PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 8 October 2015

(Extract from book 14)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

Premier	The Hon. D. M. Andrews, MP
Deputy Premier and Minister for Education	The Hon. J. A. Merlino, MP
Treasurer	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Employment	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
Minister for Industry, and Minister for Energy and Resources	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans	The Hon. J. H. Eren, MP
Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. M. P. Foley, MP
Minister for Emergency Services, and Minister for Consumer Affairs, Gaming and Liquor Regulation	The Hon. J. F. Garrett, MP
Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Training and Skills	The Hon. S. R. Herbert, MLC
Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Environment, Climate Change and Water	The Hon. L. M. Neville, MP
Minister for Police and Minister for Corrections	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence	The Hon. F. Richardson, MP
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Kairouz, MP

Legislative Council committees

Privileges Committee — Mr Drum, Ms Hartland, Mr Herbert, Ms Mikakos, Ms Pulford, Mr Purcell, Mr Rich-Phillips and Ms Wooldridge.

Procedure Committee — The President, Dr Carling-Jenkins, Mr Davis, Mr Jennings, Ms Pennicuik, Ms Pulford, Ms Tierney and Ms Wooldridge.

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Morris, Mr Ondarchie and Ms Tierney.

Standing Committee on the Environment and Planning — Ms Bath, #Mr Bourman, Mr Dalla-Riva, Mr Davis, Ms Dunn, #Ms Hartland, Mr Leane, #Mr Purcell, #Mr Ramsay, Ms Shing, Mr Somyurek and Mr Young.

Standing Committee on Legal and Social Issues — Ms Fitzherbert, Mr Melhem, Mr Mulino, Mr O'Donohue, Ms Patten, Mrs Peulich, #Mr Rich-Phillips, Ms Springle and Ms Symes.

participating members

Legislative Council select committees

Port of Melbourne Select Committee — Mr Barber, Mr Drum, Mr Mulino, Mr Ondarchie, Mr Purcell, Mr Rich-Phillips, Ms Shing and Ms Tierney.

Joint committees

Accountability and Oversight Committee — (*Council*): Ms Bath, Mr Purcell and Ms Symes. (*Assembly*): Mr Angus, Mr Gidley, Mr Staikos and Ms Thomson.

Dispute Resolution Committee — (*Council*): Mr Bourman, Mr Dalidakis, Ms Dunn, Mr Jennings and Ms Wooldridge. (*Assembly*): Ms Allan, Mr Clark, Mr Merlino, Mr M. O'Brien, Mr Pakula, Ms Richardson and Mr Walsh

Economic, Education, Jobs and Skills Committee — (*Council*): Mr Bourman, Mr Elasmar and Mr Melhem. (*Assembly*): Mr Crisp, Mrs Fyffe, Mr Nardella and Ms Ryall.

Electoral Matters Committee — (*Council*): Ms Patten and Mr Somyurek. (*Assembly*): Ms Asher, Ms Blandthorn, Mr Dixon, Mr Northe and Ms Spence.

Environment, Natural Resources and Regional Development Committee — (*Council*): Mr Ramsay and Mr Young. (*Assembly*): Ms Halfpenny, Mr McCurdy, Mr Richardson, Mr Tilley and Ms Ward.

Family and Community Development Committee — (*Council*): Mr Finn. (*Assembly*): Ms Couzens, Mr Edbrooke, Ms Edwards, Ms Kealy, Ms McLeish and Ms Sheed.

House Committee — (*Council*): The President (*ex officio*), Mr Eideh, Ms Hartland, Ms Lovell, Mr Mulino and Mr Young. (*Assembly*): The Speaker (*ex officio*), Mr J. Bull, Mr Crisp, Mrs Fyffe, Mr Staikos, Ms Suleyman and Mr Thompson.

Independent Broad-based Anti-corruption Commission Committee — (*Council*): Mr Ramsay and Ms Symes. (*Assembly*): Mr Hibbins, Mr D. O'Brien, Mr Richardson, Ms Thomson and Mr Wells.

Law Reform, Road and Community Safety Committee — (*Council*): Mr Eideh and Ms Patten. (*Assembly*): Mr Dixon, Mr Howard, Ms Suleyman, Mr Thompson and Mr Tilley.

Public Accounts and Estimates Committee — (*Council*): Dr Carling-Jenkins, Ms Pennicuik and Ms Shing. (*Assembly*): Mr Dimopoulos, Mr Morris, Mr D. O'Brien, Mr Pearson, Mr T. Smith and Ms Ward.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr Dalla-Riva. (*Assembly*): Mr J. Bull, Ms Blandthorn, Mr Dimopoulos, Ms Kealy, Ms Kilkenny and Mr Pesutto.

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr A. Young

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Ms G. TIERNEY

Acting Presidents: Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Mr Morris, Ms Patten, Mr Ramsay

Leader of the Government:
The Hon. G. JENNINGS

Deputy Leader of the Government:
The Hon. J. L. PULFORD

Leader of the Opposition:
The Hon. M. WOOLDRIDGE

Deputy Leader of the Opposition:
The Hon. G. K. RICH-PHILLIPS

Leader of The Nationals:
The Hon. D. K. DRUM

Leader of the Greens:
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina [2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFP	O'Brien, Mr Daniel David [1]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel	Western Metropolitan	DLP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	Patten, Ms Fiona	Northern Metropolitan	ASP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr David McLean	Southern Metropolitan	LP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pulford, Ms Jaala Lee	Western Victoria	ALP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Purcell, Mr James	Western Victoria	V1LJ
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Young, Mr Daniel	Northern Victoria	SFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[1] Resigned 25 February 2015
[2] Appointed 15 April 2015

PARTY ABBREVIATIONS

ALP — Labor Party; ASP — Australian Sex Party;
DLP — Democratic Labour Party; Greens — Australian Greens;
LP — Liberal Party; Nats — The Nationals;
SFP — Shooters and Fishers Party; V1LJ — Vote 1 Local Jobs

CONTENTS

THURSDAY, 8 OCTOBER 2015

CONTENTS

Thursday, 8 October 2015

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.34 a.m. and read the prayer.

RULINGS BY THE CHAIR

Voting procedures

The PRESIDENT — Order! Yesterday the Deputy President referred to me a matter that had been raised by way of a point of order by David Davis in respect of resolving a question in the house. Mr Davis raised a point of order following the resolution of the house in relation to Mr Ramsay's motion on the Warrnambool to Geelong rail service. Mr Davis raised a point of order querying the manner in which the Chair put the ayes and noes and the way she resolved the question in favour of the ayes.

The point of order made by Mr Davis is correct in that the Chair inadvertently missed a step in the process of resolving the question. The Chair put the question 'that the motion be agreed to' by asking those in favour to say aye. The Chair then asked those against to say no. The Chair subsequently declared the motion carried on the basis of the voices, without first advising the house that in the Chair's opinion 'the ayes have it', as prescribed by standing order 16.01.

However, it would appear that the chamber agreed with the Chair's opinion that the motion was carried, as no-one sought a division. Mr Davis, a little later, raised a point of order about the procedure, which as I say was a correct point of order, but Mr Davis did not seek the question to be put again on that occasion, nor did any other member of the house. As I have indicated, the lack of that statement was inadvertent, but I do not believe it affected the carriage of the resolution.

PETITIONS

Following petitions presented to house:

Special religious instruction

To the Legislative Council of Victoria:

The petition of the residents in Victoria draw to the attention of the house that the government has scrapped voluntary special religious instruction (SRI) in Victorian government schools during school hours. Prior to the last election, Daniel Andrews and Labor said they would not scrap SRI during school hours in Victorian government schools. Daniel Andrews and James Merlino have announced that as of next year they will break this promise.

The petitioners therefore request that the Legislative Council of Victoria ensure that the Andrews government reverses its broken promise and allow students attending government schools to attend SRI during school hours, as has been the case in Victoria for decades.

By Ms CROZIER (Southern Metropolitan) (65 signatures).

Laid on table.

Beaconsfield Parade and Beach Road truck curfew

To the Legislative Council of Victoria:

We, the undersigned citizens of Victoria, call on the Andrews government to place a 24-hour curfew on large trucks (excluding local delivery trucks) that are using Beaconsfield Parade and Beach Road as a thoroughfare to the port of Melbourne.

By Ms CROZIER (Southern Metropolitan) (866 signatures).

Laid on table.

Grand Final Friday

To the Honourable the President and members of the Legislative Council assembled in Parliament:

We, the undersigned citizens of Victoria, call on the Legislative Council of Victoria to note the harmful impacts of the decision by the Daniel Andrews Labor government to declare new public holidays in Victoria.

At a time of high and rising unemployment and when many businesses are already doing it tough, Daniel Andrews has imposed a major new cost that will see many businesses close their doors for the day, employees lose much-needed shifts and inflict significant damage on our state's economy.

The Andrews government's own assessment of the grand final eve parade public holiday put the cost of the holiday to Victoria at up to $898 million per year with additional salary costs.

The impact of these additional costs will not be restricted to businesses, with local government and hospitals also affected leaving ratepayers and the community to foot the bill.

We therefore call on the Daniel Andrews Labor government to reverse its decision to impose the grand final eve public holiday.

By Mr DAVIS (Southern Metropolitan) (118 signatures).

Laid on table.

VICTORIAN COMPETITION AND EFFICIENCY COMMISSION

Report 2014–15

Mr JENNINGS (Special Minister of State), by leave, presented report.

Laid on table.

INSPECTOR-GENERAL FOR EMERGENCY MANAGEMENT

Victorian bushfires royal commission progress report

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade), by leave, presented report.

Laid on table.

Ordered to be considered next day on motion of Mr DAVIS (Southern Metropolitan).

CONSUMER UTILITIES ADVOCACY CENTRE

Report 2014–15

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade), by leave, presented report.

Laid on table.

POLICE REGISTRATION AND SERVICES BOARD

Report 2014–15

Mr HERBERT (Minister for Training and Skills), by leave, presented report.

Laid on table.

VICTORIA LAW FOUNDATION

Report 2014–15

Mr HERBERT (Minister for Training and Skills), by leave, presented report.

Laid on table.

OFFICE OF THE PUBLIC ADVOCATE

Report 2014–15

Mr HERBERT (Minister for Training and Skills), by leave, presented report.

Laid on table.

ACCOUNTABILITY AND OVERSIGHT COMMITTEE

Victorian oversight agencies 2013–14

Ms SYMES (Northern Victoria) presented report, including appendices.

Laid on table.

Ordered that report be published.

Ms SYMES (Northern Victoria) — I move:

That the Council take note of the report.

This report is part of the committee's legislative reporting requirement. The report examines the 2013–14 annual reports of the Ombudsman, Freedom of Information Commissioner and Victorian Inspectorate. The report covers matters raised in the last financial year, and not developments during 2014–15, which will be the subject of the committee's next report, expected to be tabled by the end of the year.

Building on recommendations from a former report, the committee makes eight recommendations to the government in this report, including allowing complaints and referrals to the Ombudsman's office to be made by means other than writing; developing a seamless one-stop shop framework to provide a single point of entry for people seeking to make a complaint about a public body to make it easier for the public; reviewing legislative requirements relating to protected disclosure cases in the Ombudsman Act 1973; ensuring more detailed reporting on the time taken by the FOI commissioner to undertake FOI reviews; calling for greater transparency, with the FOI commissioner's financial statements to be included in the annual report; and supporting the continuation of the FOI practitioners forum and the development of training in alternative dispute resolution techniques relating to FOI requests.

I would like to thank the other committee members: from the lower house, the chair, Mr Angus, the member for Forest Hill; Mr Gidley, the member for Mount Waverley; Mr Staikos, the member for Bentleigh; and Ms Thomson, the member for Footscray; and my

parliamentary upper house colleagues Ms Bath and Mr Purcell. I would like to make a special note of thanks to the very competent secretariat staff: Mr Sean Coley, Ms Vicky Finn and Mr Matt Newington.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Accident Compensation Conciliation Services — Report, 2014–15.

Adult Multicultural Education Services — Report, 2014–15.

Adult Parole Board of Victoria — Report, 2014–15.

Agriculture Victoria Services Pty Ltd — Report, 2014–15.

Alpine Resorts Co-ordinating Council — Minister's report of receipt of 2014–15 report.

Asset Confiscation Operations — Report, 2014–15.

Barwon Region Water Corporation — Report, 2014–15.

Central Gippsland Region Water Corporation — Report, 2014–15.

Central Highlands Region Water Corporation — Report, 2014–15.

Coliban Region Water Corporation — Report, 2014–15.

Corangamite Catchment Management Authority — Report, 2014–15.

Country Fire Authority — Report, 2014–15.

Dairy Food Safety Victoria — Report, 2014–15.

East Gippsland Catchment Management Authority — Report, 2014–15.

East Gippsland Region Water Corporation — Report, 2014–15.

Emergency Services Superannuation Board — Report, 2014–15.

Emergency Services Telecommunications Authority — Report, 2014–15.

Environment Protection Authority — Report, 2014–15.

Essential Services Commission — Report, 2014–15.

Fed Square Pty Ltd — Report, 2014–15.

Fisheries Act 1995 — Report on the Disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account, 2014–15.

Freedom of Information Commissioner — Report, 2014–15.

Geoffrey Gardiner Dairy Foundation Limited — Report, 2014–15.

Gippsland and Southern Rural Water Corporation — Report, 2014–15.

Goulburn-Murray Rural Water Corporation — Report, 2014–15.

Goulburn Valley Region Water Corporation — Report, 2014–15.

Grampians Wimmera Mallee Water Corporation — Report, 2014–15.

Greyhound Racing Victoria — Report, 2014–15.

Gunaikurnai Traditional Owner Land Management Board — Minister's report of receipt of 2014–15 report.

Harness Racing Victoria — Report, 2014–15.

Legal Practitioners' Liability Committee — Report, 2014–15.

Lower Murray Urban and Rural Water Corporation — Report, 2014–15.

Melbourne and Olympic Parks Trust — Report, 2014–15.

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns — June 2015 and Summary of Variations notified between 23 June and 7 October 2015 (*Ordered to be published*).

Metropolitan Fire and Emergency Services Board — Report, 2014–15.

Murray Valley Wine Grape Industry Development Committee — Minister's report of receipt of 2014–15 report.

National Parks Act 1975 — Report on the working of the Act, 2014–15.

National Parks Advisory Council — Report, 2014–15.

North East Region Water Corporation — Report, 2014–15.

Northern Victorian Fresh Tomato Industry Development Committee — Minister's report of receipt of 2014–15 report.

Parks Victoria — Report, 2014–15.

Phillip Island Nature Parks — Report, 2014–15.

Phytogene Pty Ltd — Minister's report of receipt of 2014–15 report.

Places Victoria — Report, 2014–15.

Port Phillip and Westernport Catchment Management Authority — Report, 2014–15.

Premier and Cabinet Department — Report, 2014–15.

PrimeSafe — Minister's report of receipt of 2014–15 report.

Public Record Office Victoria — Report, 2014–15.

Racing Integrity Commissioner — Report, 2014–15 (*Ordered to be published*).

Rolling Stock Holdings (Victoria) Pty Ltd — Report, 2014–15.

Rolling Stock (Victoria-VL) Pty Ltd — Report, 2014–15.

Rolling Stock (VL-1) Pty Ltd — Report, 2014–15.

Rolling Stock (VL-2) Pty Ltd — Report, 2014–15.

Rolling Stock (VL-3) Pty Ltd — Report, 2014–15.

Royal Botanic Gardens Board Victoria — Report, 2014–15.

Rural Finance Corporation of Victoria — Report, 2014–15.

South Gippsland Region Water Corporation — Report, 2014–15.

State Trustees Ltd — Report, 2014–15.

Subordinate Legislation Act 1994 — Legislative Instrument and related documents under section 16B in respect of the Revocation of an Area, 14 September 2015, under the Nudity (Prescribed Areas) Act 1983.

Transport Accident Commission — Report, 2014–15.

Trust for Nature (Victoria) — Report, 2014–15.

V/Line Corporation — Report, 2014–15.

Veterinary Practitioners Registration Board of Victoria — Minister's report of receipt for 2014–15 report.

Victims of Crime Assistance Tribunal — Report, 2014–15.

Victoria Legal Aid — Report, 2014–15.

Victoria Police — Report, 2014–15.

Victorian Broiler Industry Negotiation Committee — Report, 2014–15.

Victorian Building Authority — Report, 2014–15.

Victorian Environmental Assessment Council — Report, 2014–15.

Victorian Environmental Water Holder — Report, 2014–15.

Victorian Equal Opportunity and Human Rights Commission — Report, 2014–15 (*Ordered to be published*).

Victorian Funds Management Corporation — Report, 2014–15.

Victorian Government Purchasing Board — Report, 2014–15.

Victorian Legal Services Board and the Legal Services Commission — Report, 2014–15 (*Ordered to be published*).

Victorian Managed Insurance Authority — Report, 2014–15.

Victorian Multicultural Commission — Report, 2014–15.

Victorian Rail Track — Report, 2014–15.

Victorian Strawberry Industry Development Committee — Minister's report of receipt of 2014–15 report.

VITS Languagelink — Report, 2014–15.

Wannon Region Water Corporation — Report, 2014–15.

Western Region Water Corporation — Report, 2014–15.

Westernport Region Water Corporation — Report, 2014–15.

Young Farmers' Finance Council — Report, 2014–15.

Youth Parole Board — Report, 2014–15.

Zoological Parks and Gardens Board — Report, 2014–15.

BUSINESS OF THE HOUSE

Adjournment

Mr JENNINGS (Special Minister of State) — I move:

That the Council, at its rising, adjourn until Tuesday, 20 October 2015.

Motion agreed to.

MINISTERS STATEMENTS

Grand Final Friday

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I rise to inform the house of the achievement of the very first successful AFL Grand Final Friday public holiday. The day was outstanding. I am happy to take the lack of questions from those opposite about the day as a reluctant acknowledgement that Victorians, including many small businesses that chose to open, had a great day. Victorians from all across the state came together to spend well-deserved leisure time with friends, family and loved ones. Businesses that chose to open cashed in on a roaring day of trade. David Kramer from Tackleworld in Cranbourne is just one success story from Grand Final Friday. Let me read to the chamber an email that David sent — —

Honourable members interjecting.

