue, PTSD as a result of cumulative exposure to traumatic incidents. Impairments likely to be assessed with a whole-person impairment lower than 21 per cent include things like back strain, which is assessed often at 5 per cent; mild mental and behavioural disorder is below 15 per cent. That will give you a bit of an indication about how it is applied.

Georgie PURCELL: Just picking up from Mr Bourman, I think there was some confusion around his first question about what workers – so workers with an injury hitting 130 weeks, how many does the government predict will fail the 20 per cent WPI?

Jaclyn SYMES: Ms Purcell, as you would appreciate, these assessments are done on a case-by-case basis and performed by assessors with expertise in this field, so it is difficult for us to quantify case-by-case outcomes.

Jeff BOURMAN: Attorney-General, moving on to the people that will not make the WPI of above 20 per cent but are unable to work, what options are going to be available to them if they are still unable to work but they do not meet that threshold? What are their likely outcomes?

Jaclyn SYMES: I think just drawing back on a lot of the work program for Return to Work Victoria – and a lot of lived experience is important here – there are many people that are injured at work and cannot return to their preinjury workplace but have had success in modified duties with the same employer or indeed retraining for a new job. Return to Work Victoria will be focused on ensuring that there are lots of pathways available for people, whether it is returning to their existing employment or indeed giving them support to explore other opportunities. I think coming back to the lived experience of people is really important, and there are some really good examples of employers that have made adjustments and accommodations for people so that they can return to work. We would like to see more and more of that across the board. We think that Return to Work Victoria can help facilitate some of those outcomes.

Jeff BOURMAN: I apologise if I have missed this, but I have been busy dying of man flu over here. Is there an appeals mechanism for people that do not make the 20 per cent threshold but feel they do? Is there any recourse for people if they do not make it?

Jaclyn SYMES: Yes. There are medical panels that exist currently, so there is no change.

Georgie PURCELL: Attorney, we heard from a number of injured workers through the inquiry process that being kicked off the scheme would, in their words, force them into poverty. Has the government assessed the impact of this legislation on other services such as health care, housing and food services that these injured workers may need to turn to and to rely on in order to live?

Jaclyn SYMES: Ms Purcell, I take a little bit of issue with the characterisation of kicking people off the scheme. There is provision for people that are currently supported by the scheme in the long tail, as we describe it, to continue. The reforms are about new claims and those approaching 130 weeks, and I think we have had a good conversation about the opportunities for helping people get back to work. But also I would come back to reminding the house about our investment in mental health support. We are going to improve in that regard in terms of a lot of the programs and policy decisions that the government has made in relation to bolstering that workforce and ensuring that people have got better access. I acknowledge there are challenges, but we can walk and chew gum at the same time whilst we are improving our mental health accessibility for Victorians and whilst we are reforming this scheme as well as introducing a body that is really dedicated to ensuring that people can return to work.

Katherine COPSEY: Attorney, I would like to ask some questions about the gender impact assessment undertaken in relation to this bill. Can you confirm a gender impact assessment has been conducted now in relation to this bill?

Jaclyn SYMES: Apologies, Ms Copsey. I have answered this question, and the answer is yes.

Katherine COPSEY: Could you share with us when the gender impact assessment was conducted?

Jaclyn SYMES: Ms Copsey, I can confirm that it was conducted by the department, and I stand by that advice that I have been provided – that it occurred and the results were that it was neutral.

Katherine COPSEY: Apologies, I am just keen to understand. Do you know if the gender impact assessment was conducted and informed the drafting of these changes or if it was performed subsequent to the bill's introduction?

Jaclyn SYMES: It was done just prior to the introduction, during the drafting of the bill.

Katherine COPSEY: During the inquiry we heard from witnesses who were concerned that the bill would have a gendered impact. In particular we heard from witnesses who represented workforces that are feminised or gender-diverse who noted that in those sorts of workforces there may be a higher proportion of mental injury claims lodged and therefore were concerned that this bill would have a disproportionate impact on the workforces that they represented due to gendered characteristics. Attorney, can you share with us the information that you have that supports the conclusion that this bill will be neutral in its impact given those concerns that we heard from expert witnesses?

Jaclyn SYMES: Ms Copsey, I can just advise that the advice that we have got is not consistent with the propositions that you have put and that the gender impact work came back and the advice was that the impact is neutral in that respect. I think what I would come back to reminding the house about is just that, when we are talking about depression or anxiety, in the general population nearly one-third of Victorian adults have reported being diagnosed with depression or anxiety by a doctor. It is significantly higher in women than it is in men. The causes vary, but my information is that a large body of research shows that social isolation and loneliness have detrimental physical and mental health consequences and that feeling connected to others and having the opportunity and capacity to contribute to community and to be productive are all critical to mental health. As I indicated earlier, the advice is that outcomes are four times worse for people on compensation schemes compared to those with similar injuries who are not, and that goes to why our focus is on providing early intervention to impacted workers as soon as possible and a variety of other measures that we have discussed today. I hope that context is of some assistance to the question.

Katherine COPSEY: I do appreciate the context, thank you, Attorney. Do you dispute the concerns raised by the witnesses at the inquiry that women, who are more likely to be claimants in relation to a mental injury, particularly in relation to stress and burnout, which could be related to workplace bullying or discrimination – traits and experiences that we know women and gender-diverse individuals in the workplace could experience at higher rates – do you dispute that removing the ability to lodge a claim for stress and burnout and tightening the definition around mental injury will impact more women, who would be more likely to make claims of that nature?

Jaclyn SYMES: Ms Copsey, at the outset I would remind you that bullying and harassment are still compensatable under the scheme. That was certainly something that we heard loud and clear, and that is why that is retained. So I guess that the premise of the position that you have put is somewhat altered when we are not talking about bullying and harassment, particularly sexual harassment. There are a range of actions under this scheme and others. I am certainly not in a position to dispute the information that you have provided, and nor would I purport to be, but what I can say is that our advice is that the overall impact of the bill in relation to the gender impacts is neutral.

Katherine COPSEY: Thank you, Attorney; I appreciate you furnishing that information in response to this. I am going to ask again about modelling, but in this context: we also heard during the inquiry that stakeholders had requested from the government modelling that would explore this tension that they were concerned about – the potential that they saw, certainly, for the bill to have a gendered impact. I am wondering if you can share whether that modelling was provided to stakeholders when it was requested?

Jaclyn SYMES: Ms Copsey, you would appreciate that I would not have that information to hand. But I think as you have indicated, you have talked about people that have an interest in whether there are gender impacts and the like. I know I keep talking about Return to Work Victoria, but I will bring the committee's attention back to the establishment of that body because it will bring a dedicated focus to piloting initiatives designed to improve return to work and prevention outcomes, as we said. As I continue to repeat, we know that people who stay in the scheme longer become sicker. We will continue to work with unions, employers, mental health specialists, occupational health specialists and any of the experts or others that you have referred to to trial different initiatives. We really want to

have improvements to return-to-work outcomes, and obviously that is going to bring about better outcomes for individuals, for workplaces and for community, and everyone is certainly welcome to continue to feed in to those processes.

Katherine COPSEY: I appreciate you cannot respond on whether the modelling that was requested by stakeholders was provided around any potential for gendered impact in relation to the bill. Attorney, are you aware if the gender impact assessment that was conducted did actually consider any modelling on the likely impacts of this bill – the workers that would be cut off – and whether that had a gender dynamic? Do you know if that type of data was utilised as part of the gender impact assessment?

Jaclyn SYMES: Yes, that would have been considered in a gender impact assessment.

Katherine COPSEY: Can you explain to me, if that data existed and was requested by stakeholders specifically, why it would not have been shared?

Jaclyn SYMES: Ms Copsey, before you asked me a question that I was unable to answer and now you are presupposing an answer that I did not give you.

Katherine COPSEY: To my knowledge it has not been provided to the stakeholders, or it had not been –

Jaclyn SYMES: Well, why question me if you know the answer?

Katherine COPSEY: It had not been provided at the time of the inquiry, which is why stakeholders were requesting it and informed us that they had requested it of the government. I understand now you are responding that you do not know, not that it has not been provided, but to my knowledge it was not provided at the date of the inquiry hearings.

Jaclyn SYMES: Ms Copsey, it is my advice that the department and WorkSafe have used data to inform the assessment, because that is what underpins a gender impact assessment. I do not have access to the data that was used, but they do not just make it up.

David ETTERSHANK: Perhaps, Attorney, I could seek some clarity. This was requested during the inquiry. I think it was ultimately taken as a question on notice, if my memory serves me correctly, and no document was subsequently provided despite the request from the committee and, I think, follow-up correspondence. I guess we are a little bit perplexed. The assumption was that it had not been done notwithstanding the regulatory requirement to do it, but if indeed it was done prior to the bill being submitted, I guess we are curious to understand what the secret is or why it could not be released to a committee of inquiry of this very Council.

Jaclyn SYMES: I appreciate that we have moved beyond the assumption that it has not been done. That is good. What I understand is that – I was not a member of the committee – the report has been tabled and the government is considering that report. I think there is a recommendation on this exact issue in the report. I will enable the minister to respond to that in the appropriate way, which is in the government response to the report, which is, I accept, very much related to the bill but not the topic of the bill today.

We are spending a lot of time on discussions about matters that are actually not contained in the bill. I understand that it is useful for context, but there is going to be a limit to this at some point because we are not talking about the bill, we are talking about a committee report that the government is obviously going to respond to. It would be really great if we could come back to the clauses of the bill.

David ETTERSHANK: I do not want to excessively trouble the Attorney with background, but just in terms of trying to understand where we are at – and I thank the Attorney for some of the background she has provided to us this evening – I am wondering if the Attorney could perhaps elaborate on three of the entities that have been flagged today. I understand there is now to be an

inquiry into WorkCover – I think that is what was announced before. We have obviously had no background information on this, so this is entirely news to us upon walking into the chamber today.

David Davis interjected.

David ETTERSHANK: Yes, that is one entity that is happening. We have got a WorkCover advisory committee that is to be established, and then there is, I think you described before, a sort of formulative process that is occurring with regard to the establishment of Return to Work Victoria. I am wondering if you could just indulge me, or the chamber, by expanding on how those three bits fit together, both in terms of their concurrency of operation and I guess the degree to which there is also a sequential nature to their relationship.

Jaclyn SYMES: Let us start with the independent inquiry. As Mr Davis helpfully interjected, that is a recommendation from the committee, and it will be established within three months of the bill passing. In finalising the terms of reference, the government will draw on the recommendations and suggestions from the report. This, importantly, is separate to the stat review, which is contained in the bill, which has a scope to look at the impact of the reforms in the bill, and that is in 2027. The independent inquiry – sorry, I am jumping around a bit too, but you are correct, they interrelate – will report by December of this year. Also, the return-to-work advisory committee is part of my amendment, which was circulated earlier. I ran through the remit that is Return to Work Victoria earlier. Do you want me to do that again?

David ETTERSHANK: Attorney, if that is the case, perhaps I will just come back to that point about sequentiality. Would it be fair to assume, then, that this independent inquiry into WorkCover is going to start within the next three months and will run through till December and the WorkCover advisory committee, or particularly that return-to-work advisory subcommittee, will start at some point? Will that be dependent upon that first independent inquiry having been completed, or will they be concurrent? Then in terms of the work of putting together and standing up Return to Work Victoria, how do the bits fit together there, please?

Jaclyn SYMES: The return-to-work advisory committee and Return to Work Victoria are designed to be implemented alongside the reform. I do not think I have actually taken the chamber through some of the information in relation to the return-to-work advisory committee. It is off the back of a recommendation from the parliamentary inquiry – recommendation 17:

That the Bill be amended to create a Return to Work advisory committee responsible to the Board of WorkSafe for the coordination of return-to-work initiatives at WorkSafe.

In response to that recommendation, that is my house amendment that has been circulated. It will be a requirement that a subcommittee of the existing WorkCover advisory committee, known as WAC, be established as the return-to-work advisory committee. The committee will draw from the wideranging experience of the WAC, including in accident compensation and the provision of hospital services and medical services as well as unions and employer groups. The return-to-work advisory committee will provide advice to the WorkSafe board on ways to promote the occupational rehabilitation and early return to work of injured workers and the establishment, administration and operation of occupational rehabilitation services, vocational re-education facilities and programs available to injured workers. It is my understanding that the chairperson of the WorkSafe board will be the chair of the return-to-work advisory committee. That is within existing practice, where the chairperson is the chair of the WAC, but it is also again complementary of the focus we want to have on return-to-work initiatives and the fact that we know that that is very often the best treatment for people who are experiencing workplace injuries, as opposed to being outside the workplace and disconnected from their peers and the like. So this is a really good opportunity to reset the focus of the organisation, which is about returning to work as much as possible.

I will pre-empt some questions around remuneration. The advice is that it is not proposed that members of the committee would be remunerated for their participation, but we are not short of volunteers,

people that are interested in participating in this, which is a really good sign that people really want this to work. That advisory committee will obviously have a role in supporting the work of Return to Work Victoria.

David ETTERSHANK: So would I be correct in assuming that the return-to-work advisory subcommittee would actually have a broader remit than simply Return to Work Victoria?

Jaclyn SYMES: They will have the same aim. Return to Work Victoria will be the doers, and the advisory board will be just that. They will be interested in overseeing the work of Return to Work Victoria, being the instigator of programs and pilots and generating ideas et cetera. Return to Work Victoria are the ones that will actually be on the ground and supporting workers and employers.

David ETTERSHANK: I do not want to test the patience of the chamber. I think we have got a whole whack-load of questions that we are going to ask on this 21A, so I might just stand down on this question for the moment.

Jeff BOURMAN: With your indulgence, Attorney-General, I just want to move on to my last tranche of questions, which is on the impairment decisions and role of agents. Do you want a moment to catch up? I will give you a chance to get to that part in your book. Given that insurance agents have financial incentives for resolving injured workers' claims to exit the WorkCover scheme, how will the government manage this obvious conflict of interest created by allowing agents to make impairment decisions?

Jaclyn SYMES: We are starting to stray into one of your amendments, Mr Bourman – yes?

Jeff BOURMAN: Not deliberately.

Jaclyn SYMES: Okay. I have gone down to your interim determination amendment in my thought process in responding to your question. We will call it a prelude to it.

As you have identified, agents can make decisions, but I guess it is more like they are the first port of call. There are opportunities to go to independent medical examiners and there are conciliation options, and you are familiar with those avenues.

Again pre-empting your line of questioning, I think if we are talking about progressive diseases, some diseases such as silicosis and certain cancers that are unlikely to stabilise for the purpose of an impairment assessment, because obviously they continue to deteriorate progressively over time – that is why there were changes that occurred in 2022 for special treatment of certain diseases – this bill recognises that these conditions are unlikely to stabilise and provides for the ability to issue interim decisions for workers with an eligible progressive disease where they have no work capacity, and agents can do that. These workers can then continue to receive weekly payments until their injury stabilises or can be assessed.

Jeff BOURMAN: Attorney-General, we have had multiple Ombudsman's reports into WorkCover agents that have been less than brilliant. What oversight powers will the authority have to manage self-insurers making impairment decisions? How are we going to manage that conflict, in other words?

Jaclyn SYMES: Mr Bourman, I will just come back to my previous answer in relation to the avenues that people have if they are dissatisfied with decisions. The conciliation process is designed to be a mechanism for people to resolve disputes, and in effect is an oversight in itself. We do want to make the scheme straightforward for those that it is obvious for, so obviously over or obviously under. But we want to make sure that there is, as you have indicated, ability for people to question where appropriate, and that will be retained in this reform.

Jeff BOURMAN: The last one on this, and my last one until I get to the amendments – it is going to the same thing – rather than I guess trying to deal with it afterwards: what training is going to be given to the authority and the agents to ensure that they have the capacity to make the right decisions around impairment and capacity to work? Getting down to the whole crux of this thing, avoidance is

a better path than having to deal with it afterwards. So are they going to get training to help them through this? Are relations better?

Jaclyn SYMES: Yes. Work is already underway, you will be pleased to know. WorkSafe have advanced this and are preparing guidance and working with agents. Absolutely, training is important and will be part of this.

Sarah MANSFIELD: The definition of ‘mental injury’ used in the current legislation is much narrower than the current definition of ‘injury’ in section 3 definitions in the existing legislation. This change will have an impact on all workers claiming mental injury, even those who have been subjected to traumatic events. Does the government view mental injury as a legitimate health issue?

Jaclyn SYMES: Yes.

Sarah MANSFIELD: Does the government view mental injuries as being as important as physical injuries?

Jaclyn SYMES: Yes.

Sarah MANSFIELD: That is good to hear. Does the government see a difference between the impact of mental and physical injuries, and if so, what is the difference between the impact of the two?

Jaclyn SYMES: Dr Mansfield, you could ask me the same question about the differences between physical injuries and the difference between a variety of different mental injuries. There is a spectrum of different things that unfortunately can happen to people. I think it is very difficult for me to answer the question. You have grouped things together that I would not group together. I think that all workplace injuries should be considered seriously whether they are mental or physical, but there are a broad range of injuries under both of those categories.

Sarah MANSFIELD: What I guess I am trying to understand is why under the changes proposed in this legislation we are treating mental injuries in a different manner to physical injuries, because that is effectively what this legislation is going to do. It is a different approach to the existing legislation.

Jaclyn SYMES: We have covered this extensively not just in the committee but in the second-reading speech, in the contributions that people have made and in the explanation that the minister has given time and time again: 16 per cent of claims, 50 per cent of the cost, worse outcomes for people with mental injury that stay on the scheme. We need much better mechanisms, much better approaches to mental health outcomes. More of the same is heading in a direction that is unacceptable. I am not comfortable with not taking the opportunity to do better for people that have mental injuries, or mental health issues. I think, as I have indicated, there are a range of priorities that this government has identified – not just in this bill and in the creation of Return to Work Victoria but also in our mental health reforms. We are very focused on ensuring that the health of Victorians is a priority for us. This is demonstrating that it is not working. We want to do better, which is what a lot of these reforms are about. Also we cannot support workers if the scheme falls over. We want to do better, and we want to ensure that all workers have the benefit of assistance to remain or return to work.

Sarah MANSFIELD: From what you have said so far on the way this legislation deals with some of those challenges being faced by people experiencing mental injuries as a result of something that has occurred in the workplace and from the statistics you have presented about their outcomes when they enter the scheme, the way this legislation is going to deliver better outcomes for workers is by cutting off their payments sooner and narrowing the eligibility criteria for compensation. I am struggling to understand how that leads to better outcomes for workers who are experiencing mental injury as a result of something that has occurred in the workplace. I accept that you are talking about a number of other reforms that you plan to introduce to assist with that, but what specifically about this legislation is going to be of benefit to those people experiencing mental injuries? How is this an improvement for people experiencing mental injury?

Jaclyn SYMES: The simple answer is that it is about not having mental injuries in the first place. That would be the best way to ensure that workers are supported. As I have indicated, we have a strong record in focusing on the prevention of workplace injuries. We have the Occupational Health and Safety Act 2004; we want employers to identify and control hazards, including psychosocial hazards. WorkSafe do not hesitate to take action against duty holders who have put the health and safety of workers at risk, including prosecuting employers who put workers' lives at risk. WorkSafe is contributing to the implementation of recommendations from the Royal Commission into Victoria's Mental Health System, in particular in relation to mentally healthy workplaces. WorkSafe's mental health strategy provides a framework for WorkSafe to support employers in establishing mentally healthy workplaces and assisting workers with mental injuries to recover as well as quickly return to work. You may have heard of WorkWell. It is a WorkSafe-run program to support businesses, with toolkits to create mentally healthy workplaces and prevent mental injuries. We are continuing to strengthen the OH&S framework by developing psychological health regulations to better prevent these hazards and workplace mental injuries.