The PRESIDENT — Order! Can the minister advise me as to whether he is actually reading that?

Mr DALIDAKIS — Yes, I am.

The PRESIDENT — Order! That is fine. I ask the minister to start at the top, because I had difficulty hearing it.

Mr DALIDAKIS — I rise to inform the house of the achievement of the very first successful AFL Grand Final Friday public holiday. The day was an outstanding success. I am happy to take the lack of questions from those opposite about that day as a reluctant acknowledgement that Victorians, including

many small businesses that chose to open, had a great day. Victorians from all across the state came — —

Mr Ondarchie — On a point of order, President, my understanding of ministers statements is that they have to be related to new matters. This is something that happened prior to this sitting day.

Mr DALIDAKIS — On the point of order, President, under standing order 5.14(7), inserted by sessional order 2, ministers are able to make a statement 'of up to 2 minutes per statement, to advise the house of new government initiatives, projects, and achievements'. The success of the Grand Final Friday public holiday was both a new initiative and an achievement of this government.

The PRESIDENT — Order! I must say that I have some sympathy for the point of order raised by Mr Ondarchie because the actual event has been the subject of much discussion in this place and of previous announcements. Therefore I regard it as a matter that is not new in the spirit of ministers statements going forward. I do not know if the minister is able to somehow tweak his contribution to talk about a new initiative in the future.

Mr DALIDAKIS — Again, as I say, the standing order talks about achievement, and given that it was the first time that the public holiday was held, I was just getting into quoting comments from small businesses that had emailed the Premier to thank him for the achievement of the public holiday. I believe it falls well within the guidelines for ministers statements under standing order 5.14.

The PRESIDENT — Order! I suggest that introducing cheerleader comments as part of a ministers statement is certainly not part of ministers statement. I think the minister is on the wrong track in terms of extolling the virtues of this particular initiative. Unless the minister can discuss an element of it that is new going forward, then I would need to conclude the ministers statement. I certainly do not accept that third-party endorsements of it are part of a ministers statement as such.

Mr DALIDAKIS — I am happy to talk again about the achievement of the day, as per the standing order, and I am happy at the conclusion of my remarks, should you then choose to believe I have not met the terms of the standing order in relation to achievement, for you to make a ruling. But I am only part way through the statement itself. I am in your hands, President.

Mr Ondarchie — On a further point of order, President, accepting that the minister is both new to the Parliament and new to his ministerial role, he may choose to use a members statement to make a contribution about the grand final parade public holiday, as opposed to using a ministers statement, which is designed for new initiatives.

Mr DALIDAKIS — Achievements — projects and achievements.

The PRESIDENT — Order! It is interesting that Mr Ondarchie raises that point because I was going to make a suggestion to the minister that he might like to avail himself of a members statement in terms of this matter. That would satisfy me better in terms of the issue going forward.

My understanding of ministers statements under the standing orders — and I accept what Mr Dalidakis said about his statement talking about achievements and so forth — is that they are about new announcements. They are about new projects and new initiatives going forward. In this case it is a vexed question because, yes, this subject is new and is very recent, but it has had a lot of airplay. I do not know that a review of the day is an appropriate use of a ministers statement. I will add Mr Dalidakis's name to the list for a members statement.

Mr DALIDAKIS — I am happy to take your advice, President.

Honourable members interjecting.

The PRESIDENT — Order! The minister has done me the courtesy of accepting my ruling, so other members do not need to comment on that. I thank the minister.

MEMBERS STATEMENTS

Grand Final Friday

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I rise to inform the house on the achievement of the very first successful AFL Grand Final eve public holiday. The day was an outstanding success, and I note both the lack of questions and the continued interference in this government's ability to talk about its success stories, this time about Victorians being able to spend Grand Final Friday with friends, family and loved ones. Better than that, I am happy to reaffirm this government's desire to allow businesses to make decisions for themselves. It is called a free market, and it means businesses are able to choose whether they open or close.

To that end, let me tell the house about David Kramer from Tackleworld in Cranbourne who chose to write to the Premier on Grand Final Friday to say:

> As a small business owner, I say thanks. Yesterday was a record day's trade for a Thursday in October, with so many families buying fishing gear to go away for the long weekend.
>
> …
>
> We opened at 7.00 a.m. this morning and by 9.00 a.m. we had a customer count over 100. A normal Friday's trading would be less than 5 by 9.00 a.m. The day's trade was outstanding, and the extra penalty rates were covered more than tenfold.

This was a fantastic achievement. It was an election commitment that we delivered in full, and we are proud on this side of the house to allow small businesses to determine for themselves whether they choose to open or close.

Oakleigh Centre

Mr BOURMAN (Eastern Victoria) — Recently I had the pleasure of visiting the Oakleigh Centre with Dr Carling-Jenkins to meet with its CEO, Therese Desmond. The Oakleigh Centre provides a residential facility as well as operating Oakleigh Centre Industries, which provides employment opportunities for the intellectually disabled. This facility provides real employment opportunities and a quality of life that would not otherwise be available to these workers. It was a pleasure to meet Therese, the staff and the residents and workers at the Oakleigh Centre and see what a positive impact this facility has on so many lives.

World Sight Day

Mr ONDARCHIE (Northern Metropolitan) — Today is World Sight Day, which is an international event to raise awareness about avoidable blindness and vision loss. World Sight Day is run by VISION 2020 — The Right to Sight, a joint global initiative of the World Health Organisation and the International Agency for the Prevention of Blindness.

I am proud to stand here to support people who are blind or who have a visual impairment, and I pay tribute to the many people who support them. In particular I pay tribute to the late Fred Hollows, who was a great Australian. He was a great man who supported many people around the world who had visual impairment or blindness.

I am proud also to be an ambassador for Guide Dogs Victoria. My ambassador dog, Nala, and I promote independence, mobility and life choices for those who suffer from blindness or have a visual impairment. I take this opportunity on World Sight Day to thank the board of Guide Dogs Victoria: president Russell Walker, John Rayner, Bruce Porter, Betty Amsden, AO, DSJ, Iain Edwards, Graeme Houghton, Sally Scott, Gary Williams and Charles Thompson, who all give of their time to support Guide Dogs Victoria. I also thank Karen Hayes, the chief executive officer, and her wonderful executive team, the wonderful staff of Guide Dogs Victoria and the many volunteers and supporters who together give so much of their time to support Victorians with blindness or visual impairment.

M80 ring-road upgrade

Mr MELHEM (Western Metropolitan) — I rise to speak on the announcement by the government last week that the M80 ring-road will finally be completed. The M80 ring-road is Melbourne's second busiest freeway, the backbone of Melbourne's booming northern and western suburbs, and a gateway to bordering states. We appreciate the support of the commonwealth government for this critical project. The announcement last week about the completion of the section between Sunshine Avenue and the Calder Freeway was long overdue. That project was supposed to commence three years ago but the previous government decided not to go ahead and complete the project; instead it diverted the money to the east–west project.

The announcement by the state government last week that it will contribute $150 million towards the project, with a further $150 million coming from the commonwealth government, is a very welcome one. Finally we might now have a complete Western Ring Road with extended additional lanes to fix up the bottlenecks so that Victorian drivers, particularly in the western and northern suburbs of Melbourne, will no longer have to put up with massive traffic deadlocks. The expression of interest was announced, as I said, and hopefully by the end of the year we can have a successful bidder and construction will commence soon to alleviate traffic congestion in the western suburbs of Melbourne.

Climate change

Mr BARBER (Northern Metropolitan) — We are now seeing on our TV screens images that we never wanted to see but knew that we would see again — that is, homes being destroyed by bushfires and people being evacuated. Our thoughts are certainly with those affected, as well as with the career and volunteer members of the emergency services. The emergency services commissioner, Craig Lapsley, said the day before yesterday that we have not experienced these

types of temperature-wind speed combinations this early in the season in the history of Victoria, although climate scientists have predicted a longer and more severe fire season coming in light of global warming for many years prior to this.

Just today we saw a special update of the climate outlook released by the Bureau of Meteorology due to a significant shift towards a drier October, November and December nationwide, so it is pretty clear to me that climate-related risks are going to be the biggest challenge we face here in Victoria over the next six months. What we need to hear from the government, and in fact from almost every minister across the front bench, is their response to these climate risks.

Hawthorn Football Club

Mrs PEULICH (South Eastern Metropolitan) — I take the opportunity to congratulate the Hawthorn Football Club — my husband's preferred team — as well as Cyril Rioli on his wonderful achievement in winning the Norm Smith Medal, which was richly deserved.

Multicultural affairs grants

Mrs PEULICH — The Andrews Labor government is in need of strong hands and precise policies to kick goals in the multicultural affairs portfolio. A champion goal kicker is now required to resurrect the portfolio from the drumming it has been receiving under the inept Andrews Labor government. The failure to implement any immediate measures to enhance social cohesion and community resilience to counter violent extremism and the failure to appoint several Victorian multicultural affairs commissioners, who are crucial to the success of the Victorian Multicultural Affairs Commission, should place the Andrews team as a firm favourite for relegation.

Regrettably, no goals have been kicked in the opening quarter through Labor's game plan, the $25 million social cohesion and resilience fund. Labor's $25 million social cohesion and resilience fund, designed to curb extremism and enhance social cohesion, is not focused on short-term measures. The establishment of a ministerial subcommittee or task force that has committed $4 million to a virtual research institute may set up shots at goal in the fourth quarter but there is nothing in the wind for the immediate future. The government's game plan is a strategy which needs revision. Its time frames for initiatives may bear medium and long-term benefits, but there is no goal in the wind now, when we need it.

Other significant failings include changes to grants programs which have been neither explained nor promoted, failure to secure terms of reference for the Royal Commission into Family Violence that actually involve multicultural communities and many others.

Bushfire preparedness

Ms SHING (Eastern Victoria) — I rise today to implore people throughout Gippsland to make sure they are fire ready at the beginning of what is slated to be a very difficult season. We have had a very long period of dry weather, with wind patterns that have enabled fuel to cure faster than usual. What that has meant essentially is that we are now facing greater risk to property, livestock, homes and indeed personal safety than in previous years. It is fantastic to see that the Country Fire Authority has been extremely proactive in enacting the fire safety pledge program and that volunteers and staff throughout the Gippsland region are working assiduously to make sure that its fire training programs are delivered in a timely and effective way and to make sure that communities are as fire ready as they can possibly be.

To that end I congratulate everyone who has been involved in getting ready for this season. Again I encourage everyone to make sure they have appropriate plans in place; that they are checking the equipment, devices and electronics in their homes to make sure that the fire risks are minimised to the best extent possible; and that they have the appropriate plans in place to manage fire risk throughout Gippsland when and as it might occur. I wish everyone the very best of luck and of resources and support as we head into the fire season this year.

Hospital ambulance bypass

Ms FITZHERBERT (Southern Metropolitan) — This week the government issued the Department of Health and Human Services annual report 2014–15, and the figures on emergency services on page 39 are particularly interesting. Figures are given for the number of occasions on which hospitals went on the hospital early warning system, the percentage of operating times on the hospital early warning system and the time on hospital bypass. In each case the Andrews government described the figure as a positive result, because it is lower than the target the government set itself. But if compared to the figures issued by the Napthine government a year ago in the 2013–14 report, each measure has increased, and this is a deliberate misrepresentation of actual performance on these measures. In particular under this government the time on hospital bypass has increased from 1.8 per cent

to 2.2 percent. The Napthine government's 2013–14 bypass figure was a 10 per cent improvement on the year before.

On 17 September the government announced that bypass would be abolished on 7 October, and these figures, issued just this week to coincide with that abolition, show why that announcement was made when it was. I consider this to be a very cynical exercise by this government, which has talked about being open and accountable but has done something sneaky and underhanded with these figures to avoid proper and appropriate scrutiny and then has done away with bypass altogether so that these figures need never be revisited. I look forward to seeing how this issue in hospitals will be accurately measured by the government going forward.

China-Australia relations

Mr MULINO (Eastern Victoria) — I rise to comment on recent initiatives in regard to Victoria's relationship with China and how they will benefit areas in my electorate. Victoria already has a very strong and productive relationship with China: $20 billion of two-way trade, which is growing rapidly. It was less than $15 billion per annum in 2013. We have 160 000 international students, over one-third of whom come from China, and over 430 000 tourist visits to Victoria annually from China, and again that number is growing rapidly.

There have been a number of recent initiatives. The Premier visited China recently. It was a highly successful visit that included a cultural agreement, which is one of the most significant by any subnational government with China. Last week I attended an Australia-China cities summit and business forum, which was highly successful and linked both the Victorian government and local governments with many large Chinese regional areas and cities. There was also the Chinese National Day reception, at which the Minister for Small Business, Innovation and Trade spoke, and of course the Minister for Agriculture recently opened the Australian pavilion at the China Fruit and Vegetable Fair in Beijing.

This is a relationship which transcends party politics and one that I believe we are all committed to. It will benefit my electorate, for example, with tourism in the Yarra Valley and the Mornington Peninsula, and it will benefit the wine regions, cultural activities and festivals in particular. Phillip Island is an area of particular interest, and of course agricultural exports such as dairy are areas where we can get really significant leverage and high value.

Bushfires

Ms LOVELL (Northern Victoria) — Yesterday I attended a very angry community meeting in Lancefield for bushfire-affected residents. Residents were concerned about how the fire got out of control in the first place and also desperate to know when the fires will be under control. There was a lot of concern about fire damage and road closures. Many did not know whether their homes were still standing, and others were concerned about getting feed and water to animals. There were a lot of questions asked and a lot of anger aired, but little satisfaction for residents from the responses received at the meeting.

Residents were further insulted when, 15 minutes after the meeting commenced, they received the following text message:

> Bushfire advice: residents in the fire-affected area attending the community meeting will not be able to re-enter property if on a closed road.

Gordon Meyer, a former Department of Sustainability and Environment officer with 18 years experience in controlled burns, stated that the fire should not have been lit and that the department had ignored its own protocols. He added that this was the third time the department had done this in five years. His concern was mainly related to the fuel moisture differential of the controlled burn and surrounding country, where countryside outside the burn should be a little wetter to act as a natural firebreak. He also stated that currently there is no soil moisture in the area to a depth of 2 metres. The government must act now to put out these fires and support affected residents. Let us pray that fires can be extinguished before more homes and lives are threatened.

Hope Street

Mr EIDEH (Western Metropolitan) — I rise to commend Hope Street on its recent work to address the issue of youth homelessness in outer growth corridors, in particular Melton. Hope Street specialises in providing a range of early intervention and prevention services to divert youth and families from long-term homelessness. I was shocked to learn that in Victoria over 40 per cent of homeless people are under the age of 25 and unfortunately are more likely to experience persistent homelessness throughout adulthood.

On more than one occasion I have met with Hope Street's CEO, Donna Bennett, and I am pleased to say that the organisation has an exciting plan that will go a long way in addressing youth homelessness in the Melton region. Homelessness brings with it many

social problems, and the Hope Street organisation has already shown what can be done with the implementation of professional services.

Current data shows that youth homelessness is on the rise in Melton, which is why Hope Street has embarked on a plan to establish a youth crisis response and accommodation service in Melton. Melton City Council has in principle agreed to locate for Hope Street a parcel of land that would house the crisis centre. It has also prepared a business plan for the project, which has been given to the Minister for Housing, Disability and Ageing.

On 24 September Hope Street launched its public appeal at Woodgrove shopping centre, where the management set up a tree of hope. Members of the public can purchase a colourful little butterfly and place it on a leaf of the tree. I am fully supportive of the project.

Ambulance services

Mr DAVIS (Southern Metropolitan) — I want to make comment on the Ambulance Victoria annual report and draw the chamber's attention to page 38 in particular. I note the good performance of Ambulance Victoria in transfer of patients following the Stripp report and the ambulance task force work that was done. I note that the government failed to meet its response time targets and the standard it set itself in opposition. I note that the Labor government from 1999 to 2010 never met ambulance response time targets, and on this occasion it again failed to meet its targets and fell far short. Further I note that Ambulance Victoria performance on a number of the patient experience and safety and quality measures, many of which were introduced while I was minister, has improved, and I welcome those improvements.

I note that the minister has begun to talk about quality and safety measures and less about ambulance response times, as she understands that ambulance response times are only one measure, although I would argue they are a critical measure. They are a measure on which we worked hard to get good outcomes. We will see news from this government in short order, and you heard it here first. The government will try to redefine ambulance response times, just as it did in the mid-2000s, when it moved from a 13-minute response time to a 15-minute response time. The Labor opposition in 1999 — —

The PRESIDENT — Order! I thank Mr Davis.

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Membership

Mr JENNINGS (Special Minister of State) — By leave, I move:

> That Dr Carling-Jenkins be discharged from the Standing Committee on the Economy and Infrastructure.

Motion agreed to.

SERIOUS SEX OFFENDERS (DETENTION AND SUPERVISION) AND OTHER ACTS AMENDMENT BILL 2015

Second reading

Debate resumed from 17 September; motion of Mr HERBERT (Minister for Training and Skills).

Mr O'DONOHUE (Eastern Victoria) — I am pleased to rise to speak on the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015. Let me say at the outset that the opposition will be supporting this legislation, as was flagged by Mr Clark, the member for Box Hill in the other place, in his contribution on behalf of the coalition in the Legislative Assembly. I also flag, however, that I may seek to take this bill into a committee stage to ask the minister some questions about the operation of the bill and also about some of the announcements that have been made by the government in relation to the location and management of serious sex offenders since this bill was first introduced into the Parliament.

The bill makes a range of amendments to various acts, including to the Serious Sex Offenders (Detention and Supervision) Act 2009 (SSODSA), the Bail Act 1977, the Corrections Act 1986, the Sentencing Act 1991 and the Sex Offenders Registration Act 2004. What is behind this bill, and what is I think in the forefront of members' minds as we debate it, is the tragic death of Masa Vukotic earlier this year. It highlights that reforms to the justice system, and indeed reforms across government, are never-ending. Circumstances change, technologies change and issues change. We as a Parliament, we as a community and the government, which ultimately has responsibility for the management and legislative carriage of the architecture behind the post-sentence scheme for serious sex offenders, must remain nimble and responsive to issues as they emerge in order to protect the community. That is what the previous government did with its reforms to the parole system. I note that the then Minister for Corrections,

Andrew McIntosh, also brought in reforms to the SSODSA scheme in 2012 to increase transparency around it.

As I said, the opposition will support this legislation, but I make the observation that the reforms, while welcome, are relatively modest and limited in their practice and application. I note that in May the minister announced a broader review of the SSODSA to be undertaken by former Supreme Court judge David Harper, forensic psychiatrist Professor Paul Mullen and criminal and mental health law expert Bernadette McSherry. That review is due at the end of this month. The opposition looks forward to the completion of the review and seeks confirmation that it will be made public in a similar way to the Callinan review, which was released in full in 2013 with only minor redactions to protect the identities of and information about certain people. I trust and assume that the same approach will be taken with the Harper review that is currently on foot, but we would welcome an assurance about that from the government.

One assumes the review will lead to further legislative change and perhaps a broader reform of what is, frankly, an extremely challenging and difficult area of public policy. In order for the community to have confidence and an understanding of any legislative changes brought to this complex area, the more transparency that is provided the better, and the full release of the Harper review with appropriate redactions would be welcomed and expected.

Before I go into detail about the bill, it is worth reminding members what the Serious Sex Offenders (Detention and Supervision) Act 2009 is about, because there is often misunderstanding in the community. In their reporting our friends in the media often refer to this cohort of offenders as being in jail when in fact they are not. Only the members of this cohort who commit subsequent offences, including breach of their post-sentence supervision orders, are in jail. With the greatest respect to the Premier, I think he has added to this confusion with some of his public comments, which I will get to later.

We are talking about serious sex offenders who have been to jail and who have been assessed by the court as posing a risk to community safety and hence have been placed on post-sentence supervision orders. As I said, some of those individuals are in jail because of subsequent offences. Some are living in the community — that is, living in private residences or other locations within the community. Some of those individuals are electronically monitored. Others are residing at Corella Place. Again I appreciate the briefing from the department and the commissioner, who provided information on the breakdown of those numbers. I would appreciate government members, or alternatively the minister in the committee stage, providing an update on the current number of people who are on orders who are incarcerated, living at Corella Place or living in the community.

As a subset of that, noting that all those who are in Corella Place are electronically monitored, how many of those living in the broader community are currently electronically monitored? It would be useful information if that could be provided by way of update, given that the initial bill briefing on this was more than a month ago due to the recent recess we had from the house.

To round out that point about the very limited and narrow class of offenders or individuals we are talking about, I will read from the purposes section, section 1, of the Serious Sex Offenders (Detention and Supervision) Act 2009, which says.

> (1) The main purpose of this Act is to enhance the protection of the community by requiring offenders who have served custodial sentences for certain sexual offences and who present an unacceptable risk of harm to the community to be subject to ongoing detention or supervision.
>
> (2) The secondary purpose of this Act is to facilitate the treatment and rehabilitation of such offenders.

Section 1(3) goes on to outline that the act:

> (b) empowers the Supreme Court to make a detention order of up to 3 years, or an interim detention order, in respect of an eligible offender on the application of the Director of Public Prosecutions; and
>
> (c) empowers the Supreme Court or the County Court to make a supervision order of up to 15 years, or an interim supervision order, in respect of an eligible offender on the application of the Secretary to the Department of Justice; and
>
> (d) provides for appeals by offenders …

et cetera.

It is also worthwhile noting the role of the Adult Parole Board of Victoria in providing supervision and oversight of these offenders once an order has been made by the court. The adult parole board has a separate division to supervise and manage these offenders.

At this juncture I will deal with a confusing aspect of a statement by the Premier. As I said, the offenders who are living at Corella Place are not in jail. In theory and in practice under the legislation they are living in the

community but must reside at Corella Place. In an article written by Richard Willingham published on 1 September, the Premier was quoted as saying:

> We [need] to get this balance right, where there is perhaps too many people being released into the community on these orders, when the best place for them and the best place for community safety would be to have those people behind bars.

The only way those people can be behind bars is if they are sentenced to a firm period of incarceration. In putting these offenders at Corella Place they are not incarcerated, but they are required to live at Corella Place.

This leads me to some further questions for the minister in the committee stage, and I will flag them with him now. Last week the government announced that 20 of this cohort may be required to live at Langi Kal Kal, which is a prison. I am interested to further explore how that will operate in practice, whether that announcement by the government will see further legislative change to enable that to occur and how that will work with the current framework as it exists here in Victoria. I flag that now, and I look forward to the minister providing some answers either during the second-reading debate or, if need be, through the committee stage of this bill. I also make the point that there is a separate sex offenders register that has a much larger cohort of individuals — several thousand. That is a much larger number, and this bill does not deal with those offenders. Again, we are talking about only 120 or 130 individuals who are subject to this post-sentence supervision scheme as defined by the SSODSA act.

I will move to what the bill seeks to do. Firstly, I will turn to the amendments it makes to the Bail Act 1977. The bill amends the Bail Act to require that in proceedings with respect to bail certain accused persons show cause as to why their detention in custody is not justified. I note that that is for any serious sex offender on a supervision order who is charged with any indictable offence, including non-sexual offences. In effect that is a reverse-onus provision. Given that the overriding purpose of the bill is to protect community safety, and given some of the issues that have been identified with the current bail arrangements, that is a welcome provision, but I make the point that this element of the bail reform is applicable to this cohort only. Back in January the Attorney-General announced a broader review of the Bail Act, but to my knowledge we have not yet seen the outcome of that review, and we are yet to see substantive reform be delivered from it.

In a similar vein, the government announced earlier this year former Court of Appeal judge David Harper's review of the SSODSA act. I trust that the Attorney-General will release that review in an open and transparent way, as the former government did back in August 2013 with former High Court justice Ian Callinan's review of the operations of the Adult Parole Board of Victoria. There is a high degree of community concern about bail at the moment. The former government instituted a range of reforms around bail when it was in government, but clearly further reform is required. The Attorney-General, Martin Pakula, announced a review in January, and here we are in October yet to see the outcome of that review. I call on the government to release that review and be clear with the community about its intentions in relation to bail.

I note the comments of the shadow Attorney-General, John Pesutto, the member for Hawthorn in the other place, who has been consistent in his call for the government to work in a bipartisan way with the opposition. Indeed the Leader of the Opposition has called for the government to do so in order to further strengthen our bail conditions if required.

The reverse-onus presumption is welcome, but it has a limited application to this cohort only. We look forward to further reform in the broader bail system being brought forward soon.

The bill also provides a greater role for Victoria Police in the monitoring of serious sex offenders, including the creation of a new operational unit — a sex offenders management branch of Corrections Victoria. Victoria Police members will be embedded in that branch to monitor, supervise, case manage and identify risks. Again, that is a good reform. Working across different parts of government and having IT systems talk to each other across government are always a challenge, but clearly Corrections Victoria, Victoria Police, the Adult Parole Board of Victoria and others need to work as closely together as possible, and embedding Victoria Police members in the sex offenders management branch appears to be a useful step.

I note that the Minister for Training and Skills and the government in its announcement about this talked about police members being embedded in that branch. Another question I will have for Mr Herbert, during the committee stage is whether any additional resources will be provided to Victoria Police to backfill, so to speak, the placement of these Victoria Police members. I look forward to the minister's advice about that matter in due course.

Mr Herbert — It could be an operational matter, but we will see.

Mr O'DONOHUE — I take up the interjection of the minister that this may be an operational matter. Indeed it is an operational matter, and we are facilitating these operational reforms with this legislative change, but of course ultimately it is up to the government to provide the resources to Victoria Police to enable it to do the job it needs to do. Whilst we in the opposition absolutely respect the operational independence of Victoria Police, the fundamental point is that Victoria Police needs to be provided with resources to respond to issues as they emerge.

In the four years of the coalition government police resources were increased by 22 per cent — that is, the budget of Victoria Police was increased by 22 per cent. On the most recent publicly available statistics the number of police in Victoria has gone up by exactly zero since the Andrews government came to power, despite these issues that we are talking about today, despite the heightened security risk for Victoria Police and the community from some very unfortunate and very disturbing incidents and despite the population growth over the 10 months of this government, which must be 70 000 or 80 000 people so far. There are consequences to this under-resourcing of Victoria Police. There is the example of the Somerville police station, where there is a new $16 million building and no access for the public. There is no divisional van. If members of that community were to call 000, someone from another station would come.

Whilst I do not want to go off topic, and I appreciate the operational independence of Victoria Police, as the minister correctly interjected, I am interested to know the answer to my question, because we are talking about an additional function for Victoria Police. I would like to know whether there will be additional resourcing provided to Victoria Police to deal with its additional function and backfill any work that needs to be done as a result of this new task. That is fundamentally the question I want the minister to answer, either in the second-reading debate or, if required, in the committee stage.

The bill also gives Victoria Police additional powers to enter the home of a serious sex offender to check if they are complying with their order and to arrest them if they are in breach. They can also direct them to take a drug and alcohol test, and police will be able to enter premises where an offender is residing where there is a reasonable suspicion that an offender is not complying. The bill also gives Corrections Victoria staff more power to direct serious sex offenders in the community to obey instructions, and it gives the special emergency services group, which usually operates inside prisons, the power to respond to safety concerns until police are required. I think that is a sensible step. The special emergency services group members are extremely well trained. Its members do a terrific job and are called to respond to the most challenging circumstances in the corrections system, and giving them a role and a clear legislative function in the management of this cohort is something the opposition supports, given the very difficult task it has.

The bill also makes overseas child sex offences and the distribution of intimate body images a breach of an order, provides for charges to be brought more quickly for breaches of supervision orders and makes explicit the conditions regarding electronic monitoring of offenders. On the issue of the electronic monitoring of offenders, I note that this was significantly expanded, with new technologies introduced, by the coalition government. While this government has made much in the media of this legislative reform, in my understanding and from my reading, it is doing not much more than codifying current practice. Again I would be interested if the minister would confirm that the number of offenders who are electronically monitored and the test for electronic monitoring will remain the same in effect once this bill passes. As I understand it, in terms of the number of offenders who are electronically monitored in the community as part of this scheme, the test for that will be fundamentally the same. What we are doing with this bill is codifying current practice, with some additional changes. I would be interested if the minister, just for the record, would confirm that.

As I said earlier, the department and the commissioner were most helpful at the briefing in confirming that as at early September there were 44 serious sex offenders living in the community on supervision orders, with 19 subject to electronic monitoring. There were 57, I think, at that time living at Corella Place. All of them are, as I said, required to be electronically monitored. There is another cohort of offenders who have subsequently offended and are in jail. I would appreciate an update on those numbers.

I am particularly interested in an update on those numbers, given the announcement of the government that it is potentially to place some of this cohort at Langi Kal Kal. I note that the capacity at Corella Place has gone from 40 to, notionally, 55 and that that is as a result of investment on the part of the coalition government to increase the capacity of Corella Place from 40 to 55, a $3 million investment that was announced back in September 2013. I understand that came online earlier this year. Notwithstanding that additional capacity, clearly Corella Place is operating at capacity, and I assume that is part of the reason for the

announcement. I would appreciate further advice on that from the minister.

Given that we are talking about Corella Place I also take the opportunity to acknowledge the close partnership of the Rural City of Ararat with all governments and the Department of Justice and Regulation. I acknowledge the council's long-term association with governments of all persuasions in relation to having Corella Place located at Ararat as well as having the Hopkins prison located at Ararat. That prison has a past that at times has been troubled, as you would be aware, Acting President. The initial arrangements put in place by the previous Labor government fell over due to very poor contractual arrangements. Those were rescued by then Premier Baillieu and then Minister for Corrections, Mr McIntosh, and those works were resurrected, enabling the prison to be fundamentally completed late last year, with some minor works — landscaping and the like — resolved early this year.

Ararat Rural City Council and the Ararat community are to be congratulated on the way they approach the partnership with the department and governments of all persuasions. Corrections brings many jobs to that area, and I know that is understood by the member for Ripon in the other place, Louise Staley, who has had a very close interest in these issues. I congratulate her on the way she advocates for her community and on her deep understanding of the issues we are talking about in terms of this legislation and more broadly in terms of the role of corrections and its involvement with the Ararat community.

That concludes the remarks I wish to make on this bill. Let me just say that we welcome reforms in this area in the interests of community safety, but I think the larger tranche of reforms are yet to come with the Harper review.

Again I would call on the government to be transparent in the release of the Harper review report once it is handed to government at the end of this month. The opposition extends an invitation to the government to work in a bipartisan way to further review this specific cohort of individuals and more broadly in relation to reforms to the justice system, particularly with regard to bail. The opposition will support this bill.

Ms PENNICUIK (Southern Metropolitan) — The Greens will be supporting the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015. This bill is one of a number of bills that we have seen come through the Parliament in the last couple of years with regard to serious sex offenders as we tackle the issues of how to deal with them in the justice and corrections systems. The Greens have supported those bills as they have come through the Parliament.

This bill aims to close gaps that still exist in the justice and corrections system and to enable police and Corrections Victoria to better manage serious sex offenders who are on supervision orders. The Greens, as I have said, will support the measures that are in this bill, as we have supported the other pieces of legislation and the majority of the recommendations to reform the parole system that were outlined in the Callinan review.

This bill does a number of things. One of the most important amendments in the bill is to create a presumption against bail under the Bail Act 1977 for any serious sex offender who is on a supervision order and who is subsequently charged with any indictable offence, including a non-sexual offence. In effect it puts this cohort of offenders who are on supervision orders in the same class as those who are accused of drug trafficking, for example, or smuggling, who must show cause why their detention and denial of bail are not justified.

We know that some serious sex offenders have been granted bail and/or parole — in this case we are talking about bail — and have gone on to commit horrendous crimes, including murdering women in the community. Of course this has caused massive heartache amongst the family members and close loved ones of those persons who have been killed, and amongst the community as a whole, who have been heartbroken by this and of course have been very concerned that those prisoners have been on the loose, to put it mildly.

The reviews that were done by Professor Ogloff and Justice Callinan, and the reviews undertaken by the Department of Justice and Regulation have come to the consensus that there have been ongoing problems and gaps with regard to parole and bail. Justice Callinan identified the lack of coordination between the police and Corrections Victoria, which resulted in the police not knowing certain things and Corrections Victoria not knowing certain things. Therefore mistakes were being made in terms of the release of people on parole and the granting of bail where the decision should have been not to grant bail. The fact that those mistakes have resulted in the deaths and/or injuries of people is of ongoing concern to the community.

The bill will also give Victoria Police greater powers to enter the home of a serious sex offender to check if they are complying with their supervision order and to arrest them if they are in breach of it. The police can also

direct the offender to take a drug and alcohol test. The bill will give Corrections Victoria staff more power to enable them to direct serious sex offenders on supervision orders who are in the community to obey instructions. It also gives the special emergency services group, which operates inside prisons, the power to respond to imminent safety concerns until the police arrive. These powers include the ability to use batons and capsicum spray if there is an immediate threat or hazard in order to protect themselves and other people.

The bill makes overseas child sex offences and the distribution of intimate body images a breach of a supervision order, and the bill explicitly provides for electronic monitoring of serious sex offenders to be for 24 hours of each day, with a device to be worn. Offenders can be jailed if they are found to be tampering with these devices.

The amendments in this bill come at a time when a comprehensive review, headed by former Supreme Court judge David Harper, into the management of a certain individual and the operation of the Serious Sex Offender (Detention and Supervision) Act 2009 is being undertaken. This review is also considering governance models for improved decision-making and case management between the criminal justice and mental health service systems in relation to these offenders. The review is due to report on 30 October. I agree with Mr O'Donohue that the government should release that report, because what is in that report will be of great community interest, given the circumstances behind the call for that review in the first place.

Supporting the reforms in this bill will be a new operational unit in the sex offenders management branch of Corrections Victoria. That unit will be made up of Victoria Police detectives, intelligence analysts and corrections staff. The unit is set to be fully operational by the end of the year. It will monitor, supervise, case manage and respond to identified risks from serious sex offenders who are subject to the serious sex offender scheme. That goes to the issue I was mentioning before that was identified by Justice Callinan, which was the lack of will and certainly failures in the coordination of information with regard to serious sex offenders, in particular those who are living in the community on supervision orders.

As I said, since there have been a number of significant failures within the justice and corrections systems in the management of serious sex offenders, we know reforms in this area are still needed, and this bill goes some way to addressing them. The Greens support the special response unit being established and the review of the Serious Sex Offenders (Detention and Supervision) Act by former Supreme Court judge David Harper. It is essential that the corrections system is fully resourced to properly deal with serious sex offenders and that there is better decision-making by all the relevant authorities.

We have been concerned about the granting of bail for such offenders in the past in regard to the alleged commission of further serious offences and the failure to provide appropriate strict supervision when supervision orders have been in place. We know that in a recent case a certain offender who was on a supervision order was in fact not being strictly supervised in the community and that led to a terrible tragedy. We must always ensure that serious sex offenders who pose an unacceptable risk to the community are placed in detention under the Serious Sex Offenders (Detention and Supervision) Act.

Dealing with serious sex offenders is extremely difficult. It is one of the most difficult challenges facing the justice and corrections systems. We know of course that these people can be extremely deceptive and manipulative, and it can often be difficult to profile them from their records alone. The only particular issue that has been raised with us is the creation of the presumption against bail, but I think everyone in the community understands that protecting the community from this particular cohort of offenders does require this particular measure to be introduced into the Bail Act 1977.