As you have indicated, it is your view that that should be enough; it is our assessment that it is not. While we want to focus on all of that – the prevention, the support and all of our other complementary mental health reforms – unfortunately that is not enough to turn this scheme around right now. That is why we have other reforms that are going to ensure the financial viability of the scheme. Whilst we are making a concerted effort to ensure that people who would now be put into a different pathway have really good, targeted support, that is not what is currently happening, and many people are just left on a system that is not making them better.

Samantha RATNAM: Minister, I would like to follow up on the questions that Dr Mansfield has just been asking and in reference to the response you just provided. You have cited a couple of times the risk of the scheme falling over should these changes not pass, which we do know are financial, cost-saving measures. It is quite clear that is what the government is intending to do and that it wants to guarantee the viability of the scheme by narrowing criteria so less people use the scheme. Notwithstanding that, I acknowledge that you have said the government is doing all these things to ensure that we prevent people from being injured in the workplace in the first place, and that is to be lauded. We welcome that.

However, what has not been presented to us so far, and I would appreciate your feedback on this or your response to this, is: if the government have got all these preventative approaches that they say are in place, they were actually never presented to us as part of this package when the bill was put before us. It was not part of the briefings, the very few briefings, that we were actually given – none in the last couple of months. If those are actually intended to reduce the number that need the scheme and therefore we have a scheme that sees less people – we have a scheme here in front of us that is going to see less people; you are saying we are going to need the scheme for less people, because we are going to do all this prevention work – what about the gap between those services and those preventative measures taking off and being able to prevent injuries and these changes taking effect pretty immediately? We are going to see less people eligible for this scheme, and you are saying people will not need the scheme. But how can we have confidence and what can you furnish us with to give us confidence that they are going to go in tandem, that the preventative work is going to kick in as soon as the scheme kicks in so nobody is going to fall through the gaps? We are worried about people falling through the gaps. What assurances can you give us, please, that some work has been done to model that people will not fall through the gaps as the preventative work begins?

Jaclyn SYMES: I refer again to the work that Return to Work Victoria will be asked to undertake. They will be looking at tailored support and early intervention, focused on particularly the early days when an injury first occurs or is first notified. I think we have covered that quite extensively.

David ETTERSHANK: Attorney-General, I do not want to go back to modelling too much. But there was a question from Mr Bourman before that concerned me, and I am hoping you can help us

out here. Mr Bourman quoted David Martine before PAEC, who said in his reply that was subsequently provided to PAEC that:

Overall, the introduction of the proposed WPI threshold is expected to reduce the Scheme's annual claims costs by between \$150 million and \$400 million.

When we were in committee we were told that the shortfall was potentially around \$1.2 billion per annum and that that continued to grow exponentially through the long tail. But just assuming the most optimistic side of Mr Martine's response and looking at the difference between \$400 million a year and \$1.2 billion a year, can I ask: where is the other \$800 million coming from?

Jaclyn SYMES: Mr Ettershank, as you have identified, the former Secretary of the Department of Treasury and Finance put some indications about some of the work that DTF may have undertaken on the record. I do not have anything further to add in relation to those comments.

David ETTERSHANK: Sorry, at the risk of being obtuse, we hear that it is broken and it needs radical change. We look at the totality of the changes within the bill, and really they are cracking down on disability. When you boil it all down, that is where the substance is. So are we saying then that the best guess of the Department of Treasury and Finance in filling the gap, the shortfall, through this bill is somewhere less than a third of the actual problem? Is that what we are to understand?

Jaclyn SYMES: With respect, it is unhelpful when I provide an answer that it is pretty clear that I will not be providing any more detail, and I get verballed back to me. You all do it – 'Are you saying this?' No. I do not know why you try and answer your own questions by saying something that I did not say. I said that I have got nothing further to add. That was my response, Mr Ettershank, and you have created something around that about if we could assume anything. I just said I have got nothing more to add, so I would appreciate it if you did not interpret that as me saying anything other than that.

David ETTERSHANK: Heaven forbid that I would attempt to verbal the Attorney-General. I think that could be a very hazardous process.

The DEPUTY PRESIDENT: Mr Ettershank, I just warn you against trying to summarise the minister's answers in committee. Because committee is an important stage, there can only be the minister's answers and not an interpretation of them, please.

David ETTERSHANK: I rise primarily to do a mea culpa. It was not my intent to verbal the Attorney-General. It just strikes me that this is an extraordinarily large discrepancy, and so I think as the house of review, as I was taught in the boot camp that the clerks kindly provided for us, we are to pursue house of review questions. It seems to me that three-quarters of a billion dollars is quite a bit of money, and so I was just simply seeking to possibly try and identify if there is something that we have missed that would account for the majority of the potential savings. That is all. My apologies, Attorney-General.

Sarah MANSFIELD: We have heard from numerous mental health specialists, including through the committee inquiry, that the DSM-5, which the government is proposing to use to diagnose mental injury, is not an appropriate diagnostic tool for this purpose. It was described by Mental Health Victoria as a diagnostic tool that was not intended to be used as an injury classification or assessment tool. Multiple other witnesses described the DSM-5 as not being fit for purpose in the context of assessing a mental injury. I would like to understand how the government came to the decision to use the DSM-5 as the appropriate diagnostic tool for people suffering mental injury.

Jaclyn SYMES: Dr Mansfield, as someone who spends a lot of time with lawyers – and you probably spend a lot of time with doctors – you will find there are a lot of views in relation to a lot of matters. My information is that most mental injuries are already diagnosed in accordance with the DSM, and the intention of the definition is to mandate this practice to encourage uniform diagnosis in mental injury claims that better reflects the degree of dysfunction. The advice I have is that it is aimed to improve the rigour applied to diagnosing those mental health conditions that the scheme should be

designed to support. That is the advice I have, and that is the model that has been provided to us by way of the advice that we have received. There will be some that agree with that and, as you have indicated, some that probably do not.

Sarah MANSFIELD: In the evidence that we heard from, as I said, peak mental health representative groups, they were quite clear that the DSM-5 is a diagnostic tool; however, it is not an appropriate tool for assessing mental injury. It is a different process when you assess injury. You need to take into account the context of the injury, causes, degree of impairment and a whole lot of different things that the DSM-5 does not assist with.

Jaclyn Symes: On a point of order, Deputy President, can I ask a question? It is already applied though, right? It is not a new thing. It is already being used.

The DEPUTY PRESIDENT: That is not a point of order. You are just providing an answer. Can we let Dr Mansfield ask her question.

Sarah MANSFIELD: You are now proposing putting in legislation that the DSM-5 will be used as an injury assessment tool. You are talking about reforming WorkCover because it is broken in terms of addressing mental injury or mental illness. Multiple peak bodies explained to us that they did not feel that the DSM-5 was an appropriate mental injury assessment tool. What I am trying to understand is why the government is legislating to use this as the basis for assessing a mental injury.

Jaclyn SYMES: With respect, Dr Mansfield, I cannot discern the difference between that question and your previous one. There will be some people that agree and some people that do not, and the government advice that we received and some of the evidence that we were afforded led us to legislate in this way. Fundamentally, it is about making the process fairer to apply to all mental injury claims.

Samantha RATNAM: Just to follow up on that question that Dr Mansfield asked and your response, Minister, what is challenging is that throughout this committee process the government has cited various advice it has received, and there have been requests even at the inquiry and requests now for more specifics about where that advice came from so we can assess the veracity of that advice not to discount it – if you have got advice, you have got advice – but in order to be able to assure us that that advice was robust. We have a job to assess the robustness and the veracity of that kind of advice. Details are important. Given that the government has not been able to furnish us with any reference to who might have provided advice – was it a peak body, was it a consultancy firm, was it internal, was it external – as much as the government is saying, ‘We’ve received that advice, and we believe it’s justified,’ can the government give us any more details to assure the committee and anyone interpreting this legislation for application that that advice was of a robust nature, and can you provide us with any details about how that advice was received? Was it a peak body? Was it a mental health organisation? Was it a psychiatrist? Can you give us any details, please?

Jaclyn SYMES: Dr Ratnam, when you are in government, you have government departments whose job it is to provide frank and fearless advice to the government of the day. Departments and agencies, such as WorkSafe in this instance, consult when they are developing up their policy advice that they provide to ministers, who provide recommendations to cabinet, which endorses positions. You draw from a range of views, but that is fundamentally what government departments exist for: to provide advice. Well, that is one element of it; there is a lot of service delivery as well of course. Departments have policy areas. That is what their job is. We do not outsource that, but we have consultations and draw from a range of expert opinions or stakeholder views. That is how policy is developed. That is the policy reform.

As you would appreciate, I have got a fair bit of experience in the justice space, having a pretty big legislative program in my space, and that is what your department is there to do. They will provide advice. It is up to the minister to question that, to ask for views, and that is what is provided to him or her. He or she provides their views to cabinet when it relates to a policy proposal or a piece of legislation. For instance, I am advised that WorkSafe consult with GPs. When it comes to this

diagnostic tool, it is an insurance scheme, and it is designed to determine eligibility. Where we landed is consistent, I am advised, with the advice that was provided by those that inform the policy development of government.

Samantha RATNAM: As I understand it, you have cited WorkSafe and internal departmental advice as providing some of the advice upon which these decisions have been made. You have also cited expert stakeholder views. Further, you made a reference to the justice portfolio. We have been in committee previously when you have cited evidence that they have used, and often in those committee stages you have gone into detail in terms of the organisation or the peak body. I am just asking: are there any names of peak bodies? Was it the GPs peak body? Was it the psychiatrists peak body? Are there any actual specifics that you can reference, because I am trying to understand. As a minister surely you get this internal departmental advice. How do you assess the veracity? Surely you just do not say, 'Because you provided this, I'm going to do it.' You need to assess its robustness, its expansiveness. Has it been interrogated? How will it withstand interrogation, for example, on the chamber floor? I am just after any specifics. Was it any of the peak bodies? Can you name any of the bodies that informed this advice?

Jaclyn SYMES: As you would appreciate, I am in a much stronger position to detail whom I have spoken to in the development of my policy. I did not consult on this bill, because it is not my bill, and I am doing my best to give you comprehensive answers. Again, we are talking about policy development here. We are actually not talking about the content of the bill, but I will continue to try and assist with answers that I do not think you are going to accept anyway. This is a scheme that currently exists, so all health practitioners that work in this scheme provide constant feedback on how it is working. This is a decision to streamline something that currently exists. There are already people that think it is okay. Dr Mansfield has indicated that she knows doctors who do not like it. My advice is that that is not necessarily a universal view. When we develop government policy that leads to legislation, we have to land on an outcome. Once we consider all of the consultation and feedback that is provided across the board, usually filtered through by the department, who run a lot of the consultations, that is where we land. That is kind of how the sausage is made. There is a lot that goes into it, and it is the prerogative of government to make those decisions and present them to the Parliament. I have given you an outline of the process. But with respect, it is government's role to create legislation and bring it to the chamber, and detailing every step of the policy development is not necessarily the remit of this chamber.

Samantha RATNAM: Just one final follow-up question on that matter: did the minister responsible for the development of this legislation not furnish you with any of those details to be able to share with us?

Jaclyn SYMES: I have just outlined to you the process, and I can confirm that a lot of feedback was considered by the ministerial office, the minister and the department in landing this legislation.

Sarah MANSFIELD: Just to clarify, the information I was citing was not just from my doctor mates, it was from peak bodies who presented information to the inquiry. It was actually a finding of that WorkCover inquiry that the DSM-5 is not an appropriate diagnostic tool, based on the expert evidence that we heard at the inquiry. Nevertheless, I am curious to understand: how will 'stress' and 'burnout' be defined?

Jaclyn SYMES: Dr Mansfield, it is the ordinary meaning, but I would refer to the minister's second reading, which would be a good reference point for you in relation to the answer to your question.

Sarah MANSFIELD: I am curious to understand whether the government expects that 'stress' and 'burnout' will ultimately have to be defined by judicial interpretation, given this will be new legislation. There will be claims made, and no doubt some of them will be contested. So is the expectation that 'stress' and 'burnout' will ultimately have to be defined through a judicial process?

Jaclyn SYMES: Back in my comfort space: yes, that is a possibility.

Sarah MANSFIELD: I am curious to understand: how will the assessment of stress and burnout be operationalised? As a GP you tend to be the first port of call for people who are making some sort of claim. If someone is experiencing mental injury as a result of something happening in the workplace, they go to their GP and they describe it. What tools, training, support or guidance will GPs be given to assess whether the mental injury is caused by stress and burnout as a result of the usual work activities or something else that is actually a compensable injury? How are practitioners going to be able to make this assessment?

Jaclyn SYMES: Dr Mansfield, it is not that this bill is introducing things that do not already exist. Doctors already treat people for stress and burnout, so in that instance it is already understood by practitioners. It is not as though it is a new thing. They are already dealing with people that have stress and burnout. So I do not see how the changes change the way that they would assess or treat somebody. I do not think a GP sits there and thinks about definitions under the legislation unless they are asked to perform the diagnosis for the purposes of the scheme, which is where we go back to the model that is designed to support the eligibility of the scheme. Their job is to diagnose, yes?

Sarah MANSFIELD: You have got to fill out the forms, you have got to do the assessment when someone comes and sees you and you have got to decide whether they meet the criteria for lodging a WorkCover claim. So what they put on that form is actually really important in assessing whether it is stress and burnout or some other anxiety disorder. Is it an adjustment disorder? How do you differentiate between stress and burnout that have been incurred as a result of your ordinary work activities and something that is actually as a result of a traumatic event? What sort of guidance will be provided for people? When you complete these forms, you have to put information in about what caused the event. All of this information is required at the initial stage of lodging a claim.

Jaclyn SYMES: I think we are crossing over a few different processes. My understanding is that the certificate of capacity is certainly something that doctors are doing, but the initial claims are done by the worker. In the scenario that you have explained, in terms of treating or diagnosing a patient, it is not the doctor's job to assess whether it is an eligible claim or not; their job is to treat or diagnose the patient. But I guess more broadly I can assure you that, as in my response to Mr Bourman, there is the development of guidelines and training, and they will be available when the reforms are in place, which, depending on how this goes today, is very soon. Perhaps you might want to revisit that with the minister when they become available, those guidelines, to see if that deals with some of the issues that you think might be a problem. It has been a while since I have worked in the scheme and in the system myself, but my understanding is that it is workers that lodge claims, not GPs.

Sarah MANSFIELD: Yes, the workers lodge claims, but the claim is based on a form that is completed. An initial assessment is done, and then subsequent assessments are done that do determine someone's capacity. But there has to be information put on that form that then goes to an insurance company that makes an assessment of the claim. The diagnosis can be contested.

Jaclyn SYMES: But how is that different now versus after the changes?

Sarah MANSFIELD: What I am trying to understand is: there is a change that is happening here where you are going to differentiate between some types of mental injuries that are compensable and others that are not, but they will be eligible for provisional payments. Who is going to determine which ones are compensable mental injuries? At what point in the process does that occur, and on whose information is that being determined? Is it the information that is provided by the initial GP assessor? Who decides which pathway someone is put on and based on what information? How do you get on this 13-week provisional payment because you have been deemed as having a mental injury that is caused by stress and burnout as a result of typical, usual workload, workplace roles and expectations of the role, rather than a mental injury that has been caused by something outside of that, so bullying, trauma or some other event? Who makes that determination? How do you know which pathway you are on and at what point in that journey?

Jaclyn SYMES: Dr Mansfield, I think something that you appreciate is that any claim lodged will be eligible for provisional payments, and that is before eligibility is ultimately determined by the claims agent. Coming back to I think your first question about whether some of these issues will be contested and determined by courts, yes, that goes without saying. It happens now under the system that people will access their right to conciliation and dispute things, and ultimately it can be a decision for the court. It can be regularly the case that you are making changes as people flex and test under the system, particularly in some of those more grey areas. That is kind of how the system has previously evolved, and I would expect a similar experience here.

Sarah MANSFIELD: I appreciate how the system works and how, typically, particularly for mental health, claims are challenged and disputed and have to go through a court process. What is being proposed here is 13 weeks of provisional payments that then cut off. That is the end of the payments at the 13-week point. For someone who is experiencing a mental injury caused by stress and burnout caused by what is reasonably expected of their role at work, I am still uncertain how this will be operationalised. You said everyone is eligible for the provisional payments. Who is going to determine whether it is a claim that then could go on to receive ongoing compensation? At what point is that determined and by whom, or will it be applied retrospectively? Will people have to pay back payments that were made because originally they were on the wrong pathway, it has gone past that 13 weeks and they have had compensation payments?

Jaclyn SYMES: In response to the last part of the question, no. That is not how it would work. There is no change to what happens now. There is nothing in the legislation that changes the system in terms of how eligibility is determined. There is a role for the agent here, which exists today and will exist in the future. There is no change to the process of determining eligibility. The tests are proposed to change, but to the assessment and the process there is no change. It is what is happening right now.

Samantha RATNAM: Just by way of follow-up, my understanding of the question that is being asked, just to clarify, is that while there might be some existing processes that will be used for the implementation of the new criteria and threshold this bill is imposing, there is a question about when you limit the criteria and require the assessors, or clinicians in this case, to make those decisions. What support and training are being provided to all those potential assessors? The assessment is actually more difficult because of the way this bill is structured around the definitions of mental injury. It is asking to ascertain and determine a singular traumatic event that caused the injury, not sustained events and exposure. I mean, that is really intricate and difficult work for any clinician, medical or mental health, and the question is: what has been put in place to ensure those assessments are done accurately, given it has added a layer of complexity to the existing system? That is the change.

Jaclyn SYMES: I would come back to just explaining the current system, which is not proposed to change with any of these reforms. A doctor makes a diagnosis, but they do not determine the cause. That role is for the agent, which then leads into a conversation around eligibility under the scheme.

Katherine COPSEY: Attorney, I noted your response about the definitions of 'stress' and 'burnout' and referring us to the second-reading speech by the minister. I have gone and reviewed what was available in *Hansard*, and there is not a definition of stress and burnout furnished in the second-reading speech. So I wonder again if you can enlighten us as to the definition that is intended by the government to be used for stress and burnout.

Jaclyn SYMES: I was not pointing you to the second-reading speech to provide a definition. My explanation was that it is the ordinary meaning: what is reasonable or typical in workers duties. That is the extent of that for this instance, which is pretty common in a lot of legislation. I would refer you to the earlier question of Dr Mansfield. If there are disputes over definitions, that could lead to discussions around conciliation or indeed court intervention if people cannot agree.

Katherine COPSEY: Thank you, Attorney. I apologise that I misunderstood your earlier response. In the second-reading speech there is reference to ensuring that these changes to the mental injury definition are understood and implemented effectively:

... guidance and training on the new definition of mental injury and the application of the work-related stress and burnout exception will be provided to WorkSafe Victoria's agents and self-insurers.

Attorney, do you know if that guidance and training material has already been developed?

Jaclyn SYMES: Yes.

Katherine COPSEY: Do you know if there is a definition or what that guidance says to agents and self-insurers as to how they are to define stress and burnout?

Jaclyn SYMES: No, I do not. I do not want to pre-empt the bill. It has got to pass before we finalise those materials. But I am advised that they have been developed, because they were developed as part of the development of the legislation. But they are not finalised until the bill passes, because if there are amendments and things, you want to make sure that you can reflect that.