I would also like to comment that the statement of compatibility prepared for this bill goes into quite a lot of comprehensive detail with regard to the human rights issues that are raised by the provisions in the bill. The statement of compatibility is very comprehensive, particularly informative and covers those areas very well, which I think is important when introducing into Parliament this type of legislation that has human rights implications. The statement of compatibility outlines why these provisions are needed to enhance community safety.

Ms SYMES (Northern Victoria) — Today I rise to make a brief contribution to the debate on the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015. I acknowledge the comments of previous speakers and thank them for their bipartisan approach to dealing with this difficult cohort of offenders. I also acknowledge the efforts of the previous Minister for Corrections, Mr O'Donohue, in this area as well.

The act we are seeking to amend today came into operation in 2010 and enables the placement of serious offenders who have completed the full sentence of the court on civil orders, including supervision or further detention or both. In the five years of operation of this act we have watched with horror news reports of the violent sexual assault and murder of Victorian women at the hands of men with long histories of horrific crimes. Many tears have been shed for these women. We have expressed our outrage and anger on radio, in newspapers and on social media. We have marched in the streets seeking change to the flawed system that enabled their deaths. I can say that those sentiments have been heard loud and clear by the Andrews Labor government, which is taking the first of many steps needed to continue to fix the system and once again place in paramount position the rights of individuals and the community to be safe and feel secure in their lives.

Masa Vukotic, the young woman who was brutally murdered in her local community while doing an ordinary activity that many young women of her age undertake — just going for a run — was murdered by a man who was on a supervision order. It is tragic that her murder has been the catalyst for the legislation before us today. It has been tragic and heartbreaking for her family and for our community.

The Victorian government began the process of taking whatever actions were required, including conducting an immediate review of the status of every sex offender who was subject to a supervision order. Following this review, two offenders were moved from their places of residence to Corella Place. Many members in this house would be familiar with Corella Place. It is a village-style complex located next to the Hopkins Correctional Centre in Ararat. There are no walls surrounding the facility, but the offenders living there are monitored by GPS ankle bracelets and cannot leave without permission.

We have also established the Harper review of the Serious Sex Offenders (Detention and Supervision) Act 2009. The review is headed by former Supreme Court judge David Harper and includes forensic psychiatrist Professor Paul Mullen and criminal law expert Professor Bernadette McSherry. The Harper review, whose report is due this month, will look at the act and make recommendations regarding further changes, as well as investigating practices across the world for the management of serious sex offenders to see what may be working in other jurisdictions. The amendments proposed today and the government's other actions are really about hoping to swing the pendulum of power and confidence back to the community and to women.

The bill changes the Bail Act 1977, creating a link between the serious sex offenders scheme and bail, so that for these offenders there is a presumption against bail. In future any serious sex offender who is alleged to have committed an indictable offence while subject to a supervision order or who is charged with an indictable offence while on a supervision order must show cause as to why they should be released from custody on bail. They will be taken off our streets as quickly as possible and therefore their opportunities to reoffend will be removed.

The bill also provides for a strengthening of powers for both Victoria Police and Corrections Victoria personnel in the supervision and monitoring of and response to these offenders, making their difficult jobs just that little bit easier. For example, police will be provided with the ability to enter an offender's residence or other premises where there is reasonable suspicion that an order has been breached. Police may also alcohol and drug test serious sex offenders to check their compliance with abstinence conditions. Security and emergency services prison staff will have powers to respond to safety needs with authorised tactical options such as handcuffs and oleoresin capsicum spray.

The bill establishes a joint corrections and police specialist response unit, operating within the sex offender management branch of Corrections Victoria. The specialist response unit will be operating by the end of this year. This unit will assist in the investigation of breaches of orders, target offenders who pose the greatest risk to intelligence and supervision, and train and assist police in regional areas who interact with these serious sex offenders. We are enabling those who work in this extraordinarily difficult environment to be better equipped to manage risk and to do their jobs.

The Australian Bureau of Statistics conducted a personal safety audit in 2012. It reported that almost 1.5 million women aged 18 years or over had experienced sexual assault since the age of 15. That is 17 per cent of all Australian women, or 1 in 6. These statistics, coupled with the staggering accounts of violence emerging from the Royal Commission into Family Violence, should leave us in no doubt that there is a problem in our community. It is a monumental, deep-seated problem that requires drastic, immediate and effective actions and responses.

This bill is a step towards shifting the power away from perpetrators and back into the hands of law-abiding citizens — for example, young women who want to go

out for a run while listening to music, go out for drinks with friends after work, or indeed sleep safely in their beds without having to lock the window. This legislation will send a message to those who commit serious sexual crimes that their freedom will be limited, inhibited or indeed taken away.

This legislation is but a step on what will be a long hard road to change our culture and change attitudes across our community within a policy area that is deeply troubling and extraordinarily challenging. I congratulate the minister on the action he has taken with this amendment and the resolve I know he has towards improving public safety as he continues to tackle the complexities of this policy area with utter conviction and dedication. I commend the bill to the house.

Ms CROZIER (Southern Metropolitan) — I am pleased to rise and make a contribution to debate on the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015. As my colleague Mr O'Donohue indicated to the house in his contribution to the debate, the coalition supports the government's bill. I concur with the comment made by Mr O'Donohue that we should and must do anything we can do to further protect our community. As legislators we have a responsibility to do so. I also concur with other speakers who have expressed their support for this important piece of legislation. In his contribution Mr O'Donohue clearly outlined the main purposes of the bill.

I note that in 2012 the then Minister for Corrections, Mr McIntosh, further amended the 2009 act. This bill is a further amendment of that act, demonstrating that these areas need to be continually monitored and reformed in line with community expectations. The Serious Sex Offenders (Detention and Supervision) Act 2009 was introduced to protect the Victorian community from a specific and narrow type of offender — that is, a few critical, high-risk sex offenders who at the completion of their sentences are deemed by the County Court or Supreme Court to be an unacceptable risk to the community. That was highlighted by Mr McIntosh when he introduced those amendments into Parliament in 2012.

When Mr O'Donohue became minister he continued that work. He introduced a number of reforms to strengthen law and order by amending and including various provisions in the act that were deemed appropriate. As I said earlier, any reforms that we need to do, we should and we must do. This legislation goes to that point.

I also make the point, before I deal with the detail of the bill, that one of the initiatives that Mr O'Donohue undertook included the Callinan review, a very important review that looked at the state's parole system. In considering the Callinan review the government implemented all of its 23 recommendations, and I highlight a number of the recommendations in that review which go to some of the points covered in this bill. They include the recommendations that serious violent offenders and sex offenders be categorised and dealt with differently; that serious violent and sex offenders must complete required treatment and be of good behaviour in prison before they will be considered for parole; and that serious violent offenders and sex offenders will face a two-tier process to gain parole. They were significant changes. We know of course that there are ongoing concerns with parole — how some offenders are released and the times they are released — and we hope to strengthen the provisions in the legislation to address those concerns. Certainly the community expects us to.

To get back to the point of this bill, it amends the Serious Sex Offenders (Detention and Supervision) Act 2009. The bill contains a number of provisions, but the main purposes are to provide for new police powers in relation to offenders, to further provide for the management of offenders and to generally improve the operation and enforcement of Serious Sex Offenders (Detention and Supervision) Act 2009. I will not go into the detail of all the different clauses as Mr O'Donohue has highlighted very clearly to the house the important elements and the technical elements that the bill addresses. Certainly we look forward to the findings of the Harper review that the government has commissioned. We look forward to seeing the government's response to that review and then looking at how that might apply for further reform in the future.

There is one further point I will make in relation to this important area. There is no homogenised group, if I can call it that, of sex offenders. They come in a variety of different areas and offend in different ways. One of the things in which I have a particular interest is those sexual offenders who offend against children. Children are some of the most vulnerable members of our community, and sexual offenders who partake in offending against and sexually abusing children are committing the most heinous crimes that can occur. Certainly the lifelong implications for children who have been sexually abused are well known. This was evident from the parliamentary inquiry that was undertaken and that I had a great deal to do with, and in the Royal Commission into Institutional Responses to

Child Sexual Abuse also we are hearing too many stories with, as I said, lifelong implications.

I am particularly interested in the sexual offenders — not that we know their identities — who live in Corella Place, and anything that we can do to strengthen prevention measures for people at risk of reoffending needs to be undertaken. Research indicates that sex offenders tend to have versatile criminal careers, which I think is an interesting point, and that their sexual offending is embedded in more general offending behaviour. In addition to that, many of these people have prior convictions and have served terms of imprisonment, so they are a specific group, as has been outlined by various speakers in relation to what this bill addresses.

I commend the reforms undertaken by the previous government in relation to Corella Place, where these people are housed, and I commend the former Minister for Corrections, Mr O'Donohue, for addressing that need and expanding that facility from 40 to 55 places. It is very important that as our population grows, as the complexities of offending within our community are highlighted, we do as much as we can to keep the community safe, and certainly the community expects us to do so.

I do not need to go over too many other points that other speakers have made. All members want to see continual reform and review of these areas. I will be particularly interested, as I said, to see the results, findings and recommendations of the Harper review and the government's response to that review when it is concluded.

Mr MELHEM (Western Metropolitan) — I rise to speak on the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015, which amends the Serious Sex Offenders (Detention and Supervision) Act 2009 and the Bail Act 1977. As previous speakers have indicated, the main purpose of the bill is to strengthen and improve the supervision and management of serious sex offenders for the safety and protection of the community from sexual offending, including through new police powers and a new presumption against bail.

The operation of the legislation will be supported by a new joint corrections and police specialist response unit. This operational unit within the sex offenders management branch of Corrections Victoria includes embedded Victoria Police members to monitor, supervise, case manage and respond to identified risks from serious sex offenders subject to the serious sex offenders scheme. Like the New South Wales model, this does not require legislation; however, information-sharing amendments in the bill will support this reform. Key stakeholders such as the County Court, Victoria Police, the Office of Public Prosecutions and the Adult Parole Board of Victoria were consulted on this bill.

We all remember the horrendous crimes that have been committed by some of these predators, and one case that comes to mind is the violent rape and murder of Jill Meagher, and there have been many other assaults against women particularly by these predators — I go as far as to call them animals because I do not think some of these people should be classed as human beings — and to me it highlights that we need to look at how we can improve the current system. That is why the Andrews Labor government, earlier this year, commissioned a review in relation to how the government can put in place the necessary legislation to provide law enforcement agencies with the tools to address the issue and make sure that these offenders do not continue to offend time and again; hence the terms of reference for the Harper review, which include looking at the parole board and looking at how we can contain these offenders and especially the repeat offenders who might go out on bail and then before we know it are committing crimes.

That is why we have the changes outlined in the bill. For example, it introduces a new presumption against bail measure for any serious offender on a supervision order who is charged with any indictable offence. It also clarifies the conditions for electronic monitoring of offenders — for example, the offender is subject to 24-hour monitoring, must wear a device and must not remove or tamper with that device. The bill confirms that it is a core condition that an offender must comply with an instruction given by a supervision officer, including those given outside a residential facility — for example, Corella Place. Failure to do so is an offence of breach of a supervision order.

The bill provides that a court may authorise the Adult Parole Board of Victoria to give additional directions to an offender in relation to a supervision order when the offender has been directed by the board to reside at a residential facility — for example, curfews and being accompanied by supervision officers when leaving the facility. The bill removes the requirement to give offenders 14 days notice of a charge for breach of a supervision order. It updates the commonwealth sexual offences that make certain child sex offences committed overseas an eligible offence under the SSODSA if an offender has been imprisoned for these crimes. These offences will also constitute a breach of a supervision order by further sexual offending.

The bill gives Victoria Police additional powers, which are intended to commence before the end of the year. Victoria Police will need to establish reporting procedures regarding its new entry powers. It will also need to establish testing procedures, such as breath and oral fluids tests. Under the law currently Corrections Victoria has breath testing for alcohol use. An offender may be directed to see their local doctor for a drug test. Corrections Victoria will need to further train and educate the new specified officers in the security and emergency services group in their new role. All these things are planned to commence later this year.

New section 158B, inserted by clause 4, outlines some of the new powers for police. The Serious Sex Offenders (Detention and Supervision) Act 2009 gives community corrections officers the power to direct an offender to submit to testing for alcohol or drug use. The power applies if a supervision order contains a condition requiring an offender to submit to that test or if the offender is required to live in a residential facility. The amending bill broadly aligns with the current power of community corrections officers to alcohol and drug test serious sex offenders under section 156 of the act. Victoria Police testing procedures will be approved by the Chief Commissioner of Police.

The bill provides for stronger entry powers for Victoria Police to monitor compliance with supervision orders and to arrest for breaches of supervision orders. As I mentioned earlier, this is provided for under new section 158C, inserted by clause 4. The bill gives Victoria Police two new powers. Firstly, there is a power to enter premises to check whether serious sex offenders are complying with their order. Secondly, there is a lower threshold to enter premises to arrest an offender in breach of a supervision order. The bill provides Victoria Police with a greater ability to enter premises to check whether serious offenders are complying with these orders. The need to monitor compliance and address breaches of supervision orders can arise at places that include where the offender resides and can arise at night or in the early morning.

These reforms enhance the role of Victoria Police under the SSODSA. Moreover, the new units will better integrate Victoria Police and Corrections Victoria to monitor, supervise, case manage and respond to the risk that offenders present to the Victorian community. Under the bill a reasonable suspicion is enough for a police officer to enter premises to monitor offender compliance and make an arrest for a breach of a supervision order, and that is very important. Sometimes before you can take any action you have to have proof that something has happened, but unfortunately from time to time, particularly in these sorts of cases where we want to protect the vulnerable — and I am talking about sex offences — it is the right approach that if there is suspicion, the police should be given the power to enter premises.

If people have nothing to hide, they have nothing to worry about. It is better for an officer to be wrong and for nothing to have happened than for an officer to say, 'I didn't have enough evidence to enter the premises, so I didn't', and then for an offence to be carried out. In my view it is better to be safe than sorry, especially when we are talking about some of these repeat offenders and people who commit horrible crimes against vulnerable women and children. A reasonable suspicion is a fair enough reason for Victoria Police to enter premises. The definition of 'reasonable suspicion' is a lower threshold than a reasonable belief. It is important that we give police those powers.

In summing up, the bill addresses a lot of the issues we have now. It does not address every single issue and it does not give a guarantee that these horrible offences will not occur, but at least it gives us a fighting chance to make sure that repeat offenders in particular are caught and better managed so we are able to get to a position where they are not repeating an offence. The writing is on the wall.

Some of the cases we have seen in recent times have proven that if you offend once, especially with sexual offences, you are likely to offend again. That does not mean that people do not rehabilitate and reform. There are some cases where that can occur, but a bit of caution does not hurt. Paying attention to monitoring these people and being satisfied that they are not likely to offend again should be one of the main criteria before we release them back into the community. That is important; it is common sense. We need to be satisfied, more than with any other crime.

We need to pay special attention to these animals, as I called them earlier. I think that is what they are. It is an animal instinct to rape women. Whether younger women or older women, it does not really matter. We need to be satisfied, and that is what this legislation aims to do by giving law enforcement agencies the tools they need. There has been a fair bit of talk, for example, about what the parole board did and did not do and about some of its decisions that led to offenders offending again. The parole board will hopefully learn from that, and the bill gives it the tools it needs to do a better job. We can all do a better job to make sure that repeat offenders are not back on the streets offending again.

I hope the bill will improve the current situation so there is no repeat of cases like that of Jill Meagher. That is the aim, and let us hope the bill goes a long way toward achieving that aim and that offenders are no longer able to repeat their offences against the vulnerable women and children of this state. With those comments, I commend the bill to the house.

Mr FINN (Western Metropolitan) — I rise to say a few words about the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015. I think it was Ms Symes who mentioned earlier that there is bipartisan support for the bill, which is as it should be. I would hope there is a bipartisan attitude across the board on this issue, because there are very few more heinous or vile crimes than sexual offences committed against women. Whoever we are and wherever we are from, we should all agree on that. That is a no-brainer, as they say in the classics. However, unfortunately there are some in our community who for whatever reason — I struggle to understand the mindset of these people — see women as something they can use and something that has been put on this earth for their gratification. They have no respect for women. In fact generally speaking they have no respect for anybody, except of course themselves. These are the people this legislation is aimed at.

I get very angry when I hear about rape cases or sexual assault and people say, 'She had it coming', 'She shouldn't have been there at that time' or 'She shouldn't have been wearing that on that occasion', because there is never a justification, an excuse or a reason for sexual assault. Every woman should be able to go wherever she likes, wearing whatever she likes — within the law, anyway — at any time and not feel the threat of some gorilla attacking her. It is a dreadful indictment of our society that this attitude is so prevalent.

I do not frequent King Street very often, it has to be said, but in years gone by I may have popped down there from time to time. I saw these sorts of apes — I was going to say men, but you cannot call them men — who were there purely to get some form of sexual gratification, and they did not particularly care how they got it. These are the people we need to crack down on. We need to come down on them like a tonne of bricks.

I suppose I am speaking in this manner because I am the father of three daughters, and obviously I am concerned about them, given the attitude of some people in our community. No doubt in years to come, as they grow a bit, I will lose a lot of sleep wondering how they are and what they are doing at various times of the night. However, it is only fair and reasonable to think that people should be able to go about their lawful business without being assaulted, without being raped and without being treated as some sort of garbage. That is pretty basic in a civilised society, but unfortunately there are some people who just do not accept that, and they are the people who should feel the full force of the law.

Unfortunately there are some on the bench in our court system who do not necessarily share that view. Those judges, magistrates and other members of the judiciary who regard the rights of offenders as being more important than the welfare of victims should quite frankly not be on the bench. They should all be turfed from the bench.

The justice system that we have, such as it is — it is more a legal system that a justice system — should be about looking after the rights and welfare of victims. When I see people who have committed dreadful crimes, particularly crimes of a sexual nature against women and children, getting off pretty lightly, I get really angry. That is when I really fume, because these are the sort of people who need to be put away. They need to be kept off our streets. They need to be locked up to protect us, to protect our wives, to protect our daughters, to protect our mothers and in some instances our grandmothers. I cannot begin to imagine what goes through the mind of somebody who is capable of breaking into a house and raping a 90-year-old. I do not understand how somebody could even think about that, much less do it.

We need to have an attitude that tells people we will not tolerate this. Whether we are community members, legislators, judges on the bench or police, we need to send a very clear message that we will not tolerate this sort of disgraceful behaviour. We talk a lot about tolerance in this modern age, but there are some things we just cannot tolerate. This sort of behaviour is totally intolerable. I hope some members of our judiciary, who may be reading *Hansard* in a quiet moment one day, get that message. If they are reading *Hansard* in a quiet moment, they probably should get a life as well. Their job is to protect the innocent and to get justice for victims, not to be activists for the rights of criminals.

Criminals are called criminals for a reason — because they are criminals. When you commit a heinous act such as a violent sexual assault, then you pretty much lose your rights as far as I am concerned. There are a good many people in this community, and I am sure every member of this house would know at least one or two of them, who would gladly reintroduce capital punishment for sexual offenders. I am not one of them,

but I can fully understand why they would take that view.

This bill is also worthy of support because it helps the police to do their jobs, and that is quite a rarity these days. When we pass legislation it usually ends up making it harder for the police to protect us. I cannot sympathise enough with those members of Victoria Police who may know who offenders are but are prevented by law from gathering the evidence to lock these creatures up. I get frustrated sometimes in this job, but I cannot begin to imagine how frustrating it must be for them to know that some individual walking down the street is guilty of rape, is a vile and dreadful individual who may indeed have committed any number of assaults. Mr Melhem made the very good point that once somebody has committed a sexual assault, it is likely that they will do it again. For police to be prevented from pursuing somebody they know to be guilty of a crime is almost reason to rip your hair out, and that is another good reason to support this bill.

I have gone on a little longer than I had anticipated, I must say. That is unusual for me. I will conclude by reiterating my personal disdain and disgust. Sexual assault is a crime that can never be justified or excused. We as a society must adopt that attitude. We must realise that women are not things for gratification. Women are human beings with the same rights as everybody else. They should be protected by the law. This legislation moves a little bit further toward offering that protection. On that basis I am very pleased to support the bill.

Mr BOURMAN (Eastern Victoria) — The Shooters and Fishers Party will most definitely be supporting this bill, the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015. Everyone should be safe from any sort of violence in society, but sexual violence deserves special attention. Though I am not religious, there is a special place in hell for these offenders.

That leads me to consider institutions such as Corella Place. Just outside Ararat prison there is a little village of people who have served their time and paid their debt to society but are too dangerous to be allowed out into the community unsupervised. Whilst this bill works towards reducing sexual violence, the existence of Corella Place needs to be rethought. If someone has done their time but is still deemed too dangerous to be released unsupervised into the community, then sentencing needs to be looked at.

Sentencing is not wholly about rehabilitation. Community safety always needs to be the first priority. We cannot have these sorts of people roaming the streets. We all know there are supposedly mechanisms to keep them out of Ararat and the surrounding areas, but they have a certain degree of freedom. They can come and go within certain times to certain places, or they can disable their monitoring devices and make tracks, as they occasionally do.

I have had the unfortunate experience of dealing with some sexual offenders, including rapists and paedophiles. One of the things that struck me was how many of them thought they had done nothing wrong. It sickened me. As a member of Victoria Police I did not have the luxury of appearing to be sickened, but I still remember it nearly 20 years down the track. Along with other things, we need to be looking at who gets to be put on parole and the lenient sentencing of some offenders. There have recently been some well-publicised cases of people who committed heinous crimes while on parole. Those people should not have been on parole. It is a question of balance. Everyone has some basic rights, but community members have the right to be able to go about their business without having to worry about the threat of sexual assault and murder.

The monitoring requirements proposed in the bill also mean extra work for Victoria Police. It is fair to say that Victoria Police is struggling with its numbers and resourcing. It is difficult for some stations to find enough officers to field a van. I have mentioned before that police in the Ararat and Stawell areas sometimes have to share a van. There are also the extra requirements that have been placed on police because of the heightened terrorist threats we now have. Every extra requirement of police is coming out of a bank of time. There are only so many hours in a day. Only so many people can work and they can only do so much. The Chief Commissioner of Police has exclusive direction on what police do, and I would urge the commissioner to give this program as high a priority as possible. If there is inadequate resourcing, the whole of the legislation could well be at risk.

That is basically the end of my contribution. I commend this bill to the house and wish it a speedy passage.

Mr HERBERT (Minister for Training and Skills) — I begin by thanking all members who contributed to the debate on this very serious issue. Everyone made very genuine and appropriate contributions in terms of both the emotive issues that this sort of legislation deals with and the technical, legal side of the bill.

Essentially we as legislators all know that this type of legislation often involves a balance between the need to protect the civil rights of citizens and the rights and lives of innocent people. It is often a seesaw. We always strive to get that balance right through our legislation, but it is never going to be perfect. It is never going to be right per se. It is always going to need to be adapted and changed as circumstances and needs change. Clearly the tragic death of young Masa Vukotic highlighted the need to change the law in this case, but the law will continue to be changed. A number of members made comments about how this legislation is not the be-all and end-all and asked what happens next, and I will say a few words on that soon. Clearly these types of matters are constantly under review in this chamber. In terms of government and society they should be constantly under review because essentially it is our job to ensure that we stand up for the safety of Victorians in many forms.

As best I can in my summation of the second-reading debate I will respond to some of the questions that have been asked and say a few words to add to the debate and the second-reading speech that I tabled. This is an important piece of legislation. The principal legislation was enacted in 2009 and is six years old. As has been noted, this is essentially legislation to ensure that serious sexual offenders who have done their time but are still believed to pose an unacceptable risk to the community are subject to post-sentence supervision orders or detention. That is the basic thrust of it. We often get caught up in a lot of the debate without explaining the basic thrust of the legislation.

There are substantive changes in the bill. Supervision orders can be imposed for 15 years, and the court can impose a range of onerous conditions on offenders subject to supervision orders, including curfews, electronic monitoring, movement restriction, prohibition from being near schools and a range of others conditions, including attending compulsory rehabilitation regimes. There are also technical amendments. These reforms have been supported by all sides in this Parliament. They are a tranche of what we see as substantive reforms, which come directly from the tragic murder of Masa Vukotic by Sean Price while he was on a supervision order. That basically demonstrated there were critical weaknesses in the scheme that needed to be addressed.

The government acted quickly to review oversight, particularly in terms of those offenders living within the community. Some offenders were taken back to Corella Place. That facility has 24/7 monitoring, and whilst those offenders on orders can leave, they can only leave under full supervision. I will go into some of those numbers. It is important to say, though, that as we strengthen these orders, the number of individuals on detention and supervision orders will grow. Currently there are 55 individuals at Corella Place, and we are currently planning a further facility at the Emu Creek annex to ensure that we have capacity for more individuals on detention and supervision orders should we need it.

The amendments in the bill are designed to strengthen the current scheme right now — certainly by the bill's commencement date at the end of the year. As soon as it receives royal assent we want as many of these provisions in place as we can, so we are acting as quickly as we can. One of the key provisions in the bill changes the nature of bail to ensure that there is a presumption against bail. Should a person on a supervision order commit a serious indictable offence, there is a presumption against bail for the courts when they are considering bail allocations. Some would argue, as we have heard, that the court should do that anyway; it should not necessarily be legislated for. But we are lawmakers and so we are putting that into the law.

One of the other more substantive areas of the bill is that it provides for the establishment of a joint corrections and police specialist response unit. That is to be embedded in the sex offenders management branch of Corrections Victoria and will be operating from December. I think Mr Bourman made the point that it is very difficult to deal with many serious sex offenders because of the very nature of who they are and what they are, and you need expertise to deal with them. It is not something you would simply ask a young officer to deal with without the appropriate experience and training.

There are other important provisions in the bill, and members have gone through most of those. As I said, the scheme is about making sure that rehabilitation for this specific group of people does not outweigh the requirement for community safety. However, I said earlier that the bill is not the be-all or end-all; there will always be change.

The bill fits in with the Harper review, which the government called for. We acted immediately to review and put in place stronger provisions where we could. We introduced legislation to strengthen the legal parameters around monitoring, supervision, police powers and stopping bail if there are indictable offences committed. In the longer term we have the Harper review, which is currently underway, and I will make some comments on that because I know Mr Bourman and Mr O'Donohue want some specific information.

The Harper review is a major review headed up by Judge David Harper. The panel includes forensic psychiatrist Professor Paul Mullen and criminal law expert Professor Bernadette McSherry. It is not only looking at the principal act but also at schemes that operate across the world. Victoria is at the bottom of the global map, but there are a lot of countries dealing with very similar issues in terms of getting that balance to ensure community protection. If there is best practice somewhere else in the world in terms of how they get the balance right between protecting the community and protecting liberty, then we should certainly consider it and bring it forward. The Harper review will consider that, and we will act on the review.

In terms of the Harper review, on these complex issues it is important that occasionally we look at the entire framework of strengthening the community in the cases of people who continue to pose an unreasonable threat to the community, despite the fact that they have done their time and despite rehabilitation strategies. What are we going to do? The government will wait for that review of the whole governance model. It will review operations, case management and the interface between criminal justice and mental health services in relation to offenders. The review ends at the end of this month, but in the meantime we have this bill, which will quickly be put in place to operate whilst we await the outcomes of the Harper review and determine the response to it.

I also thank Ms Pennicuik for her comments on the bill's statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006. I know she reads every piece of legislation word for word, cover to cover. She certainly picked up on that issue. It was a good comment, and she showed that it is a serious part of the legislative process and that the government needs to take it seriously. Perhaps when we are looking at that we may look at models to improve that process. I will go back and have a good read of it myself and look at the points she raised and at whether that is the sort of quality we can put across all legislation.

I turn to some of the questions raised by Mr O'Donohue in terms of what the opposition wants clarity on. I acknowledge the opposition's support for the bill; throughout the history of this legislation it has pretty much received support from everyone. Mr O'Donohue asked about the current numbers on the scheme. I am happy to advise that there are currently 119 offenders on the scheme: 55 of them are at Corella Place, 17 are in prison, 47 are in the community and 2 are in prison on detention orders under the scheme. A Supreme Court judge has to make those detention orders, and they are for very serious offenders who pose an exceedingly serious threat to the community. I will talk about some of the other things Mr O'Donohue raised soon.

In regard to the release of the Harper review, which the opposition raised a question about, I can say that the minister has pledged to release as much of the report as possible, with appropriate redactions. That has been the case in relation to other similar types of reports. We are keen to ensure that these protections for the community are put in place as soon as possible, and we will release the report as soon as appropriate and release as much of it as we can.

It is worth saying a little more about electronic monitoring. It is about ensuring that offenders do not breach the act and that we maintain good supervision of them. If offenders breach the requirements of their electronic monitoring, they will receive a five-year sentence — that is quite a serious sentence. The issue of electronic monitoring devices is not quite simple. We refer to it simply as electronic monitoring, but currently offenders in the community are monitored by a range of devices. There are global positioning systems, GPSs, for exclusion and inclusion conditions — that is, when you are out or when you are in — and those systems are tracked electronically.

Some offenders under the scheme are monitored by what is called secure continuous remote alcohol monitoring, or SCRAM. That is for alcohol abstinence. We know that with many people on supervision orders there is a link between alcohol and a lack of control, or however you want to put it. There is a risk that with alcohol the danger increases, so SCRAM devices are also used. Some offenders are monitored by both GPS and SCRAM, so we know whether they are going to the pub and so we can check that it is working; they may be going somewhere else. All offenders — those 55 offenders currently at Corella Place — are subject to GPS and radiofrequency monitoring to check where they are in regard to curfew conditions. If you are at Corella Place, you have the two forms of monitoring at least, and if you leave the facility, you can only leave under direct supervision.

In finishing up, in terms of the police numbers, those who go to the — —

The ACTING PRESIDENT (**Ms Patten**) — Order! We have run out of time.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr O'DONOHUE (Eastern Victoria) — I thank the minister, in his summing up, for addressing some of the issues I raised during the course of the second-reading debate, particularly those related to the current numbers of offenders under supervision. The minister spoke about electronic monitoring. Could he confirm how many of the 47 offenders in the community are currently being electronically monitored?

Mr HERBERT (Minister for Training and Skills) — As I said before, all 55 offenders at Corella Place are under electronic monitoring, and there are 20 offenders on supervision orders in the community who are on electronic monitoring. So if you add them together, there are currently 75 all up. I should say that with Corella Place people move back and forth, so the numbers are a little bit flexible, but currently there are 20 in the community under electronic monitoring.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for that answer. Notwithstanding that the individual circumstances for this cohort change with changes to a risk profile as a result of information that may become available, can the minister confirm that the bill before us will not alter the test per se for whether those in the community who are subject to the scheme will be electronically monitored?

Mr HERBERT (Minister for Training and Skills) — I will just clarify whether the bill could increase the number of people under supervision. The bill clearly increases the penalties and tidies up around that, for instance. If an offender tampers with the electronic monitoring, it becomes an offence subject to a penalty of five years. I will just seek some advice.

It is as I thought: the bill does not change the current test for whether a person needs electronic monitoring or the form of electronic monitoring.

Mr O'DONOHUE (Eastern Victoria) — I appreciate that answer, and I appreciate the additional penalties and other reforms, but that confirms my assumption that the bill will codify the electronic monitoring process that currently exists and has existed for some time.

I thank the minister for his confirmation in relation to the advice of the Minister for Corrections about the Harper review being made public; I appreciate him putting that on the record. Could he also provide some advice about the bail review that is currently on foot, which was announced in January by the Attorney-General? When is it likely to be completed, and will the same transparency be provided in relation to that review, noting that elements of this bill deal with bail?

Mr HERBERT (Minister for Training and Skills) — The first thing to say is that I am not here representing the Attorney-General, so I am limited to speaking on this particular bill. However, this bill, assuming that it passes, will make amendments to the Bail Act 1977. I am not in a position to answer part of your question. However, I understand that in response to a question put by the Scrutiny of Acts and Regulations Committee the Attorney-General flagged that we would strengthen the Bail Act. That is the most I can say.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister. I appreciate that these issues are in the purview of the Attorney-General, but if there is any other advice the minister could provide about the completion of this review and whether it will be made public in due course, I would appreciate it.

I invite the minister to respond to the issue of police resources. As I said in my contribution to the second-reading debate, the opposition welcomes the embedding of police in the sex offenders management branch of Corrections Victoria. What additional resources will be provided to Victoria Police to undertake this work?

Mr HERBERT (Minister for Training and Skills) — I am advised that the new police members on the joint corrections and Victoria Police specialist response unit will be experienced officers. Obviously you would not put young officers in there. Those officers will be backfilled; there are additional resources. It takes the government's funding increase to about 600 further police. I am advised that they will be backfilled with new police.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for that answer. I note that the number of police members in Victoria has not changed relative to the statistics available when the coalition left office. Is there any specific appropriation attached to this legislation that will provide for that backfilling, as the minister described it, or will these resources be provided from the operational budget as per the budget handed down in May?

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Infrastructure Victoria board

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Special Minister of State. I refer to the qualification requirements in section 14 of the Infrastructure Victoria Act 2015, which require the minister to be satisfied that appointed directors have knowledge and experience of infrastructure delivery. I ask: which appointed directors have that experience in infrastructure delivery?

Mr JENNINGS (Special Minister of State) — I think that in Mr Rich-Phillips's substantive question, my substantive answer and his supplementary proposition to me we may be arguing the toss about what the definition of infrastructure delivery may be. I am anticipating that Mr Rich-Phillips may go down an engineering vortex on this issue as distinct from considering people who are responsible for the design, the financing and the arranging of infrastructure delivery projects, of whom there are a number.

Mr Rich-Phillips — The actual building?

Mr JENNINGS — The responsibility for building them is through the prism of making a project happen, and there are a number of members of the board. I will only single out the chair of the board, Jim Miller, who has been responsible for not only putting together the financial arrangements but dealing through the various contractual arrangements and seeing projects to completion. So by my definition of the delivery of infrastructure — —

Mr Drum — The Labor Party's definition.

Mr JENNINGS — Until today I would not have thought the engagement in infrastructure of Mr Miller would have been brought into question in terms of whether he has particular expertise and has been associated with a range of infrastructure delivery projects across the nation. By definition the chair delivers the outcome and the expectation, which was in legislation as outlined to the chamber. Maybe Mr Rich-Phillips will bring into doubt the calibre of the individuals, both the private members of the board and the public servants who not only are charged with responsibility for implementing the policies of this government but by law, by public policy settings, by protocols and by the consideration of the needs of the community have an enduring interest in and an obligation to account for the long-term needs of this community.

In the last 24 hours I have been subjected to criticism, not only the implied criticism in Mr Rich-Phillips's question today but the specific criticism of one of his colleagues, which indicated that it was in fact news to the opposition that three senior public servants were going to be part of the board. This was something that was announced prior to the implementation of the legislation. It was subject to lengthy consideration by the Parliament and it was endorsed by the Parliament that that was the model, yet one of Mr Rich-Phillips's colleagues has come out in the last 24 hours and said the opposition seems to oppose the three permanent heads as being part of the Infrastructure Victoria board.

In terms of the commitment, the clarity, the continuity of focus and effort and the determination to deliver an independent viable board, to establish policy and analytical capability and to have people who focus on the delivery of infrastructure outcomes, the government is confident that it will satisfy the expectations it has raised on behalf of the community. We have very high expectations of the delivery of Infrastructure Victoria in terms of its mindset, its discipline and the advice it will provide the Victorian people. I do not think the opposition should desert the ship within the 24-hour horizon.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his answer. I note it is very telling, President, that of a board of seven, the only person the minister could identify as having experience in infrastructure delivery was the new chair, Jim Miller, which begs the question of what the minister's considerations were in the appointment of the other three independent directors. The minister referred in his opening statement to the engineering vortex around this appointment, and I ask: can the minister confirm that no member of the Infrastructure Victoria board has experience or qualifications in civil engineering or construction?