Katherine COPSEY: I want to interrogate a little more around some of the discussion that has been had in the chamber around the situation of a worker who reaches the end. I understand, from what you have said this evening, the impetus is to get people back to work where socialisation and so on can help support recovery. For a person who has been on provisional payments for 13 weeks and reaches the end of that 13-week period and finds themselves unable to return to work, what are the options for that person at that point when they are not well enough to return to work?

Jaclyn SYMES: I had that exact question from Mr Bourman, and I again revisited Return to Work Victoria but also the government's mental health supports and investments and continual work in that regard.

Katherine COPSEY: Apologies for not being more specific in my question. What are the options for that person in terms of financial support given they are unable to access compensation through WorkCover?

Jaclyn SYMES: Ms Copsey, I would again point to the fact that it would depend on people's individual circumstances. I am not in a position to give you a specific answer to what individual options people would have. I do not know about people's personal entitlements to sick leave, long service leave and the like. Again, I would point back to Return to Work Victoria wanting to make sure that we have the best possible interventions at the early stages as soon as people are making complaints, ensuring that we are supporting their employers to understand some of the triggers, to respond to that and the like and remind workers about, you know, fact sheets and things about how to look after yourself and the like. We would ask people to attend their GPs. It is a little bit difficult for me to give you an answer that is responsive to a class of people that all have varying circumstances.

Deputy President, I am kind of after your guidance here. I believe I have been very generous in answering question after question that is outside the scope of the bill, and I have been reasonably comfortable in doing that, but now what is happening is that my answers are prompting further questions and I am being asked for clarifications of answers that I actually had no obligation to provide but I was trying to be of assistance to the committee. I am concerned that my continuation of trying to be helpful is actually at odds with the way a committee should be run. Literally every question is now starting with 'I refer back to your answer here.' They are answers where I was trying to be helpful, but the questions were not actually within the specifics of the bill. We have not discussed a clause in the bill for some time. This can just go on and on, and I am thinking that it could perhaps be useful if we could jump off clause 1 and start talking about the details of the bill unless you have a new line of questioning, rather than what is becoming somewhat repetitive. I have said 'Return to Work Victoria' a lot. That is my response to a lot of your questions, and it will continue to be so.

The DEPUTY PRESIDENT: Attorney, you sought my guidance on this. I actually cannot instruct people not to ask a question. You can decline to answer questions, particularly if they are outside the scope of the bill, or the other option that you have is to have someone from your party put the clause.

Aiv PUGLIELLI: This may be helpful, because this is a sort of new line of questioning, which should be good. It particularly pertains to the education sector and the implications of this bill on that sector. WorkSafe data – we have heard about WorkSafe today – shows that emergency services departments, like the police and ambulance, as well as education, are the departments that contribute most to the number of mental injuries in the system, with Victoria having what I would characterise as severely underfunded public schools –

Jaclyn Symes: Can I just ask: can you just move your microphone towards you a bit? Sorry, I could not hear you.

Aiv PUGLIELLI: Yes, I am happy to. I can feel the boom now, so that is good. Given what I would characterise as underfunded schools as a state per the national average, does the government take responsibility for, pending the passage of this legislation, an increase in mental injuries within that sector and accept that this legislation will have an impact on school staff with particularly the experience of stress and burnout?

Jaclyn SYMES: Sorry, Mr Puglielli, it might be the fact that I missed the first part of your question, but did you just say that you expect this bill to cause injury?

Aiv PUGLIELLI: No, to have an impact.

Jaclyn SYMES: Do you want to rephrase your question?

Aiv PUGLIELLI: With regard to school staff in particular who experience stress and burnout at work, who under this legislation will be unable to access workers compensation beyond the provisional payments, what implications does this legislation have on that workforce, and does the government accept that there will be an effect following the passage of legislation on that group of people?

Jaclyn SYMES: Mr Puglielli, I think it is important to note I just have a few concerns with the way you raised your question. Just to be clear, in the event of a mental injury for a teacher, for example, which is a result of a traumatic incident or the like, that is compensatable. In relation to stress and burnout, like we have been discussing across the board, the provisions in the reform are to send people suffering stress and burnout down a different pathway once the provisional payments, the 13 weeks, are exhausted. Having said that, we would anticipate that Return to Work Victoria or indeed employer interventions should start well before the 13th week, and in fact our concern is that practice is that with the WorkCover scheme it often does not actually kick in until the 13 weeks has been extended. We want to flip that and make sure that there is greater obligation and accountability for employers to respond earlier, not just to wait until they are forced to. Also Return to Work Victoria will be really looking at how to respond quickly and early to issues that are causing people to be off work as a result of stress and burnout. But there is nothing in this bill that limits teachers' eligibility for mental injury in relation to the other streams that I have articulated, whether it is traumatic event or indeed bullying or harassment in the workplace.

Aiv PUGLIELLI: As a follow-up, would you then characterise that this legislation does not effectively address the experiences of stress and burnout of school staff in our schools?

Jaclyn SYMES: Mr Puglielli, a bit like the conversation about the mental health reforms, looking at a piece of policy reform in isolation does not give you a true reflection of what might be happening in practice. For instance, my information is that the Department of Education (DE) have a dedicated piece of work and focus on reducing stress and burnout because not only do they want to look after their workforce, it makes good business sense to make sure you are looking after your staff, and

particularly teachers, because the functioning of schools relies on healthy, functioning teachers. So the education department is certainly focused on support for their workers.

This goes without saying across the board for the public sector. We want to do better. We want our organisations, our agencies, to do better. I understand that the minister is working with department secretaries on how we can improve OH&S outcomes in the public sector. This is not just a piece of legislation that stands on its own, which is a reflection of the conversation that we have been having. There is a public sector OH&S leadership group, who can share ideas across the public sector. There is a concerted effort to reduce issues that are keeping teachers out of the workplace, and that work will continue. It could be aided by the work or ideas that are generated by Return to Work Victoria, but as I have suggested in previous responses, regardless of the workplace, we think there is a role for employers to ensure that they are doing the best by their staff early on.

Aiv PUGLIELLI: We heard during the committee hearings in relation to this inquiry from the AEU information pertaining to the public school sector and it being, as far as their view goes, grossly under-resourced, meaning that teachers work very unsustainable workloads. In the context of this legislation, is it the government's intention that with these changes such unsustainable workloads are now to be normalised and considered usual and typical in the context of defining a mental injury that is entitled to be compensated?

Jaclyn SYMES: Mr Puglielli, that would be a management and industrial relations issue. It is not an unimportant issue but linking it to the consideration of this bill is not a nexus that I think is appropriate. There are still OH&S obligations upon employers, including schools, to provide safe places of work, and they have obligations to prevent injuries, including mental injuries. There is certainly nothing in this bill that takes away from that obligation. In fact I would argue a consequence of this legislation is to sharpen the focus on those types of interventions and responsibilities of employers, and there is certainly no weakening of the ability for WorkSafe to investigate breaches under the Occupational Health and Safety Act 2004. If you have got concerns about that, then certainly talk to the minister about any complaints that have been brought to your attention.

Aiv PUGLIELLI: I appreciate everything that you have just contributed there and the broader context beyond this legislation, as you have noted. The previous question that I had spoke to a problem that you identify as well, and that is this normalisation of unworkable workload – this overwhelming amount of work that our teachers and school staff have to do in our public schools in particular. To me it does relate to this bill in a sense in, for example, clause 6 and the exclusion of compensation in respect to mental injury if caused by stress and burnout that has arisen from events that may be considered usual or typical and reasonably expected to occur. Given this education context where, as we both identified, there is this prevalence of what is seen as a typical thing that goes on – this unworkable amount of workload and the stress that is induced from that – what would you define as usual or typical?

Jaclyn SYMES: It is not appropriate for me to provide that advice. I tend not to provide legal advice; that is not my job. But there were just a few things that you said that concerned me a bit. I do not think it is acceptable that the WorkCover scheme is the answer to unbearable workloads. That seems like a particularly unacceptable response to a problem that you have identified. In any workforce you want to ensure that an unbearable workload is responded to appropriately. I have run you through OH&S and the like. You want to make sure that you are dealing with those issues before they result in injuries. I do not think the solution should be the WorkCover scheme.

Aiv PUGLIELLI: Pertaining to what we have just been discussing, the minister in his second-reading speech stated that workload pressure is not considered unusual for the purposes of accessing compensation for stress and burnout. Does this understanding apply consistently across the board, or are there any circumstances in which workload could be considered unusual?

Jaclyn SYMES: Mr Puglielli, I think the best way to answer that is to refer to what the bill attempts to do, and that is to reflect what is usual in that workplace based on employment contracts, policies et cetera.

Aiv PUGLIELLI: Just to clarify from the previous question, you are not prepared to define what is usual or typical?

Jaclyn SYMES: It is not appropriate for me to seek to do so. That is not my job.

Samantha RATNAM: My question relates to understanding what the government assumes in the conceptualisation of trauma. The examples that were provided to the inquiry of who would still be able to access payment for mental injury with the new requirement that the injury be predominately caused by traumatic events focused on the emergency services – for example, police officers or paramedics attending a car crash. These are the obvious examples, but I am keen to understand what else is captured or not captured by this definition. Can you share with us what the government's definition of 'traumatic' would be in the context of the bill?

Jaclyn SYMES: Dr Ratnam, as you would appreciate, often a second-reading speech is used to give the Parliament a run-down of what the intention of the legislation is, and that is why, as you have correctly identified, there have been some examples furnished in relation to the exception to the new inclusion that is intended to apply to workers in frontline roles, emergency services roles and other occupations that have regular exposure to traumatic events as part of their usual duties. As has been flagged in the second-reading speech and just to quote the minister:

As a result of the traumatic nature of this work, these workers will continue to be eligible for compensation despite the mental injury being predominately caused by their usual or typical employment. Where a worker is exposed to trauma, they do not need to demonstrate a diagnosis of post-traumatic stress disorder to satisfy the exception, as any mental injury captured by the new definition would be eligible for compensation.

So the minister has endeavoured to provide the examples of where this would be clearly applicable. What you are effectively asking me to do is to provide further clarification, and I am not in a position to do that. As with the conversation I had with Dr Mansfield, I think, some of this will continue to be contested as it is settled. I am not in a position to give you a definitive answer of what is in and what is out, which is not uncommon when we are creating laws in this place. We are giving a good indication of our intention, but it is not possible to foresee every situation. That is why we provide examples for guidance. But it is not prescriptive and nor is it my experience that we are able to do that with specificity in many cases.

Samantha RATNAM: While I appreciate that, I think for the purposes of this bill and for the changes this scheme proposes to make, the more specificity the better – better for us to be assured of the implications. We have been asking for modelling of the impacts to understand what the real-world implications are on workers when definitions get tightened. While there might be some discretion, we remain concerned that given the rest of the intent of the bill it will be framed or defined in an ungenerous way rather than a generous way, hence the line of questioning and wanting to get as much information as possible. For example, does every specific event need to be considered traumatic or can a series of events taken cumulatively be considered traumatic events?

Jaclyn SYMES: Dr Ratnam, you are asking me to interpret the laws. I take a different view to you. Sometimes when you are too specific in legislation it has unintended consequences, and sometimes, in fact very regularly, it is best if you allow the legislation to consider a range of circumstances so that you are not unintentionally cutting out people that you do not want to be cut out. That can often be the consequence of being too specific. The laws are legal concepts, and it is intentional that they take their ordinary meaning. But it is not possible to apply a definition to every hypothetical situation that could eventuate, and in fact there are plenty of circumstances that eventuate that you do not think about when you are crafting legislation. For it to be able to be given an intention of what we are trying to do is generally how laws are made. If there are issues that arise, then the interpretation can be dealt with through the courts, or indeed there are opportunities to come back and amend legislation if there are

issues that become obvious. My experience is that is generally more likely if you are too prescriptive in the legislation as opposed to leaving it broader.

Samantha RATNAM: While I appreciate that, one of the things that we are trying to ascertain is the impacts this bill will have on workers' eligibility to access compensation and some sort of support. Hence the line of questioning asking for specificity, so we can properly assess the impact on workers. Up to this point we have not been able to get modelling data from the government about how many workers this is going to impact – hence we are trying to understand. If it is a broad, generous definition, we really welcome that, but it is really important for that to be stated for the record. This line of questioning follows on from work in the committee. During the hearings, for example, the secretary of the CPSU gave an example of an admin officer in a child protection office who is constantly seeing files and reports of child abuse and neglect. Would consistently listening to people describe horrific experiences over a period of time fall within the definition?

Jaclyn SYMES: Yes, it could. I am not in a position to make a determination on a hypothetical situation, but as you have outlined: yes, it could. But I would also remind the chamber that we have committed to a three-year statutory review, and by that point we will have data to assess whether the reforms have achieved what we need them to achieve or whether there are any consequences that mean we need to amend them. I am often on the record here that we are not wanting to be stubborn. If a problem is identified, there are opportunities for the Parliament to revisit legislation if it needs to do so. This comes back to the purposes of what we are trying to do. This is not to cause people harm; this is designed to ensure that we have a system that can support people who need help. Indeed, we think that we can do better in the areas of mental injury as opposed to what is happening now. I have outlined at length a variety of reforms and proposals that we plan to do in that regard, and we will continue to do more within the framework of the WorkCover system. Also, as per my conversation with Mr Puglielli, there are lots of opportunities to do better for workers, particularly in relation to mental health-related injuries.

Samantha RATNAM: Once again, I am not citing a hypothetical example – this was evidence provided to the committee of real, everyday experiences of some of our frontline workers, in this case the child protection system workers. In response to your response just now about wanting to make sure the scheme supports workers, tightening eligibility and ensuring a whole bunch of people cannot access the scheme does not seem to be a positive approach to support more workers, so I find that inconsistent. If symptoms manifest after a period of time, Minister, who will be required to prove that a worker's mental injury originated from a previous traumatic event?

Jaclyn SYMES: Again, it is the usual process. There is no change – the claims agent. There is nothing in this bill that changes the process. I have answered this question.

Samantha RATNAM: In that case, in reference to the existing system, if the worker must do this, how will they be expected to demonstrate this – that it originated from a previous traumatic event?

Jaclyn SYMES: My answer was 'the claims agent'. You have just put back something to me that I did not say.

Samantha RATNAM: Sorry, I will just repeat my question. Minister, my question was: this bill is trying to locate proof of the injury to a previous traumatic event, but if the symptoms manifest after a period of time after the traumatic event, who will be required to prove that a worker's mental injury originated from a previous traumatic event? So if the worker has to do it, how will they be expected to demonstrate this – what are the tests, what kind of evidence do they have to present? You have changed the definitions now, so it will change how this is done.

Jaclyn SYMES: It is by way of a claims form, Dr Ratnam – the same as the current situation. To be eligible under the WorkCover system you have to demonstrate that your injury was incurred at work.

Samantha RATNAM: How does the government plan to ensure that late-developing symptoms are not misinterpreted as non-compensable issues such as stress or burnout?

Jaclyn SYMES: Dr Ratnam, we are getting into the operation of the bill once it has passed. As I have indicated, there is work underway in relation to guidelines and in relation to any of the changes. But your line of questioning implies that we are changing the process, and we are not. WorkCover has been operational for many, many years, and there are well-established processes in relation to assessment of eligibility, whether it is incurred at work or not and what the cause was. Yes, there are some changes to 'mental injury', but the actual process has not changed.

Samantha RATNAM: I think there is a misunderstanding of the underpinning tenet of my question. I am trying to ask about symptoms that manifest from a mental health injury that potentially could otherwise qualify because it meets quite a high threshold of a singular traumatic event that has precipitated symptoms of a mental injury, but because this bill tightens the criteria that people can use to access the scheme, there are a whole bunch of experiences they can access the scheme for now but will not be able to once this bill passes. So we are saying because it will exclude a whole bunch, we want to make sure that people do not get swept up in those exclusions when they have legitimate symptoms from traumatic events caused at work. We are talking about symptoms manifesting after a period of time. Perhaps in the current system it would not be as onerous for the person to prove that this is because of the event that happened three months ago on this date and here are the circumstances. They can talk about the ongoing symptoms they have been experiencing for a series of three months and say, 'Look, I think it might have originated here, but this is how it's manifested for me in the last three months. It feels like stress and burnout.' Because you are excluding stress and burnout, my question is: if the symptoms manifest months later but clearly they have been caused by that traumatic event that happened in the past, how can we guarantee that they will not be misinterpreted as non-compensable issues? Because you have excluded stress and burnout, it is going to be harder for them. So it is not actually about the operation, it is about the new definitions and thresholds that you have introduced and how they could exclude people who should be eligible even with your higher thresholds in this bill.

Jaclyn SYMES: To pick up on your term 'clearly', well, if it is clear, then it is likely to be predominant. There is no change in the assessment process here. Yes, there is a change to the test. It is up to agents to determine that on the evidence before them, and I can take from your question that you are calling into question the rigour that agents apply when they assess claims. I have already explained that WorkCover is developing guidelines and training, and if all of that does not satisfy your question, then I would also point to the fact that there will still be the ability to dispute a decision through conciliation.

I think you are underestimating agents. The system that they already work under is going to be the system that they will work under again, and there will be some changes, and guidance and training will be provided for that. But your example was if something is clearly connected to work. I cannot see how your example is not going to fall within the test of 'predominant'. I think it goes without saying. As I have indicated, if the agent fails to identify that, then there are ways to revisit that.

Samantha RATNAM: I would like to know more about the assessors so that we can have more assurance about those assessors. I am sure they have been doing a fine job, but you will be giving them a harder job with this bill, so I would appreciate at some point some assurance that training and support will be commensurate with the complexity that is being added to their role. But actually my question and the line of questioning I am pursuing is to understand if this bill is practically implementable, because if you make legislation so complex that no-one can interpret it and apply it in accordance with the intent because it has been written in such a way that it makes it almost impossible to prove, then it becomes exclusive to the people who need it. So our concern is that with complex mental health injuries – and they are by their nature complex; they often manifest later – we are putting the onus on the worker to somehow be able to prove to a much higher bar how the previous event has precipitated these late onset symptoms, whereas the current system has a lesser burden of proof on workers. What

we are concerned about is the burden of proof that this bill is placing on workers to make it impossible for them to access the support that they need, and we are worried those workers will be deemed non-compensatable, will be deemed ineligible and will not have the support they need. That is the rationale for this line of questioning, and we are just seeking assurance about how the government plans to ensure that late developing symptoms are not misinterpreted as non-compensatable.

Jaclyn SYMES: Again, Dr Ratnam, as you have indicated, you have not had the opportunity to speak to assessors and agents, and I think that you are doing them a disservice in the fact that they are unable to work in the field that they are trained to do. I take issue with your concerns about the bill being unimplementable. We would certainly disagree with any assessment of that that you have characterised. Once the bill passes, we can press go pretty much immediately on training the agents to ensure that your concerns are certainly addressed. I think you are overstating those concerns in terms of the ability of people to work within the system and those that have expertise in assisting workers to access assistance for mental injury. I can just come back to the fact that there will be additional guidance and training, because of course we do not want it to be difficult for people who are eligible to access a service that is there to support them. That is the purpose of the scheme: if you are eligible, we want you to access WorkCover. There is certainly no intention for us to create difficulty for people who should be eligible to be eligible.

Business interrupted pursuant to standing orders.

Jaclyn SYMES: Pursuant to standing order 4.08, I declare the sitting to be extended by up to 1 hour.

Katherine COPSEY: Attorney, in response to some of the comments you just made to my colleague Dr Ratnam regarding her line of questioning, I think it was unfair to state that Dr Ratnam was impugning the assessment capabilities of agents. Certainly one thing that we heard during the committee inquiry on this bill was a concern, particularly from frontline workers and emergency responders, that sometimes it is not about an agent making an assessment that someone has a non-compensable injury, it can be delay or failure by the injured person themselves to understand, at the time that they were experiencing the impacts of that injury, the nature of that injury. Someone might have what they believed to be stress or burnout manifesting, but what we heard frequently were examples from emergency services of someone who was actually experiencing PTSD but did not appreciate that at the time and was not tying the symptoms of the mental injury that they were experiencing to the traumatic event that may have triggered it.

I appreciate the information you have given. Can I understand better the training that is going to be delivered to the agents that is being finalised and the new guidance. Does that mean that agents are going to be interrogating claims that might be submitted for stress or burnout to investigate whether those might actually be compensable injuries and, if so, direct the worker appropriately in terms of lodgement of a further claim?

Jaclyn SYMES: Good question. It would be certainly our view that both agents as well as Return to Work Victoria, who would have a role in early intervention, would help people at the first sign that there might be a more significant injury, as you have characterised. In fact we think that early identification of a serious injury such as PTSD would be a benefit of what we are trying to do, because we want to ensure that there is early intervention from the employer and Return to Work Victoria, which can hopefully help people identify the serious conditions that you have reflected in your questioning.

In terms of the ES area, there is a lot of really good work happening in the public sector and in the emergency services space to respond to and support people with mental health management. I reckon the one that impresses me a lot that I see regularly is Triple Zero Victoria. You would appreciate as an emergency services workforce that it is part and parcel of the job that you are going to get distressing calls, and some of those can be harrowing. They have very good support mechanisms in place,

debriefing processes and dedicated people in that workplace, the three of them. Their number one job is to deal with call takers who have had difficult calls and the like. That is just one example in the emergency services space where these issues are taken very seriously in relation to early prevention, support and acknowledgement of the harm that can come to people in these roles.

Katherine COPSEY: I appreciate that. I am very pleased to hear that that work is underway and being embedded in these organisations. I hope that we will see much more of that as the other changes that you flagged tonight progress beyond the bill that we are considering.

Attorney, if a worker presents with a stress and burnout claim that might be masking a different condition, do you think it is realistic that a diagnosis and appropriate triage of that person into a compensable claims stream can occur within 13 weeks? Can you step us through how that is achieved?

Jaclyn SYMES: I would just point to the fact that it is a doctor that determines what the condition is. When someone lodges a claim, the advice would be to seek a medical diagnosis of their injury or their condition.

Katherine COPSEY: That brings me to the nub of it. One of the concerns we heard time and time again throughout the inquiry process was that the time period available for provisional payments is not actually realistic in terms of the diagnosis journey that many workers will have to go through. The concern I hold is that a number of people who have compensable claims simply will not be able to complete the diagnosis process in the time period that provisional payments are available, leaving them unsupported financially and without the ability at the end of that 13 weeks to commence their claim.

Jaclyn SYMES: Ms Copsey, if you take issue with that, you are taking issue with the existing scheme. The provisional payment system remains unchanged. In fact before 2021 we did not have this, and it is also something that I understand does not exist in other jurisdictions. There is nothing in this bill that is proposing to change that system, and therefore I would put to you that your line of questioning is out of scope of this bill.

Katherine COPSEY: Obviously I disagree. There is a change here, and we heard a concern from multiple witnesses at the inquiry that the exclusion of stress and burnout claims could mean that some people who had appropriately identified that they had suffered a mental injury at work –

Members interjecting.

The DEPUTY PRESIDENT: Sorry, Ms Copsey. Dr Ratnam, can we take the conversation outside, please? It is distracting.

Katherine COPSEY: I have lost my train of thought; I am sorry. I disagree with the representation you have just made, Attorney, that there is no change from the current system.

Jaclyn Symes: Provisional payments.

Katherine COPSEY: The change that I see is that this bill is excluding stress and burnout claims from compensation. What we heard during the inquiry were concerns that workers may present with what they have incorrectly self-identified as a stress or burnout issue and therefore not be within a category of mental injury that is actually compensable. We heard repeatedly during the inquiry flat disbelief actually from a number of people, including injured workers, people who had been through the system themselves, who felt that there was no way that the 13-week provisional payment would be sufficient to work through the issues that they had experienced. Many of those workers that were sharing their experiences, I have no doubt, would actually have had compensable injuries, but what we particularly heard was that people may present with stress and burnout and that actually it would take much longer than 13 weeks for it to be worked through to uncover that worker's actual diagnosis, which would mean that they were left without payments, given that stress and burnout are now going to be classed as non-compensable. I do not believe it is out of scope.

Jaclyn SYMES: What I would point to is that the advice I have is that the provisional payments are currently underutilised, and this is an opportunity for workers to receive payments to get that early medical support. I am a little concerned about your presentation about the onus on the worker. This is not a Dr Google situation. We do not ask workers to self-assess. The agents are trained, and there will be further training to consider how a claim is ultimately accepted. Where I was concerned about your characterisation in your previous question is that the provisional payment system remains unchanged. What has changed is the eligibility, not the provisional payment system.

Aiv PUGLIELLI: Minister, I will go on to a slightly different line of questioning, which has not yet been covered I do not think this evening. It relates to the context of reports that there is a deal that has been struck with the coalition that would see this bill proceed through this place in exchange for a freeze or a cap for a year on premium increases. By way of clarification could you provide the Labor government's justification for putting the burden of money saving from WorkCover on the backs of workers while giving capital a guarantee of no premium increases?

Jaclyn SYMES: Coming from the party who try to transact deals consistently with government, I do find your sincerity of the question that you put somewhat amusing, Mr Puglielli. There is nothing improper in seeking to negotiate contents of a bill with members of the chamber, and it is something that we do time and time again. I am concerned that there seems to be just this denial. You are denying that the problem exists, and that is fundamentally where we are butting up with problems here. This is not an ideal reform. This has been a tough decision. We are not wanting to do this because we just thought it was a good idea. We had to come up with a solution to ensure that our system can continue to operate and can continue to support the most amount of workers in Victoria. I do not think that you appreciate the fact that if we do nothing, either we just bang all the premiums on people who are going to be unable to pay them or the system collapses and more and more workers are left without any support.

That is not what we want to do. That is why we are making these hard decisions and why we are arguing that this is the best way forward. There are things that people do not like. Even with some of the issues that you have raised, it is not as though you are bringing amendments to do things differently. You are just saying you do not like it, and I get that. It is challenging. It is difficult. But in government it is our responsibility to make tough decisions, and that is what we are doing today. I respect the fact that this is hard, and it is really easy to criticise – easy. It is harder to do what is right, but that is what we are committed to doing. I do appreciate the questioning that you have had, and I understand where it comes from, from the union movement. I would be asking the same questions from the union movement.

I sit in a different chair now, and I have a broader responsibility to the Victorian public. The government have had to make a hard decision, and that is what we are doing today. So I just want to remind you of that context, because it is really easy to pick holes in this and raise concerns. I get that. But fundamentally there is a reason that we are doing this, and it is to ensure a scheme is viable, because we care about workers. That is fundamentally what is driving this. So I just want to remind you of that because I feel as though I am being very defensive on each and every clause, but I did want to bring us back to the purpose. There is an ideological view on this side of government that we want to do the best thing we can for workers. This is what we have come up with, and with respect, no-one has come up with a better solution.

We are talking about more prevention and all that kind of stuff. We are on board, we are there, but it is not going to save the system right now. So I appreciate your criticisms, but I just did want to remind you of that. I think it is a little unfair to call out business and suggest that there is a deal done that benefits employers over workers. I would draw your attention to the fact that we increased premiums last year to an average of 42 per cent, and that was tough on business and that was a tough decision. But as I have indicated, premiums alone will not fix this, and that is why we have a challenging piece of reform. You are running me through my paces here, nitpicking at every little thing, but I am just

going to continue to respond with: fundamentally we think this is going to achieve an outcome that is going to be best for Victoria.

Aiv PUGLIELLI: I suppose I will say from the outset that an assertion that we have not sought to bring amendments to this place with regard to this bill is untrue. We brought a reasoned amendment earlier, and it was voted down, regrettably.

Jaclyn SYMES: That is not an amendment, that is a pause.

Aiv PUGLIELLI: Sure, however you want to characterise it, that is fine. I hear what you are saying, that you are in a position of having to make tough decisions here and your view is that this is the best way forward, proceeding with this bill. I would put to you that it is not. I think the tough decision here is we should be choosing the other choice. Anyway, if the changes in this bill do not have the desired effect of saving sufficient money for WorkCover's sustainability, given the premium cap or freeze that I have just spoken about in my previous question, are there future cuts in terms of eligibility to this scheme that workers can expect with regard to their compensation payments and eligibility for those payments, and if so, what are they?

Jaclyn SYMES: It is rather hypothetical, but let me answer it like this: you reckon we want to go through this again? I do not think so. We want to do this once, we want it to work and we want better outcomes for workers, and that is why, as hard as it is, we are proceeding with this – because we think it is the right thing to do and will produce outcomes. So to suggest that there are going to be wholesale future changes – we would have done that now.

Samantha RATNAM: Just further to Mr Puglielli's questioning, I would like to ask the government whether it was the right decision or just the easiest decision, because what has been furnished to us in this Parliament since these reforms were announced is a rushed bill with no consultation with this Parliament, no courtesy of proper briefings and proper modelling and proper background. This Parliament has appealed time and time again, especially to the minister, Minister Pearson, for adequate briefing, for adequate background and for adequate dialogue.

We have a series of amendments. I will be moving a number of amendments on Mr Bourman's behalf, because he had to go home sick tonight, but it is something that a number of us on the crossbench who have been actively excluded from the government's consideration of this bill have been working very hard at. Should we have had more of an opportunity to work constructively with the government to improve the system to make it a viable system that does not exclude a whole bunch of workers who currently can access it, we would have jumped at the opportunity. So to say that no-one else is putting alternatives is absolutely false. We have worked so hard. We have members of this chamber who worked over summer on an inquiry to get to the bottom of understanding the rationale and seeking pathways forward that the inquiry actually recommended – genuine pathways forward that we can work together on to get a better WorkCover scheme that is sustainable into the future.

I would put to the government: wasn't this just the easiest pathway, because we have not seen any other alternatives or any modelling or evidence to suggest that you had any other model on the table to support workers in a strengthened way, not just cutting off a whole bunch of workers now and into the future. Was it just the easiest thing to do, Minister?

Jaclyn SYMES: No. I appreciate the fact that you wanted to use the opportunity to make a statement. I do not want to get antagonistic here, Dr Ratnam, but my advice is that you were offered briefings – and then you basically said you were not supporting the bill and went public on the bill – and it has been something that you have attended once. If that is inaccurate, then I would certainly withdraw it, but when the advice is that you were afforded briefings and you did not take up the opportunity and you jumped the gun and went public saying you were opposing it, I think that is a little bit at odds with the way you have characterised your involvement with this bill.

The minister has certainly framed the financial problem and has explained why this is the pathway forward. We had premium increases last year. Honestly, if the inquiry had come up with a better alternative, the government would have been in a position to consider that. But we have gone through a lot of alternatives, and our prerogative is to present the one that we think is best. The fact that the committee did not come up with wholesale changes to what they thought is, I think, a good indication of how complex this problem is. We are not in a position to do nothing, and we are not in a position to throw it all on businesses, because not only would that be difficult for businesses, that would be bad for workers because that would result potentially in the loss of employment for people.

I am not the minister; I am vicariously living through this, obviously. This has been really challenging. To land here we know does not please everyone or a lot of people, but we think it is the right thing to do. I accept that you disagree with that, and that is what this place is for, but I think we are spending a lot of time on ventilating your concerns about the bill, which are well known, and I do not think this dialogue is going to change your position on the bill. I am more than happy to explain any of the clauses, but we keep coming back to the formulation of the bill. I think I have been generous in trying to give you much information about policy development, but it is actually not the content of the bill. I think we should, at 10:30 at night, perhaps get back to the content of the bill because we are revisiting old ground regularly.

Samantha RATNAM: Just taking up the point regarding the inquiry's recommendations and somehow surmising about the parliamentary inquiry. The government truncated the time they had to conduct this inquiry. It actually had a longer reporting time so it was able to do more substantive work, but the government did not want that and brought the time line forward. The inquiry actually recommended a full, independent inquiry given the substantive nature of the reforms that were being proposed, recognising that so much more work had to be done. So I think it is not fair to blame the committee for not coming up with all the recommendations, when they were not given the time –

Jaclyn Symes: I am not blaming the committee, I am just saying it demonstrates how hard this is.

Samantha RATNAM: Yes. So we should have given the committee more time and given the independent inquiry the time to canvass the other options so that we could make a more informed decision rather than this rushed, ham-fisted approach that is going to screw over workers.

Minister, I want to come back to the questions we talked about in terms of the extra complexity in assessing mental injuries. I think you insinuated or indicated in your previous answers that the current assessment framework – of the GP and then the workplace and then the WorkCover assessors – will undertake the new task, hopefully with some extra training for them to be able to do it. Are any of these WorkCover injury assessors qualified mental health professionals?

Jaclyn SYMES: I do not know the credentials of every agent, Dr Ratnam.

Samantha RATNAM: Does the government have a view or recommendation about the level of mental health qualification, given the complexity of the assessment that is now going to be required by the new thresholds introduced in the bill? Should these assessors who are assessing these high-threshold mental health injury claims be qualified mental health professionals?

Jaclyn SYMES: Dr Ratnam, these people are already assessing mental health injury, and as I have indicated, WorkCover is working on guidance and training materials that will be rolled out.

Samantha RATNAM: In recognising that this bill will make those assessments more complex, given the complicated thresholds and higher thresholds, my question is: does the government have a view or a recommendation about the mental health qualification of these assessors, given the complexity of the task is much higher now?

Jaclyn SYMES: I have answered this question.

Samantha RATNAM: Minister, how did the government come to the decision that stress and burnout are required to be explicitly noted as non-compensable?

Jaclyn SYMES: Dr Ratnam, I think that the minister has certainly been on the record in relation to the legislation and the rationale and the policy development of this bill.

Samantha RATNAM: I do not believe the minister has actually furnished either chamber of this Parliament with an appropriate rationale for how stress and burnout were required to be explicitly noted as non-compensable, hence the questioning. We have not been furnished with the information that we need to make the really significant decisions before us. Minister, will 'stress' and 'burnout' be defined, or will they ultimately be defined by judicial interpretation?

Jaclyn SYMES: Dr Ratnam, I think you have been in here the whole night; you would know that I have answered that question at least twice.

Sarah MANSFIELD: Given that there are a number of new assessment criteria that will be applied and that we are expecting may have to be determined through a judicial process, is it reasonable to –

Jaclyn Symes interjected.

Sarah MANSFIELD: Well, you said that it is possible, and it is quite likely, given that there are not definitions of 'stress' and 'burnout' provided in this legislation, that these claims will be contested in court. Particularly with the changes to arbitration that are included in the legislation, if there is a challenge made or a dispute about the eligibility for compensation, the avenue that a worker has is really to take that to court, so it is reasonable to expect. The evidence that we heard at the inquiry was that there is an expectation that a lot of these things will have to be settled and determined through a judicial process. Is it possible that this will end up actually costing the scheme more because things are going to have to be determined through the courts? Because things are not defined, we do not know how these things are going to be applied in practice.

Jaclyn SYMES: I would propose that that is a hypothetical question.

Samantha RATNAM: Minister, how are the needs of people experiencing stress and burnout as a result of work different to those who have experienced a mental injury at work?

Jaclyn SYMES: Dr Ratnam, I am not a qualified health professional, and I do not plan on changing careers anytime soon in relation to that. I am not familiar with how you would diagnose these conditions, but it is only an injury at work that is compensatable, and I think your question is seeking to be a little broader than that. But I will come back to the point I have made on many, many occasions now: there is an opportunity for Return to Work Victoria to really home in on early intervention for stress and burnout as well as providing guidance and the tools for employers to handle these issues much more appropriately.

Samantha RATNAM: We have got some questions on the whole-person impairment test. We are happy to ask them now or ask them in the relevant clause, depending on the preference of the minister.

The DEPUTY PRESIDENT: The preference of the minister is for the relevant clause.

Council divided on clause:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4 (22:38)

David ETTERSHANK: The bill proposes a new definition of ‘mental injury’ and a change to section 39(1) relating to entitlements to compensation. A mental injury is now an injury that ‘causes significant behavioural, cognitive or psychological dysfunction’. To be entitled to compensation a mental injury must be ‘predominantly arising out of or in the course of any employment’. This is harsher than any other Australian jurisdiction. Why is Victoria becoming the worst place in the country for mental injuries?

Jaclyn SYMES: I understand Mr Ettershank made reference, first of all, to an assessment of Victoria compared to other states. I think at the outset I would refute an allegation that we have the worst scheme. I think that we are far from that; we would be the most generous relative to other jurisdictions and are one of the few that still have a long tail of support for people who are on the scheme long term. I understand you may have raised questions around the term ‘significant’. Would you like me to –

David ETTERSHANK: The question is that the bill proposes a new definition of ‘mental injury’ and a new section 39(1), relating to entitlement to compensation. A mental injury is now an injury that ‘causes significant behavioural, cognitive or psychological dysfunction’, and to be entitled to compensation a mental injury must be ‘predominantly arising out of or in the course of any employment’. This is harsher than any Australian jurisdiction, and so I ask: why is Victoria becoming the worst place in the country in defining mental injuries?

Jaclyn SYMES: Mr Ettershank, the reforms are about improving the nexus between employment and injury, and the bill therefore introduces a definition of ‘mental injury’ into the act to mean an injury that causes significant behavioural, cognitive or psychological dysfunction to the worker and is diagnosed by a medical practitioner in accordance with the most recent version of the DSM, which according to Dr Mansfield is five. In addition, a mental injury must have predominantly arisen out of the course of employment to be compensable. ‘Predominantly caused’ in this context takes its ordinary meaning and refers to the strongest or largest contributing factor relative to others. Where a mental injury is predominantly caused by stress or burnout from events that may be considered usual, typical or reasonably expected to occur in the course of the worker’s duties, compensation will no longer be available under the scheme but instead workers will be entitled to receive 13 weeks of early treatment and support through provisional payments. And you know that, so I think I am just telling you some of the stuff that you already know. But as with my previous answer to the question that I did not hear, we have a scheme that we are amending, but we are certainly not trying to cut off a large range of people. We are doing a reform that we think is measured, given the constraints that we face.

David ETTERSHANK: Perhaps I can clarify a little and that might help in providing an answer. We are focusing on this: ‘causes significant behavioural, cognitive or psychological dysfunction’. So if we just look at a few examples – New South Wales describes ‘a substantial contributing factor’, WA says ‘a contributing factor and contributed to a significant degree’, Queensland says ‘a significant contributing factor’, South Australia says ‘a significant cause of the injury’, Tasmania says ‘a major or significant contributing factor’ and the ACT is similar. All of these, as you can see, are far more nuanced, far more qualified, in how that threshold is set. When you talk about it being reasonable – I think that was the expression you used, Attorney – I guess I am saying I just do not quite get that, because it does seem to be, *prima facie*, a harsher definition, a more restrictive definition, than any of the states or territories in this country have put in place in their workers compensation legislation.

Jaclyn SYMES: Mr Ettershank, overall our scheme has always been one of the most generous, and this reform is proposing to better link the cause of a mental injury to employment. That is the intention of this clause.