Mr JENNINGS (Special Minister of State) — I can actually confirm to my knowledge that none of the members of the board have qualifications in engineering. I can confirm that. However, going back to the first question the member asked and my answer to him, in terms of the responsibility for delivering projects, they do not necessarily have to be delivered in their totality. Whilst engineers are a critical part of the construction industry in terms of the expertise that is brought together in the design and the project management, that is not the brief of Infrastructure Victoria.

Infrastructure Victoria is mindful of how we identify the appropriate infrastructure needs of our community, how we account for them in the years to come and how we can account for them being delivered. And I would say that there are any number of people who have been associated with the delivery of projects.

Stronger Country Bridges program

Mr MORRIS (Western Victoria) — My question is to the Leader of the Government, representing the Premier. Can the minister explain why 10 of the 48 bridges earmarked for upgrade as part of the Stronger Country Bridges program are in or within 4 kilometres of the Premier's metropolitan Assembly electorate of Mulgrave?

Mr JENNINGS (Special Minister of State) — I thank Mr Morris for his question. I would hope the way our chamber deals with this question and the answer is reasonable and that we do not have the repetitive interjections and points of order that have been taken in the other chamber. That should allow for at least some understanding from the community's perspective and that of anybody in the gallery of what this program is designed to do.

The program is designed to support country roads and bridges, yes. It is designed to support regional economies, absolutely. In fact the opposition in the other place distributed for the benefit of the media a Google map which identifies with red dots where the funds from this commitment by the Andrews government have been allocated — the first pass of roads and bridges, particularly bridge strengthening projects, across regional Victoria. There is quite a spread on the map. The source document the opposition relied on actually demonstrates that right throughout Victoria there are — —

Mr Dalidakis — East to west!

Mr JENNINGS — East to west, north to south — relatively few south! Nonetheless, there is a spread across regional Victoria of the projects that have been funded by this government. Certainly that was not recognised in the political argy-bargy in the Assembly when this matter was raised, even though the source document that the opposition relied on demonstrates red dots dispersed across the Victorian landscape in relation to these projects.

Mr Morris — President, my point of order goes to relevance. My question directly related to the 10 of the 48 bridges that are within the Premier's metropolitan seat of Mulgrave. I am requesting whether or not he understands — —

Mr JENNINGS — Are you sure that is right?

Mr Morris — In or within 4 kilometres. I ask you, President, to bring the minister back to the question that I asked.

The PRESIDENT — Order! The point of order is valid to the extent that it does raise the question of relevance. Nonetheless, my view is that the minister, given that the program referred to is a statewide program, is entitled in a context sense to discuss the whole program. I have little doubt that with 2 minutes and 9 seconds remaining the minister will come to the specific question that was raised in regard to bridges that appear to be in a metropolitan electorate.

Mr JENNINGS — Thank you, President, for your confidence. I would encourage Mr Morris to be a little bit more patient in future because in fact I was setting the scene with the spread of projects, as you would expect, funded through this program across the Victorian landscape. Let us just make sure that that issue is clear, as it was not clear in the Legislative Assembly because of frivolous and persistent points of order that interrupted the flow of my colleagues trying to explain it.

Beyond this, Mr Morris's original question did identify that in fact there are some bridges to be reinforced that are in proximity to the Premier's electorate — they are certainly not in it, as the member has described in his point of order. The relevance of this issue is that the program has been designed to support transport connections across regional Victoria, in particular ones that are either unsafe or in poor physical condition and are deteriorating and require strengthening, to support by and large freight movements across the Victorian landscape. The freight transport links from regional Victoria into the port, into the financial centre of Melbourne, warrant the support of projects that feed into major arterial road connections that not only traverse regional Victoria but go into the metropolitan area to support that important freight connection. Those points have been made.

One of my colleagues in the other place did identify that regional roads eventually become metropolitan roads by the time they reach certain parts of the Victorian geography and economy and that underpins the investments.

Honourable members interjecting.

The PRESIDENT — Order! I do not need the continued yelling and persistent interjections from my left. The minister, to finalise his answer.

Mr JENNINGS — I think I have almost got there. What we are talking about is supporting regional communities by making wise investments, and we believe that is what we have done.

Supplementary question

Mr MORRIS (Western Victoria) — I thank the minister for his answer. In the government's media release of 19 February 2015 announcing the Stronger Country Bridges program, the Premier said:

> There are bridges on some of our major freight corridors that semitrailers and B-doubles can't even cross.

So I ask the minister: is he aware of how many of the 10 bridges earmarked for upgrade that are in or within 4 kilometres of the Premier's electorate this statement applies to?

Mr JENNINGS (Special Minister of State) — Interestingly enough, in his supplementary question Mr Morris has joined me in the logic that I outlined to the chamber about what the imperative and the utility of these investments may be. I am glad that at least there is recognition of the value of the proposition that I have put to the chamber. Indeed in the underpinning of those investments there is an inherent logic that Mr Morris has acknowledged in his supplementary question. That is the logic — —

Mr Ondarchie — My point of order, President, goes to relevance. Mr Morris's question was quite specific around the country hamlet of Mulgrave, and I ask you to bring the minister back to answering the supplementary question.

Mr Drum — On the point of order, President, I think it also goes to verballing. The question asked as a supplementary question was nothing like what was repeated by the minister. Effectively there has to be a recognition that the minister cannot stand up and effectively verbal, incorrectly, the question that was put before him.

Mr Leane — On the point of order, President, the standing orders do not refer to verballing, I don't think. I'll be a stickler on this one.

The PRESIDENT — Order! In truth the stickler is correct. The standing orders do not refer to verballing, but obviously it is an unacceptable practice which the Chair not only discourages but in fact in most cases will intervene upon.

In this case I do not believe it was verballing. In his substantive answer the minister had referred to the importance of the infrastructure in terms of having the capability of meeting the needs of current transport modes — the B-doubles and so forth — which in turn was reflected in the supplementary question. So to the extent that the minister has picked up on that aspect I think it is perfectly in court, and in both situations there is a consistency in the remarks that have been made.

Mr Ondarchie's point of order goes to the question of whether or not the minister is being relevant in his answer. To the extent that the minister has picked up on the question and referred back to his original answer — and in many ways his original answer did reflect on the very matter that has now been raised in the supplementary question — I think the minister is being relevant.

Mr JENNINGS — Thank you, President, for your support and for your guidance to the chamber on the answer that I was giving. There is a difference between necessarily being relevant and actually setting the policy settings so that our community may understand the reasons why these investments have been made. To that extent I thank the opposition for asking the question and providing me with the opportunity. Let us go to the specifics and the nature of Mr Morris's question. I will have to take advice on the individual project and infrastructure needs that relate to the specifics of his supplementary question.

Stronger Country Bridges program

Ms BATH (Eastern Victoria) — My question is directed to the Minister for Regional Development. Given that the Andrews government launched the Stronger Country Bridges program in Gippsland, can the minister confirm that there has been just one solitary bridge chosen in the whole of Gippsland for upgrade from this program, compared to a dozen being chosen by the Andrews government in metropolitan Melbourne?

Ms PULFORD (Minister for Regional Development) — I thank Ms Bath for her question. What I would say in response is that this program is about bridge strengthening for freight efficiency. Some of the projects that are shown on the map the opposition has circulated today — that is, the map that the government provided in the course of the Public Accounts and Estimates Committee hearings — certainly do indicate that there are a number of projects that will benefit freight producers in Ms Bath's electorate.

Supplementary question

Ms BATH (Eastern Victoria) — I thank the minister for her answer. It is my understanding that the identified bridge is in or around the Tyers area and is the only one in Gippsland. I ask: will the minister now guarantee to country Victorians that the government will stop using funding from the pool of money that the Premier said was for country bridges to upgrade Melbourne's freeway bridges?

Ms PULFORD (Minister for Regional Development) — I will explain again that this program is around strengthening bridges for freight efficiency. As Mr Jennings indicated earlier, and as my colleagues the Premier and the Minister for Roads and Road Safety have indicated in the lower house, for Gippsland producers needing stronger and improved freight routes these bridge strengthening projects will provide benefit, as Gippsland producers in this instance, who I am sure are Ms Bath's particular interest, take their goods to market. What I would also indicate though is that the government is very committed to improving country bridges and roads, upgrading level crossings and overcoming the neglect of the former government.

Water policy

Mr RAMSAY (Western Victoria) — My question is to the Special Minister of State. Can the minister outline the government's plans, as the Minister for Environment, Climate Change and Water herself proposed, to activate the desalination plant to provide irrigation water to the agricultural sector in northern and western Victoria?

Mr JENNINGS (Special Minister of State) — I thank Mr Ramsay for his question. I know there is nothing in the standing orders relating to verballing, but I just use that as a preamble to my response to Mr Ramsay. During the course of this week the Minister for Environment, Climate Change and Water has indicated that while there may be no plan, as Mr Ramsay asserts, there has in fact been consideration of the appropriateness of using any water available to the people of Victoria in the months and years ahead in light of very low rainfall levels and what continues to look like being a return to drought conditions across the Victorian landscape. That is the way all measures should be considered as part of the appropriate policy, infrastructure and water allocation mix to support Victorian communities at a time when there is low rainfall and water storages are diminishing. In fact we should consider the wisdom of using a mixture of public policy settings, guidance and support to the community and also consider what might be the trigger points for using the desalination plant or any other water resources that are available to us.

That is the context that my colleague has set this week. Whilst there is no formal plan that has been adopted by the government, there are matters that should be appropriately considered by a responsible government supporting communities at a time of climatic stress. The availability of water is a diminishing resource almost on a daily basis across the Victorian landscape because of prevailing weather conditions.

Supplementary question

Mr RAMSAY (Western Victoria) — I thank the Leader of the Government for his answer and note that he indicated there was no plan. In my supplementary question I ask: can the minister explain to the house how the water will be transported to regional Victoria and in particular how the north–south pipeline will become the south–north pipeline?

Mr JENNINGS (Special Minister of State) — I know that the President might have been perplexed about whether this is a very long bow in terms of the original question and this outcome, and in fact — —

Mr Ramsay interjected.

Mr JENNINGS — There was, actually. Mr Ramsay may not have been listening, but there was quite a substantive answer to his question. It was actually quite a frame that related to his supplementary question in a way that perhaps the President did not see how it did.

The issue of water resources across the Victorian landscape depends upon the release of the available water resource — —

An honourable member interjected.

Mr JENNINGS — You know very little. It seems you know very little about this issue of how water resource allocations work across the river system, the water grid system and the piping system across Victoria. There is a release of allocations that can have knock-on consequences for parts of Victoria that may be geographically very separate, and using all of that infrastructure is a possible construct to the answer.

Swinburne University of Technology former Lilydale campus

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Training and Skills. Given the Andrews Labor government's election

commitment to having students studying at the Lilydale TAFE for the 2016 year, what is the expected enrolment of students for the start of the TAFE year in February 2016?

Mr HERBERT (Minister for Training and Skills) — It is kind of galling to even get such a question from the opposition. You would think they would be hiding under their benches when it comes to the impact of the TAFE cuts, particularly on the Lilydale campus of Swinburne.

For the benefit of the house, following the approximately $300 million cut to TAFE funding, to public provision across Victoria, there were campuses closed all over Victoria, and perhaps the most significant one was the Lilydale campus, the only public facility that provided training and higher education for the whole Yarra Valley. It was an incredible part of that community. It was a massive facility, a terrific facility — closed, padlocked, bolted, shut.

We did not think that was good enough, and we made a commitment to reopen that campus, and we are very proud of that. It is big task. When you close it down, you lock the doors and it has to come back you have lost your student enrolments, you have lost your marketing and you have lost a whole heap of infrastructure.

Swinburne is the principal owner of the site. We established an expression of interest (EOI) process, and those expressions of interest are in. I am confident that the campus will reopen next year and there will be students. We are at the stage of finalising the preferred tenderer. This is, as the member would know, a two-stage process which Swinburne agreed to, being the owners of the land. The first was to assess any expressions of interest, firstly on educational grounds, and once that had been done, the second was for Swinburne to open the envelope in terms of the funding price. The price is governed by the valuer-general, and I am very confident that in the not-too-distant future that process will come to an end and we will have announcements to make.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for his answer and I note his reference to the EOI process, which closed, as I understand it, several months ago. I also note that students are looking for courses for next year now, so I ask by way of a supplementary question: when will the minister announce the new operator for the Lilydale TAFE site?

Mr HERBERT (Minister for Training and Skills) — I thank the member for his question. I should have said, of course, that there was a panel also appointed to assess the educational needs of those students. It is not something that I would seek to have a hands-on impact on; it needs a proper process, and as I said, Swinburne is the owner. The member asked for a time, and I will give it very shortly, as soon as I can, when I get the advice, when that process is concluded.

But can I just say: what a gall — what a gall when it comes to those students. The opposition closed one of the most significant university campuses in this state — in the entire Yarra Valley.

Honourable members interjecting.

The PRESIDENT — Order! The minister is being very provocative in his approach, which makes it very difficult for me to rein in the interjections from the opposition, and going to a point Mr Ondarchie made earlier in the session, it was also debating.

Mr HERBERT — On the point that was made, whilst the previous government closed down this major university TAFE facility it did open a small facility with Box Hill, I think it was on the old Ford site, which is providing some training opportunities for students. It is very limited, and when we do open this major site I would think that will transfer straight across into it.

Timber industry

Ms DUNN (Eastern Metropolitan) — My question is for the Minister for Agriculture. I refer to comments made by the minister in this house on 15 September. The minister stated that there were 316 coupes added to the timber release plan (TRP) but 284 coupes were removed and that the total coupe area was unchanged before and after.

The minister also wrote in her written response:

> Of the 284 coupes removed from the TRP … 224 were successfully regenerated …

Will the minister inform the house what the current definition and criteria to meet 'successfully regenerated' are and if audit reports detailing these have been completed for each coupe?

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her question and her ongoing interest in this matter. As members would be aware, I have previously responded to this question and followed up with a more detailed explanation. The timber release plan process is a business-as-usual activity in terms of ensuring an open and transparent

process around which there is an opportunity for consultation from interested parties to manage areas for potential timber harvesting over a period of the next five years. This is something that VicForests does to manage the resource in a way that is clear to everyone involved, and as Ms Dunn indicated, there is also obviously a great deal of record keeping in each location around the different states of regeneration.

Supplementary question

Ms DUNN (Eastern Metropolitan) — I thank the minister for her answer, and my supplementary question is: in relation to the 224 coupes that have been logged, do all coupes meet the definition criteria of what 'successfully regenerated' is and what checks and balances are in place so the minister can be certain?

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her further question on this matter. As the member is well aware, the government is committed to a sustainable industry. We are supporting the establishment of a task force to explore areas where there may be a consensus between industry, environmental groups and other parties to explore opportunities for reform, and the government is supporting that work. VicForests undertakes a great deal of work and observes regeneration. It supports the recovery efforts of the Leadbeater's possum, as the member is well aware, there are rigorous processes in place and there is extensive reporting on these areas that are of interest from a range of different industry perspectives.

Climate change

Mr BARBER (Northern Metropolitan) — My question is for Mr Jennings representing the Premier. The Bureau of Meteorology yesterday updated its climate outlook for October to December, only two weeks after it originally produced an outlook. It is clear from that information that there are going to be some significant climate challenges to Victoria over the coming three to six months. There is now an 80 per cent chance of above average daytime and night-time temperatures and an 80 per cent chance of below average rainfall. Can the minister detail for me what plan the government has developed or is developing for this coming six months across government as a whole to respond to what will clearly be the major challenge for the state of Victoria?

Mr JENNINGS (Special Minister of State) — Thank you, President, for the opportunity to answer Mr Barber's question. I thank him for his concern about the wellbeing of not only the Victorian community but the Victorian landscape and our ability to stay safe and secure across what might be a very onerous summer for Victoria. The government does recognise the potential risks that are associated with adverse climatic conditions. We accept the underlying logic, that some members in this chamber perhaps do not accept, that over more than perhaps the last 20 years there has been a prevailing underlying drought that has permeated the Victorian climate settings and the landscape in Victoria, which means that notwithstanding the fact that we had a significant flood event in 2011–12, if it had not been for that very dramatic flood event then the Victorian landscape may have remained parched, as it was for a decade prior to that event.

The Victorian government has been mindful of that, and my colleague the Minister for Agriculture and Minister for Regional Development some months ago brought to the consideration of cabinet a framework to deal with drought support for affected communities and the policy settings in terms of the way in which government responds to the potential threats to our agricultural community and to communities across Victoria. We understand the stress that many communities are currently experiencing, and we are anticipating them getting worse.

Also, my colleague the Minister for Environment, Climate Change and Water, without necessarily going to the mature plan description that was embedded in Mr Ramsay's proposition earlier in question time today, has identified the prevailing water conditions across Victorian storage systems, particularly those supporting communities, and she has identified that as an issue for the government to respond to. For instance, Melbourne's metropolitan water supply may be down to about 70 per cent of reserves, but that is not the most dramatic because in parts of western Victoria's catchments it is as low as 30 per cent. The minister has advised of the need to design potential strategies to deal with that matter, and that goes to the heart of the question I raised in relation to Mr Ramsay's question: how do you get either policy settings or water supply to communities in times of drought?

My colleagues who have provided that advice to cabinet were encouraged to work with other parts of government to develop a concerted plan and strategy for us to make sure that we respond to the needs of our communities in the months ahead. That will involve care in relation to health services being mobilised to provide timely and appropriate support to communities in terms of heat stress, particularly for older and isolated members of our communities, and for other emergency services to make sure that we are on high alert in relation to the effort that we may bring to bear.

For instance, in relation to fire management we can call on more than 3000 individuals who will support our firefighting effort, of whom about one-third are standing professional firefighters who are going to be engaged over summer as part of the Victorian agencies.

We will make sure that across government and together with our communities we rise up to meet these challenges, acknowledging the underlying climatic conditions that mean that as a community we need to confront them on a regular basis into the future.