David ETTERSHANK: The Occupational Health and Safety Act makes clear that employers are required to ensure their workplaces are safe. I think we all agree on that. The aim is to eliminate risks

of both physical and mental injuries. In setting different standards for eligibility for physical and mental injuries, and clearly the bill proposes exactly that, the government seems to be delivering a message that one kind of injury is real and the other is not, or if that is perhaps over pushing it, that one is more significant or more tangible than the other. So if this is the case, if that is indeed the message that is being sent, should WorkSafe refocus their energies away from mental injuries?

Jaclyn SYMES: We have visited these themes previously, and I think I answered that of course we acknowledge mental injury alongside physical injury. What this is about is early intervention and responding to the pressures that have been placed on the system – a system that has been evolving and changing by virtue of the claims that have been made to a system that did not envisage that to occur. So the reform is in response to the reality of what we are experiencing but is not seeking to diminish peoples injuries – just dealing with them in different ways.

David ETTERSHANK: I understand entirely what you are saying. I guess it does not really answer the question, though, of why the bar is set differently for a mental injury compared to a physical injury because manifestly that is what these definitions do. I guess we are just curious to understand: why the difference?

Jaclyn SYMES: Mr Ettershank, we are confident with the right treatment, right intervention and right supports that people who suffer a mental injury have a really good chance of getting back to work, a little bit different to a physical injury that means that you can no longer perform your duties because you physically cannot. We want to ensure that we are responding to mental injury in a way that returns people to the workplace, because that is the best form of treatment, that is the best way for workers to have the dignity of work, the safety of work. What is happening right now is that 50 per cent of our claims are being directed to mental injuries, and we have so many people that are not coming off WorkCover ever. We think that we should be doing better by those people, and that is why we are bringing in some interventions and ensuring that there is a refocus on returning to work as a priority under the reform.

David ETTERSHANK: Sorry, Attorney – thank you for that response. Implicit in the logic that you are applying there, aren't you basically suggesting that the way to get people back to work is just to make it harder to be able to make a claim, through a more narrow definition? Is that really the most nuanced approach to such a sensitive issue that the government can adopt?

Jaclyn SYMES: It is providing a different pathway. There is still a large cohort of people that this is unchanged for, and we have not spoken a lot about that because I do not think anyone has issues with the fact that sexual harassment, bullying and traumatic events and the like that lead to PTSD and other mental injuries are untouched here. We are adjusting the scheme in relation to burnout and stress, and we think that the scheme was not designed to pick up all of these instances. I think somebody suggested making sure that proper diagnosis is appropriate. You certainly do not want a situation where people are just told that it is not a mental injury and that it is just stress, just burnout et cetera. But we think that the best response to stress and burnout are management early and ensuring that there is tailored support for these workers.

Treatment, we know from lived experience, is best supported by continuing to be in the workplace for these types of conditions, these types of injuries. We do not want people being on WorkCover for the rest of their working life. We know that that makes them sicker. As we have been up-front, there are financial challenges to the scheme. It is certainly awash with mental injury claims that are effectively putting so much strain on the system that it is at risk of not being a great system for anyone. We want to divert that cohort of worker, not to deny them support but to put them on a different pathway and work with Return to Work Victoria, who will also have a role in supporting employers to do what they can. We have spent a bit of time in the debate tonight talking about some of the programs and interventions that employers are doing, and we would certainly encourage good corporate citizens to be sharing their experiences with those that perhaps could do better.

Georgie PURCELL: We have been told that it is likely that there will be a high number of disputes at the Workplace Injury Commission and the Magistrates' Court about the interpretation and application of the new eligibility criteria for psychological injury claims. Has the government looked into how much those disputes are expected to cost the scheme?

Jaclyn SYMES: I am not in a position to pre-empt that – again hypothetical.

Katherine COPSEY: Attorney, with the different treatment of physical and mental injuries under the government's proposed approach, how is the government going to ensure that this does not undo progress that has been made on destigmatising mental injury suffered in the workplace?

Jaclyn SYMES: We actually think this will generate a conversation that better recognises the impact of work practices on people's mental health. This is a good conversation to have in terms of making sure that employers are doing better. Return to Work Victoria – one of their goals will be to ensure that we are talking about these issues. Again, one of the best treatments for mental health issues is acknowledgement and acceptance. Confronting your issues and admitting your issues is part of the treatment. We certainly do not want to stigmatise people. In fact we think that this has a benefit of talking about it in a more open way, accountable way, giving people the opportunity to make sure that there is early intervention and it is dealt with. I would argue that the WorkCover scheme can sometimes have a perverse outcome of hiding these injuries, because they have gone off on WorkCover. This makes it more of a conversation, and accountability within not just the workplace but in the community would be my hope, and I think that that could be achieved.

Katherine COPSEY: It is one thing that the bill proposes to treat mental injury and physical injury as different categories of injury. The bill also then goes further and says that some types of mental injury are not compensable mental injuries. How does the government aim to reduce stigma by people who are suffering what are real mental injuries that will no longer be compensable? How does the government plan to counteract the stigmatising impact that could be foreseen when some people's mental injuries are seen as deserving of compensation and others are not?

Jaclyn SYMES: Ms Copsey, this government has not shied away from the challenges of health reforms, acknowledging the issues of the mental health system. I am not the Minister for Mental Health, but I think probably your line of questioning is a little offensive, questioning what this government has done to reduce stigma around mental health. We have done more in this space than any other jurisdiction, so I would be –

Katherine Copsey: On a point of order, Acting President, I appreciate everyone is seeking to keep this debate civil tonight. It is an important debate. I would ask you to withdraw your comment that my line of questioning is offensive. I have been purposely trying to frame my questions on what is a sensitive topic to look at the impact of the government's bill, and I think that the question that I have raised is a legitimate query about the impact that the government's different definition of both physical and mental injuries and also categories of mental injuries –

The ACTING PRESIDENT (Michael Galea): Thank you, Ms Copsey. There is no point of order. At this time it is 11 o'clock, and I have to interrupt.

Business interrupted pursuant to standing orders.

Jaclyn SYMES: Pursuant to standing order 4.08, I declare the sitting be extended by up to 1 further hour.

I think I had finished my answer. I was not deliberately trying to generate any conflict there. I think that we are acutely aware of mental health challenges of Victorians, and we have a commitment in that regard. That is the only point I was trying to make.

Katherine COPSEY: I have one final question on this line of questioning. Thank you, Attorney, for providing the information you have in those answers. The reason I am asking this series of

questions is that we heard directly from worker representatives and in particular employer groups that have high rates of mental injury due to the nature of work. We heard concerns directly from those stakeholders that the government's definitions around mental injury would lead to restigmatising and undoing the good work that has been done over many, many years. I acknowledge that work that has been done – it has been a focus – and obviously there is far more that needs to be done that has been uncovered through the process of interrogating this bill. What do you say to those stakeholders who are concerned that the government's definitions around mental injury are going to undo the work that has been done destigmatising mental health in the workplace?

Jaclyn SYMES: Ms Copsey, as you would appreciate and as I have been at pains to point out, these are necessary reforms so that the scheme is here for years to come – otherwise the scheme collapses. In relation to your concerns around stigma, we will continue our work, and I thank you for your acknowledgement of this government's commitment in that regard. This does not change that pursuit, and if in the event your concerns or those that you have articulated start to bubble up in any way, we will certainly seek to address that. But as I have indicated, I actually think this is an opportunity to talk about mental health issues in a destigmatising way and to encourage a collective response to supporting people who are struggling. I am repeating myself, but sometimes someone going off on WorkCover means that the workplace does not have to worry about them anymore – they are on WorkCover. The colleagues do not get to see the person – they are not at work. I think that having a conversation about that – it is happening in education, where people are acknowledging that the job is hard, that there are pressures and there is stress, and we should talk about that. If you are struggling with work pressures, rather than going off onto WorkCover where you are not seen for months, if you come back at all, you are actually able to have a conversation in the workplace and confront these issues. I think that has a destigmatising impact. But again, if there are issues of stigmatisation, then that is something that we would seek to combat because we certainly do not want people to feel stigmatised about raising genuine issues about their health, even if they are invisible.

Georgie PURCELL: Attorney, can the government outline the number of primary mental health claims versus secondary mental health claims?

Jaclyn SYMES: I can take that on notice and see if there is a response that could be furnished. I do not have that at hand.

Sarah MANSFIELD: The Royal Commission into Victoria's Mental Health System made recommendations to create mentally healthy workplaces and to support people experiencing mental illness at work. We heard from, again, a number of witnesses at the WorkCover inquiry that these reforms are at odds with the findings of the royal commission, specifically in relation to the recommendations around creating mentally healthy workplaces. From the government's perspective, how is what is being proposed here consistent with the royal commission recommendations?

Jaclyn SYMES: I have attempted to outline some of the measures that the government has taken in this space, and I have got a good list of a few things here which might be of use to the chamber. Health outcomes for workers on compensation schemes, as I have indicated earlier, are four times worse than those with the same condition outside of these schemes, and I think that is pretty telling. This can lead to prolonged injury and underemployment or unemployment. We know that the longer a person is away from work the less likely they are to ever return, and again that is why I have spent a lot of time outlining the benefits of setting up Return to Work Victoria. Workers with stress and burnout claims will still be able to access provisional payments, which I have gone through, and we certainly want Return to Work Victoria to have a focus on mental health. Obviously we recognise that there is a concern that that is where there will be a demand, because that is what the system is changing, so it certainly would not be confined to that, but it is obviously going to be its main focus.

As we know, mental health injuries represent 16 per cent of all new claims – that is growing. We understand that on that trajectory we would be looking at about 30 per cent of all new claims by 2030.

As I have indicated, if we do not do something soon, this is a problem in terms of the ability of the scheme to function at all.

You have asked about the royal commission into mental health, and there are 74 recommendations that were made by that royal commission, and we have backed that in with more than \$6 billion in funding. I am sure you would agree that is a significant investment, and certainly in comparison to other jurisdictions it demonstrates our commitment to this effort. We have established the Collaborative Centre for Mental Health and Wellbeing to provide treatment and support, lead cutting-edge research and serve as the engine room for our reforms to build robust mental health systems for all Victorians, and certainly workers are included in that. We are building up the mental health workforce and have committed to doubling the size of the sector by 2031, and we certainly encourage anyone that is interested in working in that field to check it out. We are delivering the establishment of 50 mental health and wellbeing locals across Victoria by 2026, which we would hope would be complementary to Return to Work Victoria because they provide an opportunity for people to receive support and treatment – there is free walk-in mental health care and support. Wellbeing locals are already running across the state in Benalla, Wangaratta, Frankston, North Geelong and Brimbank, and the list I have of ones to come includes Orbost, Bairnsdale, Bendigo, Echuca, Shepparton, Melton, Dandenong, Mildura and Lilydale, and they all contain support to be delivered to people in person as well as telehealth and outreach services so that they can provide care plans and match patient goals and preferences. This investment – this commitment – will certainly be of assistance to workers who find themselves needing help for the issues that we have been discussing.

Sarah MANSFIELD: I thank the Attorney for outlining all those different measures that have been taken in response to the royal commission findings, and certainly all of those investments are very welcome and will hopefully go some way to addressing mental health issues of Victorians across the board. However, recommendation 16 of the royal commission specifically refers to creating mentally healthy workplaces, and I am interested in how this legislation addresses that recommendation to create a mentally healthy workplace. The government has not updated the psychosocial hazard frameworks. I am not sure what other work has already taken place to try and improve workplace conditions to address that particular recommendation. I am curious as to why some of these less restrictive measures that do not involve restricting the eligibility of someone to make a claim were not first undertaken.

Jaclyn SYMES: Dr Mansfield, recommendation 16 is being implemented. I talked some hours ago about the workplace wellness toolkits, for example. They are a direct consequence of the work that has been done in response to the implementing of recommendation 16. My recollection is that the former Premier and maybe even the current Premier have been involved in the advisory groups to continue to work on the implementation of that recommendation, but as I have indicated, there is work that has already been undertaken to implement that recommendation.

The ACTING PRESIDENT (Michael Galea): If there are no further questions on clause 4, I invite Dr Ratnam to move her amendment in Mr Bourman's name.

Samantha RATNAM: I wish to move a series of amendments, beginning with amendment 1, in respect of Mr Bourman's amendments. These were originally his amendments. However, he is unwell, so for the remainder of this debate I will be moving the amendments essentially on his behalf, but they are amendments that we too support. I move:

1. Clause 4, line 8, omit "significant".

This amendment removes the word 'significant' so that it reads 'mental injury means an injury that causes behavioural, cognitive or psychological dysfunction; and is diagnosed by a medical practitioner in accordance with the latest version of the DSM'. The introduced bill now differentiates between physical and mental injuries and introduces a higher threshold for accessing WorkCover for mental injuries. This means more workers will be denied access to WorkCover as a result of their genuine workplace injury, and what we are attempting to do with this amendment is to redress the higher threshold that we believe is going to unfairly punish workers by excluding them from the support that

they need in what are often some of the most difficult times that they will experience as a result of workplace injury.

While we believe that essentially the whole bill needs to be withdrawn and recast – and we are willing to work with the government to recast it in a way that actually supports workers; this bill does not support workers – here are some amendments that are trying to minimise or reduce the worst harms of this bill. This is a sensible amendment that could benefit hundreds if not thousands of workers into the future. That should be the focus of everything that we do in this place, not passing draconian legislation that is going to undo and withdraw support from workers who need it the most.

Jaclyn SYMES: Dr Ratnam/Mr Bourman, I think you would be well aware that the government is not in a position to support this amendment, because it would undermine the entire purpose of the reform, which is to ensure that the scheme is viable. Your contention is that without this the scheme is not supporting workers. Unfortunately the reality is that if this amendment were to get up, it would cause so much strain on the scheme that more workers would be in the category that you have described, because the scheme would not survive. I understand your concerns, and I have acknowledged them. I get it. There are a lot of people that are advocating against some of these changes. They are difficult decisions that we are making. We are trying to mitigate the consequences of shifting people off the scheme by ensuring that there is early intervention and more accountability, and we are committed to making that work. We understand this is a shift for people, and we understand that it is challenging, but this amendment unfortunately would mean that the intended changes would not be fulfilled, and as I said, the scheme would be at significant threat of, if not the reality of, collapsing.

The separate test of ‘significant’, as proposed, is intended to identify those injuries that are significantly interfering with a worker’s life and incapable of being identified and diagnosed rather than short-term responses to stresses. The test is used to signify that, in addition to being capable of receiving a diagnosis under the DSM, injuries should demonstrate a level of interference with the worker’s regular functioning to be compensable. There is nothing in that statement that suggests that there should not be intervention, support and programs for people that fall below that threshold. That is what we want Return to Work Victoria to do. That is what we want employers to do. I can speak for the public sector.

There are issues; we are identifying that. There are advisory groups. There is a working group. The public sector secretaries are involved in identifying ways to better support workers who are struggling with mental health issues and the like, and that is something that is on us. We have to do better in that. I think Mr McGowan was very clear in this. We acknowledge that there are issues in the public sector, and we want to make sure that those people that need assistance are provided with it. We think that one option is workers compensation. If we stick with this, it will not be around for much longer. We are going to try something new. We are going to put them on a different pathway: Return to Work Victoria and better support for employers to do better. I recognise that you do not like that – many of us on this side are not thrilled either – but we have to do something, and we think that we can achieve a good outcome for workers by doing what we are doing.

Council divided on amendment:

Ayes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Noes (26): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Amendment negatived.

Council divided on clause:

Ayes (26): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clause agreed to.**Clause 5 (23:27)**

Samantha RATNAM: Minister, under the current scheme, workers are entitled to receive ongoing benefits if they can establish they have no work capacity on an ongoing basis. Under the proposed changes, in order to continue to receive payments after 130 weeks, workers will need to prove impairment of more than 20 per cent in the whole-person impairment test in addition to having no work capacity on an ongoing basis. This additional requirement will result in many injured workers losing their entitlements. For example, a disc herniation under the guides is generally assessed at less than 10 per cent. What does the government propose will happen to workers who are still unable to work after 130 weeks but do not meet the 20 per cent WPI test?

Jaclyn SYMES: What clause are you in?

Samantha RATNAM: Clause 5. It relates to our amendment 2 in clause 5.

Jaclyn SYMES: I was expecting a question about ‘predominantly’, not about –

Samantha RATNAM: We can go there first if you like, but I have this question too, which is in relation to the amendment.

Jaclyn SYMES: Is it? How? I do not see how that test is relevant to this clause.

Samantha RATNAM: I am happy to come back to it if you think there is a more relevant clause, but I understood this was relevant to clause 5. There is another section on the whole-person impairment test in clause 13.

Jaclyn SYMES: Yes, I think it would be better there.

Samantha RATNAM: Deputy President, I think the question is better answered in clause 13, so I will withdraw that and re-ask it in clause 13.

The DEPUTY PRESIDENT: Okay, thank you. Just for the *Hansard* record.

David ETTERS HANK: A worker is entitled to compensation for a physical injury arising out of or in the course of any employment. The government is introducing or proposing to introduce a new section 39(1) requiring a mental injury to be predominately arising out of or in the course of any employment. What is the government’s justification for supporting all workers with physical injuries but not all workers with mental injuries?

Jaclyn SYMES: Mr Ettershank, I think that we have done this dance before, in clause 1 and potentially in the previous clause. The reforms that we are introducing are in direct response to the strain on the system and the alternative pathway that we think people who are experiencing particularly stress and burnout can be put on. That is the remit and the purpose of Return to Work Victoria as well as the obligation on employers. I believe we have been here before.

David ETTERS HANK: I am not quite sure whether we are talking at cross purposes, because obviously previously we were talking about the significant provision. I guess we have now moved on

to a different provision, and that specifically strikes to this predominant test. That is why I was seeking some clarification specifically in the context of the use of the term ‘predominantly’.

Jaclyn SYMES: You did not ask me about ‘predominantly’, you asked me about the difference between physical and mental.

David ETTERSHANK: Would you like me to read it again? I did ask you, yes, but it is a different test. The predominant test is not applied consistently between physical and mental injuries, so I am asking: why would that predominant test be applied differently in those two contexts?

Jaclyn SYMES: Mr Ettershank, the purpose of the clause is for work to be the predominant cause of the injury, greater than all of the combined causes, and in effect to strengthen the nexus between the employment and the injury. That is the purpose of the clause.

David ETTERSHANK: The government in this bill introduces a new exception for mental injuries predominantly caused by traumatic events experienced by the worker that may be considered usual or typical and reasonably expected to occur in the course of the worker’s duties. Will workers who experience secondary trauma – that might be, for example, court reporters or journos – be eligible for mental injuries under this exemption?

Jaclyn SYMES: Absolutely, yes. You have called it secondary; other terminology is vicarious, and it is intended to be captured.

David ETTERSHANK: I thank the Attorney-General for that clarification. I think a lot of workers would be very happy to hear that. That is a great reassurance, so thank you for that. Can I ask, Attorney: how is it proposed to reconcile the inclusion of bullying and harassment claims if the eligibility criteria are restricted only to single or multiple traumatic events?

Jaclyn SYMES: Another clarification that I think you will be pleased about is that bullying and harassment are in. This is only in response to traumatic events. Bullying and harassment do not have the same exclusion.

David ETTERSHANK: I appreciate the response from the Attorney-General. Sorry, I did not quite follow your answer, so could I ask you to elaborate, if you would, please.

Jaclyn SYMES: The traumatic event exclusion is for stress and burnout claims, not bullying and harassment.

David ETTERSHANK: Just to be clear, can I then confirm that bullying and/or harassment will be specifically defined, or deemed to be defined, as a traumatic event for the purposes of compensation?

Jaclyn SYMES: It is compensatable, so it does not need to be.

David ETTERSHANK: Is it automatically compensable? If we could just get that on the record, that would be much appreciated, Attorney-General.

Jaclyn SYMES: I have already said that bullying and harassment will remain in. They are already recognised under the scheme.

David ETTERSHANK: If we are talking about non-traumatic incidents, will WorkSafe continue to investigate matters that are deemed to be non-traumatic incidents?

Jaclyn SYMES: Yes.

Katherine COPSEY: Attorney, how will assessors determine what events are reasonably expected to occur in each worker’s role?

Jaclyn SYMES: We have had a long conversation about this. You asked me about it about 2 hours ago or 3 hours ago. You came back in and said that you would read the second-reading speech, and

that was what we were talking about before you went off and read the second-reading speech. It was about the fact that we have given some flavour of what would be considered usual, typical and reasonably expected in the course of workers' claims.

Samantha Ratnam interjected.

Jaclyn SYMES: Sorry, maybe I am getting confused about who asked which question. I have answered this question – absolutely.

Katherine COPSEY: Yes. We are asking about I think different parts of the same clause that we have addressed earlier in debate. My question is more around not typical workplace activities but specific roles that employees will carry out and how assessors are to form an opinion or have an evidence base or a knowledge base or training around the 'reasonably expected to occur' events in workers' roles given they are going to be assessing people from hundreds of different industries, with different roles, different organisational structures. What guidance is going to be provided to assessors in order to fulfil that definition?

Jaclyn SYMES: Ms Copsey, agents would be looking at what is usual in a worker's role based on available evidence. Agents currently service particular industries. They are familiar with them. They specialise quite regularly. Particularly in the emergency services space, for example, there are a lot of people that specialise specifically in that. There are people that specialise in manufacturing et cetera. That is my information. When I refer to them looking at evidence, they could look at things such as contracts, enterprise bargaining agreements, policies, position descriptions and the like to support any type of assessment that is not completely obvious. But in many situations it would be obvious, particularly, as the second-reading speech indicated, with frontline workers particularly in the emergency services space or, say, the corrections space for instance.

Katherine COPSEY: I take it from that that the government anticipates that what is 'reasonably expected to occur' in different workplaces may impact different groups of workers differently. Has the government looked into the differential? You have mentioned emergency services, but I am thinking of other professions where we know that, for example, there might be sites of conflict. I am thinking of teachers that might have conflict with parents. We know in care settings there is frequent interpersonal contact and that sort of thing. Has the government made assessments for those particular groups of workers about how this 'reasonably expected to occur' provision might impact those various classes of workers?

Jaclyn SYMES: Ms Copsey, I do not really want to stray into providing more examples than the minister has already proposed to do, but you are right. It is really obvious in some instances, but it may also be completely reasonable and expected and typical for traumatic events to occur in some of the workplaces that you indicated. I can imagine certain instances, particularly in any workplace where you are dealing with children that might come into harm. I think that there is an expectation that instances such as those types of things would be reasonable and typical. I guess some will be more obvious than others, and I guess we will see how that goes. But for the examples that you have indicated, I certainly envisage the ability for them to be picked up in this definition.

Sarah MANSFIELD: Just further to Ms Copsey's questions on what are considered usual expectations of a particular working role, what about instances where a certain work practice is quite typical but objectively problematic? For example, poor rostering practices are quite common across the health sector. Rostering occurs where it is not best practice with respect to fatigue reduction and safety. For people who have to do shift work, the way you design those shifts can be done in a safer manner, but it is typical across the board for that not to occur. Excessive overtime again is quite typical in a lot of the health sector. That could often contribute to mental injury. Given that it is typical but objectively unreasonable and objectively potentially quite unsafe, how will issues like that be dealt with in this legislation?

Jaclyn SYMES: I will just repeat the clause that we are talking about. You have referenced ‘typical’ and ‘reasonably’. It is what is reasonable in the workplace, but you are missing the first couple of words that lead into this clause:

... if there is caused to a worker a mental injury predominantly caused by traumatic events experienced by the worker that may be considered usual or typical and reasonably expected to occur in the course of the worker’s duties.”.

When you read the entire clause, the way you have articulated it is missing part of that clause. You are just referring to what might be reasonable and typical, but it needs the other element of ‘traumatic events experienced’. We have touched on overwork, HR practices and rostering and the like. They are IR questions. There could be some OH&S issues for sure, but we do not believe that the WorkCover scheme is the response to improper rostering. By all means WorkCover can investigate, but the WorkCover scheme is not the solution to that issue.

Katherine COPSEY: I am going to ask this in relation to this clause because we have talked about multiple instances of traumatic events previously, when we were discussing the definition of ‘traumatic’ that is applied in this bill. I am curious to just drill into, in the context of this clause, if there is an occurrence that, as Dr Mansfield referred to, is typical and might not in and of itself on a single occasion be a traumatic event but because of the repeated nature of it over time it starts to impact that person negatively, will reasonably expected to occur events be treated singly, so just that instance itself is reasonably expected to occur, or can there be a cumulative impact of those sorts of events – that while they are individually reasonably expected to occur in a pattern or sequentially, they might add up to something that is unreasonable? An example might be an individual instance of poor rostering or that sort of thing might not be unreasonable, but if it becomes a pattern, it would be up to the assessor, you are saying, to determine whether or not that was reasonable.

Jaclyn SYMES: Ms Copsey, I am reluctant to get into a case-by-case analysis and application of the legislation, but I guess it would be envisaged that if it is repeated and they are multiple events, then the cumulative impact could be considered. But I do not want to get into a situation where we are starting to apply this to individual situations and cases, because that is not the role that I am playing today.

David ETTERS HANK: I might need some guidance here. I have a number of questions that strike to the question of stress and burnout, and I am just slightly confused on how to read this table. Am I correct in assuming that stress and burnout is this area? Perhaps the Attorney-General might like to clarify for me where we would like best to address those questions, now or later.

Jaclyn SYMES: We are in clause by clause now, Mr Ettershank, and right now we are on entitlements to compensation, which talks about the predominant element and the traumatic events element. I do not see how that fits in this clause, but I do not think it is for me to decide necessarily without having heard the question. But we did a lot on stress and burnout in clause 1. Is there a relevant clause other than this one? I think there probably is.

The DEPUTY PRESIDENT: Yes, clause 6.

Jaclyn SYMES: Let us wait for clause 6.

Samantha RATNAM: I am satisfied that clause 6 is more relevant, but it does say in the instruction notes for clause 5 that new section 39(2A) provides an exception to the exclusion at new section 40(1A). It then talks about mental injuries predominantly caused by work-related stress or burnout arising from an event. It is relevant to clause 5 too I understand. That is my view.

David ETTERS HANK: I think I will have a punt at this one, because I am looking at this document and it does seem to classify this under clause 5 and it does seem to be a standalone. I guess my first question, Attorney-General, would be whether or not the government has any data, any

indication, that it can provide as to the extent to which those with mental injuries as a result of stress and overwork will be affected if those with burnout and stress are no longer able to access the scheme.

Jaclyn SYMES: Mr Ettershank, I have been asked this question a lot on clause 1, in various forms. This is not designed to create a situation where people are not supported in the workplace. If you are suffering stress and burnout, you have eligibility for provisional payments, which then can compensate or reimburse you for GP visits, psychologist visits and the like, including travelling to such appointments. It also triggers the attention of Return to Work Victoria, and we have had a long conversation about early intervention and the benefits of that. There can be conversations with the employers about their obligations to provide safe workplaces that support the mental health wellness of their workers. So it is not a change and nothing, which I think is a little bit lost in the conversation that we are having – everyone seems to think that there is going to be this abyss of nothing for people that are no longer on the WorkCover compensation pathway. They are on a different pathway, which we hope will provide support for people to perhaps take some time out but be able to return to work very quickly and address the issues in the workplace in a return-to-work framework with a comprehensive plan in place – which we hope that GPs would do and that Return to Work Victoria and employers can really have a conversation about ‘What can you do better to make sure that these people are staying in work?’

Fundamentally these are good business decisions. In an environment where employers are finding it very difficult to attract staff, it is in their interest to respond appropriately when people are presenting with issues of stress and burnout, and we think that it can be better dealt with in that framework. Obviously we have expressed that it is necessary for the viability of the scheme, but it is not as though we have just said, ‘That’s too expensive, cut them off.’ There is much more to this reform than that. There is a repivoting, a refocusing of attention on what we think is better for people, because what we know from experience is that people that start off with burnout and stress issues and go on WorkCover very regularly do not come back, and we think that we can do better by those people rather than have them in a scheme that is really not working for them and certainly not making them better.

David ETTERS Hank: I think we are really looking forward to the section of the debate where we get into provisional payments and how that works and the safety of the window that you alluded to there, Attorney-General. I will come back to that. I would like to, however, get a bit of an understanding about what seems to me to be a bit of a tension between two strands that are being pursued. If on the one hand we have got this bill, which is saying that stress is no longer a compensable claim, I guess the question in mind is then: would that mean that WorkSafe would no longer see that stress as a workplace risk factor? Then I guess the other tension is if the bill is saying that it is no longer a compensable claim, but then we look at the psychosocial regs exposure draft and it includes specifically ‘high job demands’, which I would have thought is a pretty good substitute for stress. So I guess my question is: firstly, how does WorkSafe address this? And then how do we reconcile those tangentially opposite, I would suggest, definitions between the bill and the psychosocial regs exposure draft?

Jaclyn SYMES: I have got this question a couple of times, and I want to really clarify and confirm that you are conflating the two divisions of WorkSafe. The OH&S obligations on employers are unchanged by this bill. You still have an obligation to provide a safe workplace. You still have an obligation to address hazards that can impact the health or safety of your workforce. There is nothing in this bill that is designed to divert WorkSafe’s attention from continuing to investigate and prosecute where appropriate – absolutely not. I cannot be any stronger – no.

Samantha RATNAM: I understand I can move amendments 2 and 4 together –

The DEPUTY PRESIDENT: No, sorry – separately. Amendment 2 is a test for amendment 4.

Samantha RATNAM: Okay. I will speak to both. I move:

2. Clause 5, line 20, omit “predominantly”.

These amendments delete the word ‘predominantly’ so that it reads ‘if there is caused to a worker a mental injury arising out of or in the course of employment’ and add a subclause (b) that makes clear that stress or overwork is eligible as a mental injury claim if the volume is considered unreasonable. This means the requirements of physical and mental injuries are consistent but mental injuries must meet the threshold of the new definition above. Workers experiencing stress and overwork are also entitled to access WorkCover for injuries that are no fault of their own but result from unreasonable workload volume, as has been said, and relates to the previous amendment as well in terms of the tenor of these amendments, which is trying to ameliorate some of the worst impacts of this bill.

We still maintain that the bill should be taken back to the drawing board and recast, and there are a number of us willing to work on developing a better scheme. The government have mentioned a number of times that should the amendments in their bill not pass, the entire sustainability of the scheme is threatened and therefore workers will not be able to access any scheme. But these schemes are a product of how much governments also wish to invest in them, and budgets are about priorities, so if the government was really serious about supporting workers, they would actually be investing in the existing WorkCover system. Absolutely, we need to recast it and we need to improve it, but there have been no solid and coherent arguments put before us through the course of the last few months, since this bill was rammed through before Christmas at the first stage, about the alternatives that were considered, why they were ruled out and what modelling supports this, and therefore we maintain at the very least we should support amendments that minimise the most catastrophic damage that this bill will do to workers.

Jaclyn SYMES: I have more than addressed these issues. It is a really serious matter, but it is very humorous that you are moving Bourman’s amendments; I never thought I would see this. But we are not in a position to support Mr Bourman’s amendments put by the Greens. We have had some really mature debate on this. I have explained it is not the most desirable position that we find ourselves in. If it was just a matter of shuffling some money to fix this, we would have done that. There would be significant consequences to a range of services that I am sure are important to the Greens party that would suffer if that was an approach that we were taking. Of course a government has to weigh up their priorities, and that is why we are here.

Samantha RATNAM: May I just respond to the minister’s assertion around –

The DEPUTY PRESIDENT: Sorry, Dr Ratnam. We need to interrupt business because it is midnight.

Business interrupted pursuant to standing orders.

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (00:00): I move:

That the sitting be extended.

Council divided on motion:

Ayes (25): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (9): Katherine Copsey, David Ettershank, David Limbrick, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Motion agreed to.

Samantha RATNAM: I was responding to the minister’s response to the amendments that I put forward and the comment she made about finding it – I think she used this word – comical that I was moving Mr Bourman’s amendments. I think it is important to state for the record: these are

amendments that a number of us on the crossbench share similar concerns around and have been voicing directly to the minister and to the government for months on end. Mr Bourman took carriage of moving them in the chamber, but these concerns are validly shared by a number of us. It is not like because Mr Bourman is sick we took them up; these could have equally been moved by any one of us. It is important for the government to understand that the concerns that have been raised through these amendments are shared across what are usually quite disparate policy agendas, and that tells you how bad your legislation is. I think it is important for the record not to dismiss it as just comical or stepping in. This is something that equally any one of us could have moved, and we will continue to argue very strongly for these really sensible amendments.

The DEPUTY PRESIDENT: The question is that Mr Bourman's amendment 2, which tests his amendment 4, be agreed to.

Council divided on amendment:

Ayes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Noes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Amendment negatived.

Jaclyn SYMES: I move:

1. Clause 5, line 24, omit "of the Principal Act".

Amendment agreed to.

Samantha RATNAM: I move:

3. Clause 5, lines 27 to 31, omit all words and expressions on those lines and insert –
 - 'a worker a mental injury predominantly caused by –
 - (a) traumatic events experienced by the worker or to which the worker has been exposed that may be considered usual or typical and reasonably expected to occur in the course of the worker's duties; or
 - (b) usual or typical work engaged in by the worker that may be considered unreasonable in respect of volume.'.

Council divided on amendment:

Ayes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Noes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Amendment negatived.

Council divided on amended clause:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Amended clause agreed to.**Clause 6 (00:24)**

Aiv PUGLIELLI: I note that clause 6 amends section 40 of the Workplace Injury Rehabilitation and Compensation Act 2013 to include further circumstances in which a mental injury is not compensable. Further it notes that if work-related stress or burnout arising from the worker's usual work activities predominantly causes a mental injury, the worker is not entitled to compensation. It also notes that usual or typical work activities may include typical job demands, workload pressures and interpersonal interactions. In the context of the public sector, under this Labor government thousands of public sector workers have been sacked and workers wages have been capped. In that context, with this legislation, given the stress and burnout exemptions from eligibility for workers compensation, how does the government propose to address stress and burnout in the public system when the system itself is understaffed and under-resourced and the staff are overworked and often feel undervalued?

Jaclyn SYMES: Mr Puglielli, we went down this line of questioning when we were discussing education. I took you through some of the initiatives or the plans in the education department, and DE are certainly focused on that. But all of the secretaries of the departments have a taskforce that is looking at these issues. Even in the last question I think I acknowledged that we as an employer would like very much to do better by those that find themselves in the WorkCover scheme. That is work that is underway irrespective of these changes, but it certainly puts more emphasis on the need for a concerted effort for us to ensure that we are tackling that as best as possible. As I said, we know that there is a job to do, and we are committed to getting it done.

Council divided on clause:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clause agreed to.**Council divided on clauses 7 and 8:**

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clauses agreed to.

Clause 9 (00:35)

The DEPUTY PRESIDENT: I invite whoever is moving it to move Mr Bourman's amendment 5, which tests his amendments 6 and 12 to 25.

Samantha RATNAM: I move:

5. Clause 9, line 6, omit "may" and insert "will".

This changes the wording in new section 263AA so it is clear that a worker 'will' be entitled rather than 'may' be. It will read, 'A worker will be entitled to provisional payments.' This clarifies the language to make clear that workers are entitled to provisional payments.

Jaclyn SYMES: This is an existing right, and the bill does not need this amendment to make that any clearer. We are not in a position to support the amendment.

David ETTERS HANK: My first question to the Attorney-General is: will the 13 weeks begin when a worker first submits a claim, or will the 13 weeks begin when the worker can first access treatment?

Jaclyn SYMES: Mr Ettershank, my information is that it is from the time of the claim.

David ETTERS HANK: Attorney, we heard in the inquiry that the average wait time to access a psychiatrist or a psychologist is typically six months and often extends out to 12 months. I am wondering in that context how the provisional payment of 13 weeks could possibly be adequate if a claimant is not even going to be able to have their first visit to a psychiatrist in double that provisional payment period.

Jaclyn SYMES: Mr Ettershank, we have gone through provisional payments in some detail, but we can just revisit some of the comments that I have made previously in relation to provisional payments. They can cover a range of expenses, including GPs, who have capacity to develop mental health plans or action plans to support recovery. As you have identified, it can include payments to psychologists, counsellors, psychiatrists, cost of medication and indeed travel to treatment. This is to be viewed also in our investments and efforts to ensure that we have better provision of mental health services in our state, and I have gone through a lot of the initiatives that have come out of the commitment to delivering the recommendations from the royal commission. Some of those go directly to your question. One is the establishment of 50 mental health and wellbeing locals across Victoria by 2026, with several already in operation. We know that there is more to do in this space, and we have demonstrated that it is a priority of our government to increase access to mental health supports. Again, I would draw you back to comments that we have made that early intervention, support and advice to employers about how to support workers that are struggling are all going to be important as these reforms are delivered.

Georgie PURCELL: Attorney, acknowledging that the healthcare outcomes for metro, suburban, regional and rural Victorians differ, what assurances will the government give that regional injured workers will see the full benefit of the 13 weeks of provisional payments, acknowledging that access to service is often even more limited for them?

Jaclyn SYMES: We certainly acknowledge that, and that is why the walk-in mental health clinics that I referred to include regional Victoria. For your benefit, Ms Purcell, in our electorate Benalla and Wangaratta are already open, and we have others being proposed for Bendigo, Echuca, Shepparton and Mildura. Other areas earmarked include Orbost, Bairnsdale, Melton, Dandenong and Lilydale, and there is already one in North Geelong. There is a fair acknowledgement of the need in regional Victoria, and my advice is that those mental health and wellbeing locals also offer telehealth appointments.

The DEPUTY PRESIDENT: The question is that Mr Bourman's amendment 5, which tests his amendments 6 and 12 to 25, be agreed to.

Council divided on amendment:

Ayes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Noes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Amendment negatived.

Council divided on clause:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clause agreed to.

Council divided on clauses 10 and 11:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clauses agreed to.

Clause 12 (00:53)

Jaclyn SYMES: I move:

2. Clause 12, lines 30 to 32, omit "the **Workplace Injury Rehabilitation and Compensation Act 2013**" and insert "this Act".

This is a definitions clause, and we are seeking to fix up a drafting error. It should be pretty straightforward.

Amendment agreed to.

Council divided on amended clause:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Amended clause agreed to.

Clause 13 (00:56)

Samantha RATNAM: Under the current scheme, workers are entitled to receive ongoing benefits if they can establish they have no work capacity on an ongoing basis. Under the proposed changes, in order to continue to receive payments after 130 weeks workers will need to prove more than 20 per cent whole-person impairment in addition to having no work capacity on an ongoing basis. This additional requirement will result in many injured workers losing their entitlements. For example, a disc herniation under the guide is generally assessed at less than 10 per cent. What does the government propose will happen to workers who are still unable to work after 130 weeks but do not meet the 20 per cent WPI?