Supplementary question

Mr BARBER (Northern Metropolitan) — Are there any other ministers who will also be bringing forward plans to respond to these climatic challenges?

Mr JENNINGS (Special Minister of State) — I thank Mr Barber for his recognition that there are whole-of-government elements to this story. Beyond the prime leadership of the agencies that I identified it should not be read down that there is not an interest amongst my other colleagues — for instance, in relation to evacuation procedures in times of emergencies and the way in which aspects of the health system, the education system and the community services components of government in terms of emergency relief and other social support programs will be identified as part of a cogent response. The leadership of my two colleagues the Minister for Agriculture, who is also the Minister for Regional Development, and the Minister for Environment, Climate Change and Water will be the prime movers of these policy settings at the moment, but it is our intention to have a whole-of-government response.

Environmental watering

Mr YOUNG (Northern Victoria) — My question today is to the Leader of the Government in his capacity representing the Minister for Environment, Climate Change and Water. Last year in December situations arose in Victoria's north where environmental watering plans were modified halfway through their implementation. At the time questions were raised as to why this was done, and it was recognised by the minister that proper process was not followed. What is the government doing to ensure that this does not occur again?

Mr JENNINGS (Special Minister of State) — I thank Mr Young for his question. In the answers I have given to Mr Barber and Mr Ramsay today I have identified that there is a recognition by the Victorian government of the major stress in place in relation to our waterways, our reserve system and the communities that rely on them. What we would hope for out of that recognition is a planned and appropriate way to allow for environmental water release to provide for safe and reliable water supply to our regional towns, in anticipation of adverse and continuing lack of rainfall, and to support the agricultural community. There is a delicate balance in the water allocations we are going to be confronted with in the months to come.

On behalf of the government I recognise that it is unwise to embark upon a concerted approach to either environmental water management or other consumptive or productive uses of water and then change it, although there may be circumstances which warrant that, such as acute pressures that arise from time to time. It is much better to have a concerted plan that is understood and accepted by all stakeholders in the community and then to proceed with it.

The challenge for the government at the moment is, within those risks and threats to the viability of Victorian communities and waterways, to try to determine in a very sharp and focused way how that balance should be struck and how our communities will be involved. We need to understand those various sometimes competing elements and how a plan can be implemented with certainty and confidence in the months ahead. That certainty equally applies to any stakeholder in Victoria in relation to what their interests may be in the availability of water and the purposes it may be put to. I hope my colleague, her department and agencies of government will be able to deliver on that consistent, well-accepted and understood frame of the availability of water into the future.

Supplementary question

Mr YOUNG (Northern Victoria) — I thank the minister for his answer. My supplementary question is: if the entire allocation of environmental water is not used, possibly as a result of a modification to the watering plan, what is the government's view on that extra water being sold off for purposes other than environmental use?

Mr JENNINGS (Special Minister of State) — It is a very interesting and telling situation that during the course of this question time in terms of the policy discussions and the consideration of this chamber in relation to water allocation, which has not been a feature of this chamber, from three different vantage points we have had an accelerated consideration of these matters today. I think it is totally appropriate that there is an accelerated interest in this issue. I do accept that.

Mr Young will know, if he has followed the public policy consideration of these issues, particularly in drought situations, that not only can water allocations across the Victorian landscape — or across the Murray-Darling Basin for that matter, or across the national landscape — vary on the basis of how they are allocated but they are also allocated in terms of time. That might be the answer.

The PRESIDENT — Order! The minister's time has expired.

Telephone drug dispensing service

Dr CARLING-JENKINS (Western Metropolitan) — My question is to the Minister for Families and Children, Ms Mikakos, representing the Minister for Health. Two weeks ago Ms Pulford advised that she would approach Victoria's health minister about making access to medical abortion in the context of discussions around RU486 more available to rural and regional women. A week later the Tabbot Foundation launched its phone-in operation to dispense RU486 across Australia, including to women in rural and regional Victoria. Medical evidence clearly demonstrates that women who take RU486 run a high risk of sepsis, uncontrolled bleeding and other complications necessitating the medical warning that the drug should not be taken if a woman is more than 1 hour from an emergency medical facility. Various members of the Australian Medical Association have, as a result, spoken out against this new dispensing service. What role did the government play in the Tabbot Foundation offering this service in Victoria?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. The Tabbot Foundation is a non-government organisation based in New South Wales, and it is providing a telehealth medical termination service. I am advised that the Victorian government has played no role in its decision to deliver this service in Victoria. It is a fact that Ms Pulford is a terrific advocate for regional Victoria, and I know she has some concerns about the inequitable access that regional Victorian women face in accessing termination services. But in terms of the timing, it is clearly coincidental, and the advice I have is that the Victorian government has played no role in this particular announcement being made.

Supplementary question

Dr CARLING-JENKINS (Western Metropolitan) — I thank the minister for her answer and her assurance. I am relieved to hear that the government has had no role in this high-risk service. However, it is now operating in Victoria. Given the medical evidence, particularly the fact that women should not be taking RU486 if they are more than 1 hour from an emergency facility, what action has the government taken, in light of the Tabbot Foundation's sale of this drug across Victoria, to safeguard rural and regional women from being exposed to unnecessary risks? For example, is the government ensuring that Victorian women are aware of these risks?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her supplementary question. It is important to be clear that the Victorian government is not responsible for the regulation of mifepristone, commonly known as RU486. This is an area of federal responsibility. The advice I have is that the Therapeutic Goods Administration and the commonwealth Department of Health are considering whether the Tabbot Foundation's service is consistent with regulation and safe practice.

RU486 is a safe and reliable method of termination. Of course all pharmaceuticals carry some risk of adverse consequences for some people in some cases, but the advice I have is that mifepristone is generally well tolerated by consumers. RU486 is a pharmaceutical prescribed by doctors who have had specific training and are registered, and the government has confidence in the decision-making of medical professionals to prescribe this drug safely and appropriately.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have answers to the following questions on notice: 455, 1097, 1126, 1265–73, 1275–8, 1330, 2100–6.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of Mr Rich-Phillips's initial question to Mr Jennings, I am mindful that Mr Rich-Phillips quoted a particular section of the Infrastructure Victoria Act 2015 in respect of the qualifications of directors appointed to Infrastructure Victoria, and in that context it is valid that there be an explanation of the qualifications of the people who have been appointed. I accept that they may not be engineering qualifications and that there may well be an issue as to what constitutes experience in delivering projects, and the question and the answer might not be in contradiction in that matter at any rate, but I do accept, given that there is a public interest

factor in terms of the act's provision, that it is appropriate to seek an explanation of those qualifications, so I ask that the minister provide that within two days.

In respect of Mr Morris's questions to Mr Jennings on metropolitan bridges that have been funded under the Stronger Country Bridges program, the minister did provide some information that was apposite to those questions. However, in his supplementary question Mr Morris specifically asked which of the metropolitan projects needed to be addressed in terms of not being suitable for semitrailers and B-doubles, and it is appropriate that that question be responded to. Again because it involves another minister, it should be responded to within two days.

In respect of Mr Ramsay's question to Mr Jennings on how the delivery of water would occur, I am in some difficulty because I believe the minister would have got to that answer had he not been hit with a barrage of interjections. I think those interjections prevented the house from hearing today about the technical aspects of how the north–south pipeline could play a role in water distribution. In some ways I am reluctant to impose on the minister a requirement to answer the question because I believe the house impinged on his ability to do so. On balance, I ask that the minister respond to the supplementary question asked by Mr Ramsay on the role of the north–south pipeline.

Mr O'Donohue asked Mr Herbert about the announcement of a new operator for the Lilydale TAFE site. I note that the minister said he would make that announcement as soon as possible. I hope the minister might be able to clarify that time frame. I accept what was put by the questioner in that at this time many young people are looking at courses and so forth for next year.

Mr Herbert — I can be of some assistance. I am happy to provide an answer, but the sale is between Swinburne and someone who is purchasing it, so the timing is not all about the government. The government is putting in money; the government has $10 million.

The PRESIDENT — That may well constitute the bones of an answer. I direct that Mr O'Donohue's supplementary question receive some further explanation in that respect, and I understand the minister's guidance in this matter. The response should be provided within one day.

In regard to Mr Young's supplementary question to Mr Jennings on whether there will be an opportunity for the sale of water that is excess to environmental requirements, I ask that that also be considered with a written response.

Mr Barber — On a point of order, President, Ms Dunn's questions to Ms Pulford, both the initial and supplementary questions, were quite specific: one, what are the criteria for a regenerated coupe; and two, how many of the coupes the minister referred to in her previous answer had met the criteria. The minister did not come within a bull's roar of giving either of those figures, so I ask you to direct the minister to answer those questions in the same way as you have just done for others.

The PRESIDENT — Order! I will arrange to get copies of those questions so that I can review them and I will make a determination a little later today.

CONSTITUENCY QUESTIONS

Northern Victoria Region

Ms SYMES (Northern Victoria) — My constituency question is to the Minister for Racing. I have mentioned a couple of times this week the fantastic success of the Benalla Gold Cup, held on Grand Final Friday. It was great to run into representatives of other country clubs from towns in my electorate. They were all enjoying the day. Country cups are so important to regional Victoria. I ask the Minister for Racing if the government intends to support any other country cup meetings this year, and what the form of that support would be.

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My question is to the Minister for Education. It concerns the government's funding allocation for new portable classrooms, including five double-storey portables, in the last budget. I note that one double-storey portable has been allocated to Port Melbourne Primary School, which is short of the two that it needs. Many schools in my electorate like these double-storey portables and rely on them. My question is: will there be additional funds allocated for more than five double-storey portable classrooms and will the funds be in the current budget allocation, or will schools in Port Melbourne, Middle Park and Albert Park need to wait until May 2016?

Eastern Metropolitan Region

Ms DUNN (Eastern Metropolitan) — My constituency question is to the Minister for Education. Many members of my community are very concerned

about overcrowding in schools in the suburbs within the City of Banyule. These are suburbs from Ivanhoe in the south to St Helena in the north, from Bundoora in the west to Montmorency in the east. Schools in Banyule are at their limit, and the closure of Bellfield Primary School, Haig Street Primary School and Banksia Latrobe Secondary College in 2011 made the situation much worse. There is only one public high school in the southern part of Banyule, and it is at capacity.

This is simply not good enough. All children deserve to have access to high-quality public schools. That should not be determined by postcode. Many communities around Victoria are in need of new schools or school upgrades, be they primary or secondary, and it is important that these decisions be made in an open and transparent manner and based on need. Will the minister commit to ensuring that the Bellfield, Haig Street and Banksia college sites are reserved for public use and not disposed of?

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is directed to the Minister for Roads and Road Safety. It relates to Portland-Nelson Road in south-western Victoria. Following the government's scrapping of the coalition's very successful country roads and bridges program, we are seeing many country roads deteriorate, especially roads like Portland-Nelson Road. My question to the minister is: what will the minister do to address the atrocious condition of Portland-Nelson Road?

Western Metropolitan Region

Mr MELHEM (Western Metropolitan) — My constituency question is to the Minister for Roads and Road Safety, the Honourable Luke Donnellan. It relates to the CityLink-Tullamarine Freeway widening. This is a busy corridor, used by around 210 000 vehicles every day. VicRoads estimates that this will rise to about 235 000 vehicles a day by 2031 as a result of our growing population. The people in my electorate of Western Metropolitan Region put up with high levels of congestion, noise and air pollution. This is a highly industrial electorate, and therefore traffic is greater in the west than elsewhere in Victoria.

I note that this Monday works commenced on the $1.3 billion CityLink-Tullamarine Freeway widening project, with $70 million committed by the government in this year's budget. I ask that the minister update me on how the works will reduce travel times and remove trucks from suburban streets and outline the general benefits for the people of the western suburbs.

Sitting suspended 1.01 p.m. until 2.03 p.m.

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is for the Minister for Roads and Road Safety and is in response to a recent tour of local roads in the Polwarth electorate I took with the Liberal candidate for that lower house seat, Richard Riordan. The Colac Otway Shire Council has indicated that it is devastated by the loss of $1 million per year under the country roads and bridges program that was implemented by the coalition government. Many local roads are suffering from a maintenance backlog. During my trip from Colac to Apollo Bay we certainly noticed the deterioration of the side pavement, and also the potholes on the roads and the slow-passing lanes, which are very important. If anyone has travelled along that road, they will know it is quite steep and hilly, and the side road for slow traffic has deteriorated to a point where it has turned into a goat track. The action I seek from the minister is that he provide funding to the Colac Otway Shire to allow it, through VicRoads, to upgrade that road as a matter of urgency.

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — I direct my constituency question to the Minister for Families and Children. The coalition announced a $2 million funding commitment to be managed by the City of Kingston to establish a new learning facility on the Chelsea Heights Primary School site. In 2014 a commitment was made by the then opposition for $350 000 for the Chelsea Heights Kindergarten. Given the concern raised by the kindergarten with regard to a $520 000 shortfall in funding for the proposal, will the state government work with the council to meet the shortfall, especially in light of the rate-capping policy in Victoria?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is for the Minister for Roads and Road Safety. Confusion surrounding the Transurban proposal for a western distributor continues. The latest episode apparently sees an array of bridges and elevated roads that locals are calling Spaghetti Junction. At least the people of Melbourne's west have something to think about while they are stuck in traffic. Given this continued confusion and the wild speculation as to what may be next, none of which eases the congestion, will the minister consider resurrecting the Premier's much-vaunted and shovel-ready West Gate diversion?

Southern Metropolitan Region

Ms CROZIER (Southern Metropolitan) — My question is for the Minister for the Prevention of Family Violence. My office often gets calls requesting information and seeking support on family violence matters. An area that has been constantly raised is women's refuges. Recently, whilst assisting a constituent, it was reaffirmed to me that there is a need for more women's refuges in many more areas than where they are currently located. My constituent is fortunate to have the support of a friend who put both her and her daughter up in a city hotel for four nights, and he has put CCTV in and around her home at his own expense. Thousands of women do not have the support of someone like this good man. Women's refuges are bursting at the seams, and women and children who are seeking safe refuge from violent partners are being turned away. Will the minister immediately review the shortage of refuges and not wait for the conclusion and findings of the royal commission, so that this issue can be addressed now to reduce the enormous pressure on existing refuges across Victoria?

SERIOUS SEX OFFENDERS (DETENTION AND SUPERVISION) AND OTHER ACTS AMENDMENT BILL 2015

Committee

Resumed; further discussion of clause 1.

Mr HERBERT (Minister for Training and Skills) — I apologise for the delay in responding; we had question time and a few things happening.

In response to Mr O'Donohue's inquiry, I am advised that VicPol staff at the specialist response unit in corrections are additional police, and the Department of Justice and Regulation is funding the unit, including the Victoria Police staff.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for that advice. Can the minister confirm how many sworn members that includes and how many are non-sworn Victoria Police staff?

Mr HERBERT (Minister for Training and Skills) — I cannot confirm that; I am not sure that we have the numbers. I am happy to try to chase it up.

Mr O'DONOHUE (Eastern Victoria) — I would appreciate if the minister could take that on notice and provide the information when it comes to hand.

I move now to the issue of the Premier's comments in the *Age* of 1 September, which I flagged in my contribution to the second-reading debate. I ask the minister to clarify what the Premier meant by this statement:

> We [need] to get this balance right, where there is perhaps too many people being released into the community on these orders, when the best place for them and the best place for community safety would be to have those people behind bars.

As Ms Symes said in her contribution, and as I said in my contribution, Corella Place is not a prison. For the purposes of the act it is considered to be living in the community, so I am not quite sure what the Premier meant when he said, 'have those people behind bars'.

Mr HERBERT (Minister for Training and Skills) — I thank Mr O'Donohue for his question. I do not speak for the Premier; the Premier speaks for himself. But clearly the issue the Premier was alluding to was the fact that what happened in the case of Sean Price was simply not acceptable. He believes we need to toughen up the laws, which this bill does in terms of making sure that we further protect the community. I am sure the expression 'behind bars' is a euphemism for being under supervision and in a community place. Mr O'Donohue raised the issue of Corella Place, which now has 55 people in it. It is a more secure environment for people than their being out in the community.

I think we would agree that in terms of that side of things, the issue goes further than this legislation and the Harper review that is underway. We are at the planning stage of an Emu Creek annex, a new 24/7, staffed, electronically monitored residence facility — the same as Corella — to expand capacity. I might not have answered the question, but my intent was to say we need to review the supervision orders, which have been in place for six years. We need to make sure that people are protected and that we do all we can to stop the horrendous tragedy that occurred and led to this bill.

Mr O'DONOHUE (Eastern Victoria) — I appreciate the minster's answer. I do not want to put words into his mouth, but is he saying that the measures contained in the bill and the increased capacity at Corella Place, as delivered by the former government, were the measures and steps the Premier was referring to when he said, 'have those people behind bars'?

Mr HERBERT (Minister for Training and Skills) — I prefaced my previous answer by saying that I do not speak for the Premier. It is fair to say that in my answer to one of Mr O'Donohue's earlier questions, I indicated that two people are in jail who are under orders through the Supreme Court. I think the Premier's

clear intention is that we need to have stronger protections for citizens in terms of serial sex offenders who are either on supervision orders or detention orders. When you look at the law you see that the government has done that and is doing that. We have underway a major review into world's best practice, which as I said earlier, will be publicly released where appropriate.

Mr O'DONOHUE (Eastern Victoria) — Yes, I note that there are two people on detention orders, and, as I understand from your earlier response, 17 others who are in prison for other offences. I take the minister to an announcement by the government made after the introduction of this legislation. As I understand it, up to 20 beds for people on these orders will be located at Langi Kal Kal Prison. The *Herald Sun* published a story on 1 October which describes that event. It quotes a spokesperson for the minister as saying it is true that offenders on these orders will be located at Langi Kal Kal Prison.

Whilst I appreciate that this is not the subject of this legislation, it is related to it and it comes before the release of the Harper review. Having offenders on these orders located in prison is a different initiative, and having these very serious sex offenders located at a minimum security prison, one of the lowest rated security prisons, where prisoners are typically being prepared for release into the community, introduces a very different element to that location. I wonder if the minister is in a position to talk to this announcement and whether it foreshadows further legislative change to give effect to it.