Jaclyn SYMES: Dr Ratnam, we have certainly had this question.

Samantha Ratnam interjected.

Jaclyn SYMES: All right. I will see if I can give you anything different – I will change some words in my answer. We know that the longer a person spends away from work, the less likely they are to ever return, which in turn increases the risk of negative health outcomes for those particular workers. The Royal Australian College of General Practitioners has found that when an injury or medical condition occurs in a compensation setting the chance of a poor health outcome is about four times that for the same condition without compensation. The increased risk of poor health outcomes is even greater for workers who have claimed for mental injuries.

To align with other states and territories, WorkSafe will update the test for people who have been receiving weekly benefits for longer than 130 weeks to more objectively measure the degree of physical and mental impairment alongside work capacity. Currently an injured worker's entitlement to receive weekly benefits ceases after 130 weeks unless the worker is assessed as having no capacity for work, as you have indicated, and that this capacity is likely to continue indefinitely.

The introduction of a whole-person impairment test is a more consistent, objective basis upon which to assess ongoing eligibility for weekly benefits. It would mean Victoria moves to a similar threshold as New South Wales. Again, we are very hopeful that there is opportunity for workers across the spectrum of injury in the workplace, whether they are eligible under the scheme or not at any juncture, to benefit from the reforms that we want to bring in alongside the legislation.

Samantha RATNAM: Can I confirm that the options available to that worker who does not meet the 20 per cent WPI but has received the 130 weeks of support already would either be being forced to be unemployed or to return to work, even though they might consider that they are not fit for work? Are they the options?

Jaclyn SYMES: I think that again it is difficult for me to comment on individual cases and case-by-case examples, but as I have previously discussed in the committee stage, lived experience is that there are often opportunities for people to return to altered duties or indeed completely different professions that can accommodate people's health conditions. You have also failed to identify the option of appeals through a range of mechanisms if people are concerned that their assessment is incorrect, and they will still continue to have their medical expenses paid. That is not something that we are seeking to change through the amendments. I guess the answer to your question is that you have presented two options, I have presented a few others that come to mind and I do not expect either your list or my list to be exhaustive.

Samantha RATNAM: In his submission to the inquiry, Luke Hilakari of the Victorian Trades Hall gave a compelling and tragic example of a worker who, under the proposed changes in this bill, would

be kicked off the scheme: a police officer of 13 years who attended the scene of an accident where a child had been decapitated and another crushed to death. He now lives with his mother, who cares for him, and has been suicidal yet does not meet the 20 per cent WPI. What would happen to this injured worker under the proposed bill?

Jaclyn SYMES: Dr Ratnam, as I have indicated on a couple of occasions, it is not my intention to engage on individual case-by-case examples.

Samantha RATNAM: Minister, the Australian Lawyers Alliance, in their submission to the inquiry, estimate that over 85 per cent of injured workers will not meet the proposed impairment test for ongoing weekly payments. Does that accord with the government's understanding of the impacts of this change?

Jaclyn SYMES: I am not in a position to confirm that.

Samantha RATNAM: Minister, I find it quite concerning that you are not in a position, and I would like to understand why you are not in a position, because we have been seeking any rationale or modelling that sits behind this decision. The committee inquiry heard expert evidence suggesting that 85 per cent of injured workers will be captured by this new requirement, potentially kicking off or excluding a whole bunch of people, the vast majority of people. Is that in any way approximate to the government's modelling or speculative modelling if it occurred? Is it in the ballpark? Is it off by 5 per cent, 10 per cent or have you not done the modelling?

Jaclyn SYMES: Dr Ratnam, we have had a good conversation about data and modelling, and I do not seek to repeat that here.

Sarah MANSFIELD: Attorney, how was it determined that a worker's whole-person impairment would be assessed as the greater injury, not the sum of their injuries, especially as this is labelled the 'whole-person impairment'?

Jaclyn SYMES: Half of our discussion was me disagreeing with what they think you are asking, but they are probably right. In terms of the whole-person test used for the purposes of determining an injured worker's entitlement to weekly benefits beyond 130 weeks, it will be the greater of an injured worker's physical or primary mental injury WPI score. Secondary psychological injuries are not included in the assessment of a whole-person impairment, consistent with the approach for assessing impairment benefit claims.

Sarah MANSFIELD: So in a situation where someone experiences a traumatic event and they simultaneously incur a physical and mental injury as a result of that traumatic event, the same traumatic event, which is very conceivable – I can recall patients I have seen who have been physically injured in very traumatic, disturbing circumstances and have been left with a mental injury as well as a physical injury as a result of that same event – the combined impact of that mental and physical injury will not be accounted for with this test, because it has to be either the physical or the mental injury, whichever is greater, even though the sum of the two may actually mean someone has a functional impairment, a real-world impairment, exceeding 20 per cent. It will not be possible to make that determination because the legislation requires the separation of mental and physical impairment, and you cannot consider both even if it was result of the same incident.

Jaclyn SYMES: Where I am a bit confused is that you have brought in the traumatic event exclusion, which is only for the front end, not the whole-person impairment test. The advice I have is that it would be the greater of the two for the consideration of the whole-person impairment test, but you have conflated two tests by bringing in the traumatic event exception.

Sarah MANSFIELD: Putting aside the event that caused it, both are the result of a workplace injury. Whether it is a single event or not, they are both the result of a workplace injury. The person's total degree of impairment as a result of that workplace injury exceeds 20 per cent; however, this legislation will mean that they are potentially ineligible for ongoing payments because only one

category of injuries will be taken into account to determine their ongoing eligibility, either physical or mental injury, whichever is greater, even though the workplace injury actually resulted in both physical and mental injuries that have a combined impact of greater than 20 per cent.

Jaclyn SYMES: Thank you for that. I am clear on what you are saying now. Yes, that is accurate and it is consistent with how we assess benefits lump sum payments now, but that is the existing test in the current legislation.

David ETTERSHANK: In order to continue receiving payments beyond 130 weeks, a worker will need to meet the arbitrary requirement for a greater than 20 per cent whole-person impairment. Given the AMA guidelines typically assess injuries in 5 per cent increments, this realistically requires a 25 per cent impairment rating to receive compensation. Why has the government chosen to require more than 20 per cent WPI rather than 20 per cent or more WPI, and is that the intent of the government?

Jaclyn SYMES: Mr Ettershank, there are some inaccuracies in the way you have presented that contention, but needless to say I am not going to get into a situation where I am giving a commentary on the assessment and interpretation of the guides.

David ETTERSHANK: I am sorry, Attorney-General, I am just unclear as to exactly what you are saying. I guess the question I am asking is: if we accept the 5 per cent increments as standard practice –

Jaclyn Symes: I don't necessarily think that's true.

David ETTERSHANK: Okay. Well, let us say it is in 1 per cent increments. So if you say it is more than 20 per cent WPI, and given all of the publicity that has been attached to this where it is a 20 per cent cut-off but in fact it is not, is it your intent that in fact you have to have 21 per cent or more, not more than 20 per cent?

Jaclyn SYMES: Mr Ettershank, I can only repeat that I am not an impairment assessor and I am not in a position to give details in relation to assessments.

David ETTERSHANK: Given that neither of us are assessors, would the government be willing to contemplate an amendment which basically says '20 per cent or more WPI' rather than the current wording, for the purposes of avoiding confusion?

Jaclyn SYMES: My answer to that is no, but I will certainly pass that on to the minister.

Council divided on clause:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clause agreed to.

Council divided on clauses 14 and 15:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clauses agreed to.

Clause 16 (01:23)

Samantha RATNAM: I move:

7. Clause 16, line 30, omit “greater” and insert “total”.
8. Clause 16, line 33, omit “or” and insert “and”.
9. Clause 16, page 11, line 5, omit “must not” and insert “may”.
10. Clause 16, page 11, line 6, omit “unless” and insert “even if”.
11. Clause 16, page 11, line 7, after “injuries” insert “do not”.

If I may indulge, amendment 5 tested a number of other amendments. I did not know they were grouped together, but I just want to say for the record that amendment 6 removes the definition of ‘interim determination’ because subsequent clauses remove interim determinations from the bill as workers should not be removed from the scheme until and unless they have been assessed by a medical expert. Amendments 12 to 15 and 17 and 18 remove the capability of self-insurers and/or the authority to remove a worker from the scheme without making an assessment and related amendments to that effect. This recognises procedural fairness here. Workers should continue to receive entitlements until a medical assessment is made. Amendment 23, which was also tested by the earlier amendment, removes the minister’s power to give interim determinations, and this is because this amendment is seeking to remove all clauses that relate to interim determinations as they do not exist under the amendments proposed in this set. That is just by way of explanation for a group of amendments that were opposed previously but put to the house.

On amendments 7 to 11, which I believe are grouped together, 7 and 8 combine mental and physical injuries, so both are counted towards a total whole-person impairment test, and 9, 10 and 11 clarify that impairment determination can relate to multiple injuries at once. This recognises that the 20 per cent whole-person test remains in the bill, and in these proposed amendments the intent is to ensure that the whole-person impairment test actually measures the total degree of impairment by including all compensatable workplace injuries. They speak to a number of concerns that have been raised previously on previous clauses. Once again, we do not believe these amendments in themselves go fully to remediate all the catastrophic things that this bill proposes for workers, but in the least they help ameliorate and hopefully minimise some of the worst impacts of this anti-worker bill.

Council divided on amendments:

Ayes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Noes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Amendments negatived.

Council divided on clause:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clause agreed to.**Council divided on clauses 17 to 21:**

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clauses agreed to.**New clause (01:33)**

Jaclyn SYMES: I move:

3. Insert the following New Division after Division 2 of Part 2 –

‘Division 2A – Return to Work Advisory Subcommittee

21A WorkCover Advisory Committee

After section 512(5) of the Principal Act insert –

- “(6) The WorkCover Advisory Committee must establish a Return to Work Advisory Subcommittee.
- (7) The Return to Work Advisory Subcommittee must be chaired by the Chairperson of the Board.
- (8) The function of the Return to Work Advisory Subcommittee is to advise the Board in relation to the following –
- (a) ways to promote the occupational rehabilitation and early return to work of injured workers;
 - (b) the establishment, administration and operation of occupational rehabilitation services, vocational re-education facilities and return to work programs available to injured workers.
- (9) In this section –

Chairperson of the Board means the Chairperson appointed under section 509.”.

We have had a reasonably comprehensive conversation about the return-to-work advisory committee, and this amendment is proposing to add that to the bill to make it a reality. I reaffirm for the house that this was a recommendation from the parliamentary inquiry. I thank the people again for their work. Recommendation 17 is:

That the Bill be amended to create a Return to Work advisory committee responsible to the Board of WorkSafe for the coordination of return-to-work initiatives at WorkSafe.

I am very pleased to move this amendment.

David DAVIS: The coalition will be supporting this amendment. We think it is an important amendment, and it is a major outcome of the inquiry.

Samantha RATNAM: Just a quick question, just to clarify. The amendment does outline who the chair of the board will be. Is there any other information about the rest of the composition of the advisory committee? Where will those members be recruited from? Is it internal or external? What is the composition? What is the size?

Jaclyn SYMES: I have gone through this, but I will read it out again. The return-to-work advisory committee will draw from the wideranging experience of the WorkCover advisory committee that currently exists and will draw on expertise across accident compensation, provision of hospital services and medical services as well as union and employer groups. The return-to-work advisory committee will provide advice to the board, and the chairperson of the WorkSafe board will chair the return-to-work advisory committee.

David DAVIS: Just picking up the point about the union and employer representatives, I think it is, just as a comment, very important that the government consult with the major employer groups and the major employee groups and in doing so make sure that they actually do have the direct say.

Jaclyn SYMES: I endorse Mr Davis's comments.

New clause agreed to.

Council divided on clause 22:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clause agreed to.

Clauses 23 and 24 (01:39)

The DEPUTY PRESIDENT: We are considering clauses 23 and 24 together because Mr Bourman's amendments omit the heading before clause 23 and then the two clauses.

Samantha RATNAM: Deputy President, I do have some questions prior to moving the amendment – on clause 23, please, regarding arbitration.

The DEPUTY PRESIDENT: Fine.

Samantha RATNAM: Minister, new section 301C(2A) provides that disputes related to whether a worker is entitled to compensation and therefore cannot be referred to arbitration include disputes as to whether a claimant is a worker; the claimant has suffered an injury; an injury caused to the claimant is an injury that arose out of, or in the course of, or due to the nature of, the claimant's employment; the claimant's employment was a significant contributing factor to an injury caused to the claimant; an injury caused to the claimant is a mental injury for which there is no entitlement to compensation; an injury caused to the claimant is a disease for which there is no entitlement to compensation; or an injury caused to the claimant is a proclaimed disease.

Minister, why has the government excluded disputes relating to whether a worker is entitled to compensation from arbitration? This decision will increase costs to the scheme. Shouldn't the current provision relating to arbitration be amended, not to exclude such cases but to provide that all disputes, after conciliation, be referred to arbitration, with full appeal rights to the court?

Jaclyn SYMES: The amendment ensures that disputes relating to entitlement, including the new mental injury criteria, are applied consistently and effectively through appropriate judicial interpretation. You may appreciate that once cases are determined, they can form a test for similar situations.

The DEPUTY PRESIDENT: Are there any further questions? No. Then I invite you to move the amendments.

Samantha RATNAM: I move:

26. Division heading preceding clause 23, omit this heading.
27. Clause 23, omit this clause.
28. Clause 24, omit this clause.

In relation to the amendment, it removes proposed changes to arbitration which limited arbitration to the question of eligibility, so a related amendment to that effect. The amendment allows arbitration to remain unchanged. We think this is a really important provision given how many people will likely be excluded from what should be a full pathway of recourse and attempts to support arbitration towards a mutually satisfiable outcome. It is quite shocking that a party who said today that they support workers, apparently, would move to exclude people from arbitration processes, which I am sure would have been long fought for and hard fought in the first place. So to remove these kinds of provisions in such a cold and cynical way is a really disappointing day for workers.

Jaclyn SYMES: With respect, Dr Ratnam, I think you are failing to understand the purpose of ensuring that there are judicial decisions, because arbitration would lead to inconsistent interpretations. You need a precedent for interpretation purposes, and that is the rationale for judicial review in this instance. I would come back to: you still have conciliation for low-cost dispute resolution, but without the judicial element and just having or encouraging arbitration, you would actually have a poor outcome for the scheme, because you need legal interpretation from the judiciary for precedent value.

The DEPUTY PRESIDENT: Mr Bourman is seeking to omit clauses with this. These do test his amendments 29 and 30 as well. So if you want to vote in favour of Mr Bourman's amendment, you need to vote no because you will be omitting a clause. If you want to vote against Mr Bourman's seeking to omit these clauses, you vote yes in favour of the clauses standing part of the bill. The question is that the division heading and clauses 23 and 24 stand part of the bill.

Council divided on division heading and clauses 23 and 24:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Heading and clauses agreed to.

Clauses 25 to 32 (01:46)

Samantha RATNAM: I understand that there are no further amendments, and I am happy to conclude our questions there. I take this opportunity to thank you, Minister, for persevering with nearly 7 or 8 hours of committee deliberation. It is Parliament doing its best work.

The DEPUTY PRESIDENT: Dr Ratnam, this is not an opportunity to sum up. You did not ask a question, so I ask you to sit down.

Council divided on clauses:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Clauses agreed to.**Reported to house with amendments.**

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (01:50):
I move:

That the report be now adopted.

Motion agreed to.**Report adopted.***Third reading*

Jaclyn SYMES (Northern Victoria – Attorney-General, Minister for Emergency Services) (01:50):
I thank members for their contributions yesterday evening and this morning, and I move:

That the bill be now read a third time.

David DAVIS (Southern Metropolitan) (01:51): Just on the third reading, I want to put on record my thanks to the staff and the people who have contributed to this process – not only in the committee work but in the committee stage, particularly noting the lateness of the hour. We should mark the contribution of our staff.

Samantha RATNAM (Northern Metropolitan) (01:51): On the third reading, I too would like to thank all the staff who have waited a long time to see this bill passed. We understand the extra strain that puts on their ordinary day. What I was intending to remark on before was to thank the minister for persevering with nearly 8 hours of questions and a 12-hour bill process, but this is the Parliament doing the important work this house of review needs to do. I do note that the minister at times was frustrated with our line of questioning, and we too were frustrated that we were not able to get a lot of our questions answered on what is a really significant piece of legislation before this Parliament. It is really a dark day for workers. I would also like to say that our questions were –

Members interjecting.

Samantha RATNAM: I understand that we can speak to the third reading.

The PRESIDENT: It is very narrow, so over to you.

Samantha RATNAM: Just in conclusion, I would say that I hope the minister and everyone who was observing this committee process would appreciate that all the questions that were answered, from my perspective, were genuine and sincere, trying to get accurate information on the record, because we have not been furnished with the type of information that is required for a decision like this. I note that we were sincere and genuine in our questioning, and I hope it was taken in that spirit. We still did not resort to some of the behaviour we saw from government members in the chamber last week, and I think that should be noted.

The PRESIDENT: I am of the opinion that the third reading of this bill requires an absolute majority.

Council divided on motion:

Ayes (27): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Joe McCracken, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt, Richard Welch

Noes (8): Katherine Copsey, David Ettershank, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Rikkie-Lee Tyrrell

Motion agreed to by absolute majority.**Read third time.**

The PRESIDENT: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill with amendments.

Constitution Amendment (SEC) Bill 2023*Introduction and first reading*

The PRESIDENT (01:57): 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 **Constitution Act 1975** and for other purposes'.

Harriet SHING (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (01:57): I move:

That the bill be now read a first time.

Motion agreed to.**Read first time.**

Harriet SHING: I move, by leave:

That the second reading be taken forthwith.

Leave refused.**Ordered to be read second time on next day of meeting.***Adjournment*

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (01:58): I move:

That the house do now adjourn.

Shepparton bypass

Wendy LOVELL (Northern Victoria) (01:58): (743) My adjournment matter is for the Minister for Transport Infrastructure, and it concerns the urgent need for a dedicated Shepparton bypass. The action I seek is for the minister to commit funding for stage 1 of the Shepparton bypass, at a minimum, in the 2024–25 state budget.

Shepparton has long needed and advocated for a full bypass of our city, but unfortunately our pleas continue to be ignored by the state Labor government. Recently residents of Shepparton received a letter from the Victorian Planning Authority telling them about the proposed Shepparton south-east precinct structure plan. This plan has highlighted yet another reason the state needs to get on with the job of building the Shepparton bypass. The precinct plan sets out the provisional design and layout of a new housing development north of the Broken River on Doyles Road in Shepparton. The proposed

precinct includes around 2500 new homes, a primary school, health facility, community centre and shops. I welcome the precinct plan as Shepparton needs more housing. I also welcome the chance for residents to offer feedback on the plan as the city seeks to manage its growth.

However, one piece of feedback I have already received concerns the proposed pedestrian crossing on Doyles Road. The crossing will help residents on the east side of Doyles Road cross over to the west side of Doyles Road to where the new school and shops will be. The problem is that Doyles Road is a designated heavy vehicle alternative freight route that takes trucks around Shepparton to avoid the town centre. New housing will mean more traffic on Doyles Road and a pedestrian crossing on a major truck route will be reproducing the same risks that exist at the Kialla West Primary School crossing, the site of the dreadful accident that occurred in 2018. Shepparton needs to grow and in order for it to do that the state needs to get on with building our permanent bypass. The floods of 2022 that divided Shepparton and Mooroopna highlighted the desperate need for a second river crossing above flood levels, and this precinct plan shows the current alternate route is not sustainable in the long term.

The reason I ask for funding for stage 1 at a minimum is that stage 1 would not actually assist to take trucks off Doyles Road, and it would not be until the bypass is completed in full that this would occur. It is time to get on with building the Shepparton bypass, and only the state can do that. We need the state government to act and deliver a dedicated bypass road that will keep trucks out of Shepparton's CBD and residential areas and away from kids walking to school and that will also provide a second river crossing above flood level so that towns west of the Goulburn are never again left cut off from the hospital and other major services based in Shepparton.

Energy policy

Rikkie-Lee TYRRELL (Northern Victoria) (02:01): (744) My adjournment matter today is directed to the Minister for Agriculture in the other place. Recent reports have stated the Allan Labor government removed the *Offshore Wind: Policy Directions Paper – March 2022*, which outlines that should offshore wind projects not be available as a source of so-called renewable energy, 70 per cent of Victoria's prime agricultural land will potentially be used for large-scale solar, wind and battery projects. Victoria is the food bowl of the nation. Thirty per cent of Australia's arable land is in Victoria, much of that land being in my electorate of Northern Victoria. The farmers in my region are both concerned and angry with the figures in this report – those that have been able to find it, that is. Those who have not are angry that the government has hidden this paper from them. Northern Victoria is not an industrial wasteland, prime for the taking by greedy renewable energy companies. So the action I seek is for the minister to explain how they propose to protect the vital agricultural industry in Victoria from potential devastation by the renewable energy sector.

Bendigo East Swimming Pool

Gaelle BROAD (Northern Victoria) (02:03): (745) I attended a community meeting on Sunday at the Bendigo East pool about the City of Greater Bendigo's decision to close the pool for winter on 12 April. This is just weeks away and it has come as a shock to many locals and those who travel to use the pool, as it is the only outdoor winter pool in the Bendigo region. With increased running costs and gas heating for the pool, they need over \$100,000 to keep it open during winter. The action I seek is for the attention of the Premier and local member for Bendigo East Jacinta Allan to listen to the local community and take action to keep the pool open.

This decision to close the pool over winter does not make any sense. Over \$120 million has been spent by council and the state government to build the GovHub in the centre of Bendigo, but now there are not enough funds to keep the pool open, a community facility that helps build social connections and keeps people healthy and out of hospital. Last year the community was told that the Brennan Park pool would be upgraded and made into a heated, all-year-round pool, but that project is subject to funding and work is expected in 2028. According to the council's pool usage data, there were 73,000 visits a year to the Bendigo East pool and only to 5000 to Brennan Park. I have spoken with lots of different groups that use the Bendigo East pool – people like Joan and Mary, and Jim, who is in his late 80s. I

met a lady who has been going to the pool for over 30 years and now takes her young daughter. I spoke with Caroline, a professional that rises early to meet friends and uses the pool throughout winter. It is also a training facility for the triathlon group. I met parents there: Hayley and Clint – their kids are part of the Bendigo East swim club. The club coach John Jordan is keen to see it stay open. The team trains at the pool three mornings a week and every night, and swimmers like Cam Jordan and Henry Allan represent Australia at the highest level. Yet these clubs have been told to relocate for winter training to Gurri Wanyarra in Kangaroo Flat – on the other side of Bendigo – another venue that is already busy.

Bendigo has a rapidly growing population. We should be expanding facilities not closing them down. We need to keep the Bendigo East pool open this winter, at the very minimum until the Brennan Park pool is upgraded. For locals the decision to cancel the Commonwealth Games was disappointing enough; this is just another kick in the guts. Given \$2 billion was promised to regional communities after the games were cancelled, I ask the Premier to work with the local council and the committee of management to find sustainable solutions to keep the Bendigo East pool open.

Greyhound rescue

Georgie PURCELL (Northern Victoria) (02:05): (746) My adjournment matter this morning is for the Minister for Racing, and the action I seek is for him to fund the work of community greyhound rescue groups.

Last week I attended the first ever national community greyhound workshop held in Melbourne, hearing from rescue groups and advocacy groups. One thing was abundantly clear for Victoria: not-for-profit greyhound rescue organisations are contributing more to the rehabilitation and rehoming of ex-racing greyhounds than the industry itself without receiving a scrap of support from people in this place. In this state the number of greyhounds bred into the racing industry each year is uncapped, and it significantly outweighs the capacity of the industry's own Greyhound Adoption Program – by 347 per cent, to be exact. Despite receiving around \$3000 per dog, each year GAP is rehoming less greyhounds than unfunded private or non-GAP groups. In 2021–22 rescue groups rehomed almost 3000 dogs. That is 768 more than GAP.

It is not the first time this government has required the labour of a volunteer workforce but has been unwilling to fund it. We see it time and time again in the animal protection space. There are only a few greyhound-specific rescue groups operating throughout Victoria, and my friends at Greyt Greys currently have a waitlist that exceeds 100 dogs. They still receive phone calls almost daily from trainers who are desperate to leave the industry. The demand is so exhausting that some rescues are at the point of closure. Trainers are literally throwing away dogs in a situation that is desperate for not only rescuers but participants too.

In 2023 a trainer was found to have killed and buried five dogs on his property after failing to rehome them. Rescuers share stories with my office of the impossible situation that they are continuously faced with. One that sticks in my mind is of Rambo, who was surrendered by a trainer to a rescue group after missing the GAP cut-off. Rambo had a sore tooth that the trainer assured had been vet checked. Closer examination revealed a massive tumour in his mouth that was far too advanced to remove. Rambo's only option was euthanasia, but the responsibility was once again on volunteers. They explained to me that while Greyhound Racing Victoria owners might make a cost-benefit analysis to decide what to do with these dogs, rescuers make an emotional investment, doing everything they possibly can to save and prolong their lives.

It is clear that if community rescues close or remain unsupported, euthanasia, welfare and integrity issues are guaranteed to soar. I hope the minister will consider funding these dedicated rescue groups so that their life-saving work can continue.

Gas sector job losses

David DAVIS (Southern Metropolitan) (02:08): (747) My matter for the adjournment tonight is for the attention of the Minister for Energy and Resources in the other place, and it is a very sad story that relates to Seeley International, which is a major manufacturer of air conditioning, gas heating, gas appliances and others. They have a number of manufacturing plants around Australia, but sadly, the news today is very bad indeed. They are intending to close their Albury–Wodonga operation, and 125 jobs will be lost, so it is quite a serious outcome. And they have been quite explicit in their formal public statements in their news releases. The gas substitution plan that the minister for energy has implemented –

Members interjecting.

David DAVIS: That is right; it is a jobs killer – in this case 125 jobs in Albury–Wodonga, so it is a major manufacturing plant. Bill Tilley, our member for Benambra, has been very active in standing up for these Seeley jobs, but it seems that Lily D’Ambrosio, the minister for energy, is not listening to the community. She is not listening to the sector and has not understood that this is going to lead to a loss of jobs. What I want her to do is to step back from the approach to the gas substitution plan – the gas ban, as has been outlined by Ms Bath – to re-examine this and to reverse direction. Victoria has a very large distributed gas system. We saw in the electricity outages just a few weeks ago, with 530,000 households out, that people did still have gas – they still had gas – so it is an alternate delivery mechanism. The government has already banned gas this year on new estates, so you cannot open a new estate and connect gas to your house for hot water purposes, for purposes of cooking or for purposes of gas heating.

We also know that long term the gas distribution system has an important role in potentially carrying hydrogen. That can be a green fuel, a fuel that can be created through green mechanisms and a fuel that in that way can be put down. We know that already you can put a shandy of natural gas and about 10 to 15 per cent hydrogen down the existing pipes. Longer term, with very modest changes to the piping system you can actually put down a fully hydrogen mix. But the key thing here is that gas has got an important future. It is an important part of our manufacturing sector, and the minister needs to step back. This deindustrialisation that is occurring because of her gas ban is actually outrageous, and the minister needs to rethink this mistaken policy.

Oil and gas exploration

Katherine COPSEY (Southern Metropolitan) (02:11): (748) My adjournment this evening is to the Minister for Energy and Resources, and I seek that she bans offshore drilling for fossil gas and oil. Climate change presents a direct risk to coastal communities who are on the front line of the crisis. The Port Phillip Bay coastal hazard assessment, which finally surfaced last month, showed just how many homes, businesses, public facilities and natural habitats are under risk from inundation as sea levels continue to rise. Even insurance companies got the memo, with premiums skyrocketing and some properties at risk of becoming effectively uninsurable. We have also seen the effects of the global warming crisis in the increased hot and dry weather in recent weeks contributing to heat stress for many Victorians, and we are also seeing disasters grow worse and more frequent, such as bushfires.

The New South Wales government is showing actual leadership on this issue and has recently moved legislation to ban offshore gas and oil drilling, but the Allan Labor government has so far failed to act and shamefully is still allowing seismic blasting to search for new oil and gas fields in Victoria’s pristine Southern Ocean. This seismic blasting is damaging enough to marine ecosystems in its own right, but seeking to burn more fossil fuels during a climate crisis is ridiculous. Minister, it is time to start walking the walk on climate action. The action I seek is that you ban offshore drilling in Victoria’s oceans.

Stalking law reform

Renee HEATH (Eastern Victoria) (02:13): (749) Many times in this place I have raised the issue of the need to strengthen Victoria's stalking laws. I have asked this government to implement the recommendations made by the Victorian Law Reform Commission regarding stalking, yet so far this has been completely ignored. Last week I was devastated to see Luay Sako, the stalker and murderer, was sentenced to only 30 years non-parole for the brutal murder of Celeste Manno. By the time the sentence was handed down he had already served roughly 10 per cent of his sentence. I have spoken about this so many times in this place, but to refresh your memory, Celeste Manno was a beautiful, fun-loving people person. She was 23. She had her whole life ahead of her. She worked with Mr Sako, who became obsessed with her. He stalked her, he would not stop and – long story short – he got arrested. The day after that he went and bought a knife. He went quiet for three months, until Celeste posted a photo of herself with her new boyfriend. That night he broke into her bedroom window, and he stabbed her to death with a knife he had purchased the day after the arrest. He knew what he was doing. This was premeditated for at least three months before it occurred.

I personally attended the plea hearing. I listened as each stab wound was analysed, of which there were over 20. The death of this beautiful, innocent girl was absolutely brutal. Inside the court the psychiatrist commented that Luay Sako would even pose a risk to female prison guards. This monster showed no remorse, and it was shown in the court that women would not be safe even when he was locked up. Celeste's brother will have to live to see the man that ended his sister's life walk the streets. This man ruined the lives of the entire family. This makes no sense. How on earth was a life sentence not applied here? He poses an unacceptable risk to the public. There is no guarantee that he will not offend again, and next time this victim could be anyone's daughter. Celeste's mother Aggie said no parent should ever have to face the prospect of seeing their child's killer: 'We're not programmed that way. It is not humane.' Celeste's mum and dad and aunts and family and friends had to face him as he defended every stab wound, and Celeste's brother will live to see this monster walk free in his lifetime. Their family has completely lost faith in the system, and rightly so. How has it come to this? How has this government not implemented the recommendations that were tabled in this place? My adjournment is for the Attorney-General, and the action that I seek is that she meets with Celeste's family and me to discuss these matters.

Rabbit control

Ann-Marie HERMANS (South-Eastern Metropolitan) (02:16): (750) My adjournment this early morning is to the Minister for Agriculture, and I ask the minister, in light of the recent developments regarding the rabbit plague in Botanic Ridge in my region, to take action and to inform me of any actions being taken by the department of agriculture to address the pressing issue faced by residents and landowners in the Casey area. The proliferation of rabbits has reached alarming levels, posing significant challenges to both the environment and local community. My constituents have voiced frustrations over the relentless invasion of rabbits into properties, causing damage to gardens and infrastructure and posing threats to biodiversity. Despite concerted efforts by individuals and interventions from local authorities, the situation persists unabated. The root causes of this problem stem from various factors, including habitat encroachment due to urban development, favourable environmental conditions for rabbit breeding and limitations imposed by the presence of endangered species such as the southern brown bandicoot.

While efforts have been made to mitigate the issue through techniques like fumigation, warren destruction and shooting, the effectiveness of these methods remains constrained, particularly in areas where breeding is constant. The bureaucratic maze that residents have had to navigate in seeking assistance exacerbates the frustration and sense of helplessness experienced by those who are directly impacted. Despite residents being directed from one agency to another, resolution seems elusive. Their pleas are continually falling on deaf ears, and individual landowners are finding that they are going to have to address the problem, which is becoming a real concern to them.

In light of these challenges, I urge the minister to consider the following actions: (1) facilitating greater coordination and cooperation between local councils, environmental agencies and landowners to implement a comprehensive and integrated approach to rabbit control, (2) investing in research and development of innovative and environmentally sustainable methods of managing rabbit populations, particularly in areas where endangered species coexist, (3) providing adequate resources and support to affected communities to bolster their capacity in combating the rabbit plague effectively and (4) streamlining bureaucratic processes to ensure timely and efficient responses to residents seeking assistance with pest management.

It is imperative that we address the rabbit plague in Botanic Ridge and similar areas with the urgency and attention it deserves. Failure to do so not only undermines the wellbeing of local residents and ecosystems but also perpetuates a cycle of environmental degradation and human suffering. I implore the minister to take concrete steps towards a lasting solution to this pressing issue.

Innovation Youth Centre

Richard WELCH (North-Eastern Metropolitan) (02:19): (751) My adjournment is seeking action from the Minister for Youth. The Innovation Youth Centre (IYC) opened its doors in 2022 after receiving a grant from the former federal government's Safer Communities Fund. It is the only youth centre in Bundoora. It has serviced and provided support to over 500 kids over the last two years and has case loads of around 34 active kids, providing counselling and a range of other community aid services. I visited IYC on 26 February and spoke with their director Paul Papadatos. I saw firsthand the good work they do for the vulnerable youth in my community. I am not the only one to have visited. Lily D'Ambrosio visited in June 2023 and again in July 2023, Colin Brooks MP visited in July 2023, Bronwyn Halfpenny MP visited in June 2023 and November 2023, Ged Kearney visited in February 2020 and Natalie Suleyman visited in June 2023. Our federal colleague Andrew Giles MP supported the organisation in 2016, June 2017, September 2022 and as recently as January 2024, each of those visits ending in a photo op and an endorsement in some form of the organisation's work.

The IYC now finds itself inexplicably with no further funding and is now in imminent danger of closing and leaving all those kids in the lurch. Not only are they leaving those kids in the lurch but the between \$1.5 million and \$2 million sunk cost of taxpayers money to create this facility will evaporate with it. Meanwhile the government is spending \$150,000 on a feasibility study for more youth hubs in the City of Whittlesea where this resides but refuses to spend any money on existing hubs like IYC. The government approved a \$10 billion – that is \$10,000 million – blowout in North-East Link in the same electorate but cannot find funding for the only youth centre in the suburb.

When visiting last year, Minister D'Ambrosio spoke of the government's *Our Promise, Your Future* five-year youth strategy, yet her government refuses to invest in the future of hundreds of local kids whose lives have been changed by the IYC. The action I seek from the minister is to immediately provide bridge funding of \$120,000 to extend the life of the centre by three months to provide time to find further long-term funding solutions or explain why after all these endorsements the government is not funding it or explain what steps the government has taken to transfer the case loads of these kids to other services given the very conscious decision to withdraw any ongoing funding.

Lang Lang community safety

Melina BATH (Eastern Victoria) (02:22): (752) My adjournment matter is for the Minister for Crime Prevention and Minister for Police, and it relates to improving community safety and policing in the town of Lang Lang. Responding to the community's needs for improved public safety, the action I seek from the minister is to instigate crime prevention initiatives, including an increased police presence in the region and in the town and the installation of CCTV in public areas in conjunction with the local shire.

Much to the dismay of locals, the police presence in Lang Lang has been stripped down to the bone under this government. Nine years ago Lang Lang's valued one-person police station was reduced to

one day a week, and even that was part-time. Residents and local traders have raised their community concerns recently with me about the loss of this one-person station, and I thank Mr Brian Candy for organising this important meeting.

There have been criminal and antisocial disturbances in the commercial area of Lang Lang, drug crime, break-ins, vandalism and road safety issues, and even the police station has been a target in that area. Residents are justifiably concerned. Crime statistics for both Lang Lang and nearby Koo Wee Rup feature in the top five towns in the Cardinia shire, and both towns have had their one-man police station removed. The population of Lang Lang has grown by 73 per cent since 2016 and is forecast to grow by 120 per cent over the next 16 years. Crime stats in Lang Lang of 214 criminal offences are up by 80 per cent, spearheaded by crimes against the person, which are up by 228 per cent.

At a recent community safety forum Victoria Police acknowledged the concerns of locals. If there is an incident at night, VicPol is dispatched often from Emerald, 1 hour away. As captured in the Cardinia shire draft livability plan, the residents told the council that improving safety across the shire is of vital importance. It is well known that CCTV is effective in situational crime prevention at a local level, and in advocating for her community councillor Kaye Cameron has twice called for CCTV in Lang Lang, but their budget is tight again, as in all our local shire councils. Currently the shire does have CCTV in Pakenham and Koo Wee Rup monitored by VicPol in Pakenham and Dandenong, so this system certainly can be expanded into regions. Again I call on the minister to find the funding in the May budget to improve these safety measures, including increasing that police presence and the installation of CCTV in public areas.

Arson attacks

Evan MULHOLLAND (Northern Metropolitan) (02:25): (753) My adjournment tonight is directed towards the Minister for Police, and it concerns recent arson attacks in the northern suburbs. No, I am not just talking about tobacco shop arson attacks, which seem to happen on a weekly occurrence. Minister, as you would be well aware, in the past fortnight there have been five arson attacks against venues in the northern suburbs. Victims of these attacks include the Phoenicia Receptions venue in Brunswick, the Furlan Club in Thornbury, the Emerald Receptions centre in Thomastown and the Al Nafoura restaurant in Mill Park. I have actually been to most of these centres, visiting and celebrating with our great multicultural community in the northern suburbs. Al Nafoura was targeted by a group of 14- to 16-year-old teenagers last Tuesday and again on Sunday morning. CCTV footage from the recent blaze actually shows armed thugs with military rifles violently pulling a security guard out of his car and holding him on the ground at gunpoint while they committed arson to the reception centre.

The escalating brutality and frequency of this gang violence leaves members of our community fearing for their own safety. I was actually really looking forward to an upcoming event with our Lebanese community in the north at the Emerald Receptions centre in Thomastown. Unfortunately, that has had to be cancelled. The owners of the Emerald were deeply devastated by the tragic incident that happened earlier at their venue and they have been left reeling from the attacks, as have their affected customers. I feel really bad for those affected bridesmaids, brides and grooms. It is not acceptable to have people destroying property like this, stealing vehicles and dumping them before setting them on fire. In the case of the Furlan Club, staff were actually still inside when these thugs set it on fire. It is a really serious situation; people could have died. The youngest arsonist was 14, and yet this government wants to raise the age of criminal responsibility. I think these 14-year-olds know exactly what they are doing, and they are being used by thug gang members as pawns, and that is exactly what will happen if we raise the age. I seek the action of the minister to update me on these arson attacks and what the government is doing to ensure similar crimes will not happen again.

Responses

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (02:28): There were 11 adjournment matters this morning. All 11 will be referred to the relevant ministers for a response.

The PRESIDENT: The house stands adjourned.

House adjourned 2:29 am (Wednesday).