Mr HERBERT (Minister for Training and Skills) — I thank Mr O'Donohue very much. I said earlier that the Emu Creek annex is located at Corella Place. What I should have said is that it will be located at Langi Kal Kal Prison and it will be a facility similar to Corella Place, with similar sorts of conditions — electronic monitoring and the capacity for curfews. Anyone leaving the facility will be under full supervision. So my understanding is that in terms of that additional facility it will be very similar to Corella Place and it will be an annex to Langi Kal Kal Prison.

Mr O'DONOHUE (Eastern Victoria) — That does help; I appreciate that. I wonder if I could ask the minister for some further detail about that. Will the Emu Creek annex be a renovation or a retrofit of existing prison facilities, or will this be a new annex? I note that Langi Kal Kal is on a very large property. Will it be at a different location? Will legislative change be required to give effect to this proposal?

Mr HERBERT (Minister for Training and Skills) — The advice I have received is that the facility will be a retrofit of an existing facility at the prison and legislation will not be required. It will be gazetted.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for that answer. I have a final question on this facility. I have received feedback from members of the local community; I have been told that the first they knew of this announcement was through a story in the *Herald Sun*. I wonder if the minister could provide detail as to what community consultation took place. As I said in the second-reading debate, prisons and correction centres in various locations, perhaps none more than Ararat, rely on community confidence and an engagement with the community to understand what is happening in order to dispel myths, rumours and other things and to be part of the conversation about what is taking place at a particular facility. There was some concern when the budget was released in May. The mayor of Indigo shire was critical of the minister for failing to give advance notice about a management unit being constructed at Beechworth. I am concerned that that situation may have been repeated with this announcement. The feedback I have had from that local community and from others who have a connection to that local community has been that there was no advance notice, discussion or consultation about these serious sex offenders being located at Langi Kal Kal.

Mr HERBERT (Minister for Training and Skills) — It is fair to say that these issues are always difficult to manage. It is about getting balance in terms of consultation, speed and appropriate facilities. However, on the specifics of your question, I am advised that prior to the article you referred to and the Premier's statement both local councils in that area were consulted and staff at Corella Place and Langi Kal Kal Prison were consulted. Of course there will be ongoing consultation on this matter.

Mr O'DONOHUE (Eastern Victoria) — Contrary to what I said before, I have two follow-up questions. When does the government anticipate these beds will be available, noting that legislative change is not required, and what further training will be provided to the staff at Langi Kal Kal to accommodate this particularly difficult and dangerous cohort?

Mr HERBERT (Minister for Training and Skills) — As I indicated in my summation during the second-reading stage, the government is keen to act as quickly as it can. I know that all members of this chamber, all sides of this chamber, are keen to act to strengthen these provisions as quickly as we can. I am advised on the first issue that we hope the facility will

be up and running this year. On the second issue, in terms of training for prison staff, it is as I surmised: it will not be the current prison staff. There will be additional people, and they will basically be in the same mould as or run with the Corella facility in terms of the supervision and the staff. So essentially it will be two locations and the same kind of set-up.

Mr O'DONOHUE (Eastern Victoria) — I appreciate the minister telling me that. I understand from that answer that Langi Kal Kal campus is large. While existing buildings are being used for this annex, will a separate area in effect be detached and operate independently from the main prison for all intents and purposes?

Mr HERBERT (Minister for Training and Skills) — Yes, that is correct.

Mr O'DONOHUE (Eastern Victoria) — I have one final line of questioning, and I apologise that I did not give the minister advance notice of this — I omitted to by accident. In the Public Accounts and Estimates Committee hearings earlier this year Mr Danny O'Brien, the member for Gippsland South in the other place, asked a question of the Minister for Corrections about the number of breaches of this legislation — the SSODSA — during 2015. The Corrections Victoria commissioner answered the question on behalf of the minister by saying:

> I can tell the committee that since the beginning of 2015 six offenders have breached by way of non-compliance, so that is with the conditions of their order. That can be anything from a breach of a curfew to electronic monitoring, or perhaps if they have a condition of abstinence from drugs or alcohol, that can be a breach also. And three have breached by way of further offending, so any further sexual offence is a breach of the act.

The commissioner went on to say:

> Six non-compliance in 2015, and three by way of further sexual offending. They will be matters that have been so far found to be in breach by the court.

I would appreciate it if the minister could provide an update, given that this is the bill we are talking about, of the number of breaches of this act up until today.

Mr HERBERT (Minister for Training and Skills) — I do not know if I can provide data up until today, but I will check to see if we have some more updated figures. Otherwise I will have to get back to you on that. I should say that in terms of this bill there will be more breaches and more penalties in there, such as tampering with electronic monitoring and things like that. One would assume that this will crack down on those and might change the pattern of breaches. It is unfortunate that I cannot give the member any new figures. I will take that on notice. We will get back to the member.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister. I note the minister has given an undertaking to provide that information, so on that basis I have concluded my questioning and do not propose that we report progress but rather conclude the committee stage.

Mr HERBERT (Minister for Training and Skills) — I thank Mr O'Donohue for his questions and his interest in the details of this piece of legislation. I am sure we will have more discussions when the Harper review is out and there is further legislation.

Clause agreed to; clauses 2 to 49 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

SAFE PATIENT CARE (NURSE TO PATIENT AND MIDWIFE TO PATIENT RATIOS) BILL 2015

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! I understand that there are no proposed amendments to the bill before the committee, but I understand there may be some questions. Can I ask whether there are any questions in relation to clause 1?

Ms WOOLDRIDGE (Eastern Metropolitan) — I am very pleased to be able to go into the committee stage on this important bill. We had a good second-reading debate during which the coalition outlined that it was not opposed to the bill. There are, however, a number of questions we would like to get a response from the government on to understand in greater detail some of the elements of the bill, particularly those elements not yet articulated in relation to what will be in the regulations. This is not something that is being initiated by the coalition. It has actually been as a result of questions that have come from the health sector, members of which are trying to

get an understanding of what will be the operational effect of this legislation ultimately when it is passed, which we can all be confident it will be, by this chamber, and when the regulations are done.

As I say, I am pleased to have the opportunity to go into the committee stage. As I flagged in my second-reading debate contribution, I had requested many days in advance that the bill go into the consideration-in-detail stage of debate in the lower house so these questions could be asked directly of the Minister for Health. I am conscious that the minister at the table, the Minister for Families and Children, while very able, is not the minister who has spent the time developing the legislation and working on the regulations. Given that the Minister for Health was not prepared to go into the consideration-in-detail stage of debate in the lower house, we are pleased to be able to go into the committee stage in the upper house. I have provided an extensive list of questions to the Minister for Families and Children so she could have time to be fully briefed in relation to them. That said, there will probably be a few other questions that will come up along the way, because we genuinely want to try to get as much information as possible about the details that we and the members of the sector more broadly are seeking.

I turn to my first question in relation to clause 1. I note while I have a number of questions in relation to many of the clauses, there are of course some broader questions that do not naturally fit into any one clause or other; hence I will be asking those during debate on clause 1. A concern that has been raised is that there is a lot of detail still to be prescribed in the regulations. My first question to the minister is: when will the regulations setting out the prescribed matters be drafted, and when will the consultation start?

Ms MIKAKOS (Minister for Families and Children) — I say at the outset that I thank the Leader of the Opposition for the courtesy she has extended in forwarding to me a number of the questions in advance of the committee stage. It is the tradition of this chamber to take many bills into committee, and I am very happy to assist members with their queries.

Can I also say at the outset how proud I am to be the minister standing at the table in relation to this committee stage. This was an election commitment of the government to enshrine into legislation nurse-to-patient ratios, and I take this opportunity to commend particularly the Premier for his leadership in this matter and also the Minister for Health, Ms Hennessy, for having carriage of and implementing this very important election commitment as we see it.

In respect of the specific question that the member has asked me, I understand that the regulations supporting this legislation are currently being developed. It is intended that the regulations will be finalised prior to the commencement of the bill. The member would understand of course that the commencement by proclamation allows this to occur.

Ms WOOLDRIDGE (Eastern Metropolitan) — I am seeking a little bit more detail than that, if the minister is able to provide it, because the proclamation of this bill could be as late as 2017. I also understand there has been advice out to the sector that the drafting will be concluded this week, so I ask: can the minister confirm that the drafting of the regulations will be concluded this week?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her further question. I can advise the member that the preparations for the regulations are currently in train, and the regulations will be completed before the end of the year.

I make the point in relation to the commencement of the legislation that the member may be well aware that the nominal expiration date for the Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2012–16 is 31 March 2016, and the bill is reflective of that agreement. That is essentially what we are seeking to enshrine into legislation, so the bill will come into force by proclamation once the work has occurred in relation to the amendments to the enterprise agreement.

I understand that both the member and Robert Clark, the member for Box Hill in the other place, have been briefed in relation to the issues around the enterprise agreement. The timing for the proclamation of the bill and associated instruments is expected to be in place by the start of the next enterprise bargaining agreement (EBA) with Victorian nurses and midwives.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. I return, though, to the question, which was not quite answered. What the minister answered is when the regulations will be completed, which is the end of the year. My question was: when will consultation start, which is a different question. Presumably, that happens before the regulations are concluded.

Ms MIKAKOS (Minister for Families and Children) — I am happy to advise the member that once the bill — assuming of course it has the support of the Parliament — is through, we will be commencing

the process of consultations with the parties. The interested parties are parties to the current enterprise bargaining agreement, being the Victorian Hospitals Industrial Association (VHIA) and the Australian Nursing & Midwifery Federation (ANMF), and we will be having consultations with those parties.

Ms WOOLDRIDGE (Eastern Metropolitan) — Can I take it from that that if the consultation will start after the bill is concluded, which presumably will be today, all going well and given that we have no amendments and are not opposing the bill, then the regulations have been drafted and the consultation will be ready to start next week?

Ms MIKAKOS (Minister for Families and Children) — I am happy to advise the member that as soon as the drafting of the regulations is completed we will be consulting with the parties that I referred to earlier, with a view to completing the process by the end of the year.

Ms WOOLDRIDGE (Eastern Metropolitan) — We seem to be going around in circles. My first question — and I come back to it — was: when will the drafting of the regulations be completed? We have said when it will finish, we have said when consultation will now start, but is the minister able to tell me, consistent with advice that was provided to the sector, that drafting will be concluded this week — or maybe Monday or Tuesday next week, but effectively the regulations are drafted and ready to go on consultation?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that what the sector has been told is that the completion of the drafting instructions will be done by the end of this week, not the regulations themselves. That is subject to issues of timing that are to be negotiated with parliamentary counsel, but we are obviously very keen to get these matters well underway and concluded, and to have discussions with the interested parties, with a view, as I said, to the regulations being concluded by the end of the year.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister; that is very helpful. Presumably with the drafting instructions concluded, it means that the policy issues — at least the policy issues to put out to the first consultation — have been settled, as opposed to the specific wording. The drafting instructions require the policy issues to have come to a conclusion, so I thank the minister for that. Given that, does the minister anticipate that there are any material or substantive amendments in the regulations to what is currently provided for in the enterprise bargaining agreement?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the intention is to replicate the EBA into the regulations in terms of those matters that need to be prescribed by the regulations, and if there were to be any variation to the EBA, that would be done in consultation with the parties, which I mentioned earlier are the VHIA and the ANMF.

Ms WOOLDRIDGE (Eastern Metropolitan) — Can I ask the minister, then, in response to her comment 'if there were to be any', do the drafting instructions currently have any material or substantive diversion from what is currently in the EBA?

Ms MIKAKOS (Minister for Families and Children) — I am in some difficulty in that, as I advised the member earlier, the drafting instructions have not yet been completed, yet the member is asking me whether there is any variation in the drafting instructions. They are still being finalised and, as I advised earlier, will be done by the end of the week. But the intention is to reproduce the EBA, as we have done here in the bill, into the regulations. If there is to be any variation to achieve greater clarity, this will be done in consultation with the VHIA and the ANMF.

Ms WOOLDRIDGE (Eastern Metropolitan) — I think we will have a very long committee process if that is going to be the answer. It is a quarter to 3 on Thursday afternoon, and this week finishes tomorrow afternoon. It is not believable that the drafting instructions, if they are to be concluded within a 24-hour period, are not at least 98 per cent or 95 per cent done, if not 100 per cent. A lot of the questions I have flagged are actually questions about elements. I am very happy if there are some genuine ones, but I cannot believe that across the whole of the regulations that have been drafted in order to be ready for conclusion by tomorrow night, the minister is not able to answer at least partially, if not fully, if there are any material or substantive amendments. Can the minister advise, from what has already been drafted, which I would expect would be the vast majority of it, if there are any elements that are substantially amending the EBA.

Ms MIKAKOS (Minister for Families and Children) — I am advised that the only area where we anticipate there may be a variation relates to local agreements, which require local clarity around the issue of principles and the operations of those local agreements.

Ms WOOLDRIDGE (Eastern Metropolitan) — Is the minister able to outline, on those local agreements, what diversions there are likely to be in a policy sense or in a process sense from what is currently provided for under the EBA?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that there are no diversions from the EBA in relation to local agreements. We will be seeking to provide additional clarity to reflect what is occurring in practice.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. That is very helpful. I am glad we have got to that. That will probably mean we might speed up the process in relation to many of the other questions that I have foreshadowed. Can the minister advise if there is to be an evaluation framework in relation to the effectiveness and the impact of the bill, and if so, what that might look like?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. We do not think such a review is required, as essentially what we are doing is codifying what is already occurring in the sector. In this respect I refer the member to the comments of the previous Minister for Health, David Davis, who informed the Legislative Council on 27 March 2012 — upon the parties reaching agreement after a very long industrial disputation, I might add:

> This deal will be a set of arrangements that will put Victorian nursing in a good position and also put taxpayers and Victorian patients in a strong position. This is a deal that is good for taxpayers, good for nurses and good for our health system.

Essentially we are putting into place an EBA that was concluded by the previous Minister for Health — and I am pleased to note he is in the house at the moment. We have had ratios in place now since 2000, since a previous Labor government put them in place for the first time. We are enshrining these ratios into legislation, hopefully forever and a day.

Ms WOOLDRIDGE (Eastern Metropolitan) — In some ways I see an evaluation framework as being a little bit different from a review process. For example, it may not question the underlying principle of the ratios, but it may consider how the legislation is working, are there unintended consequences, what is happening for hospitals that are operating either above ratio or below ratio, have there been any implications, is there a plan to have a systematic review or understanding or an evaluation of the impact of the translation from the EBA to the legislation for these ratios, or is it to be done on a case-by-case basis?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that as a government we are committed to making improvements over time. Obviously we will be monitoring the progress in terms of the implementation of this new legislation. But I remind the member that Labor was very clear at the last election in terms of its election commitment. We are very proud to be implementing this election commitment. We are a party that sticks by its election commitments, and I am very proud that we have this important legislation here in the house today.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. The media release says this will ensure:

> patients receive the highest quality and safest care.

Certainly the name of the bill is very much in the context of safe patient care. The question I ask is: from the government's perspective, does this bill ensure that every Victorian patient gets the care that they need in terms of what is delivered by this legislation?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Essentially the legislation is premised on the fact that nurse-to-patient ratios deliver better patient care. That is the whole thinking behind our election commitment. This is based on sound evidence. Well-documented evidence from around the world shows a strong correlation between nursing staffing levels and nursing-sensitive patient outcomes, including the rate of patient falls, pressure ulcers, hospital-acquired infections and pneumonia. When nurse-to-patient and midwife-to-patient ratios were first introduced in Victoria in 2000 we also saw, in response to that, the recruitment of additional nurses to our public hospital system. These outcomes all ultimately lead to better patient care.

Ms WOOLDRIDGE (Eastern Metropolitan) — Is it the view of the government that this bill delivers that safe patient care at the level that is required?

Ms MIKAKOS (Minister for Families and Children) — I remind the member that our government has made very substantial investments in the health system, including in our hospital system. We are making up for a lot of damage done by the previous minister and the previous government as well as federal funding cuts. We are committed to the issue of nurse-to-patient ratios because we believe that

ultimately it leads to better patient care and better outcomes for patients.

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is specific to this bill. I understand there are other issues, but in the context of ratios, is this bill delivering that safe patient care and, as reported in the media release, the 'highest quality and safest care'? Is that being delivered by this bill?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the legislation, as was the case with the EBA, is providing a minimum standard. On top of the ratios, which are critically important, we are making a significant investment in the health system so that our hospitals, should they choose, are able to go beyond this and provide additional levels of staffing. That flexibility is contained within the EBA and the legislation. There is a degree of flexibility in the EBA at the moment, but the legislation should be seen together with the significant additional investment we are making in our health system.

Ms WOOLDRIDGE (Eastern Metropolitan) — Maybe the minister can reconcile — and I am quoting directly from the Premier's press release — her statement that this provides a minimum standard with the statement from the Minister for Health that:

> We are setting in stone the number of nurses working on each shift, so patients receive the highest quality and safest care.

There seems to be a conflict between the Minister for Health's statement that by setting this number of nurses working on each shift patients are receiving the highest quality and safest care, and Minister Mikakos's statement that this is a minimum standard.

Ms MIKAKOS (Minister for Families and Children) — I do not think there is any conflict at all between the response I have given and the media statement. The point I am making is that through the legislation we are enshrining the ratios and codifying what is in the EBA. That is designed to provide excellent quality of care to patients in Victoria.

I talked about the research, the clinical evidence, that backs that up and the policy rationale that sits behind our election commitment, and I am making the point that in addition to this legislation we are also making a significant investment in the health system. It is important that we keep that in mind.

The member would be aware that the bill, in codifying the terms of the EBA, provides for some flexibility. There are different ratios across different kinds of wards and there is the ability for health service providers to negotiate variations with the representatives of nurses and midwives. I am sure we will work through all of that level of detail as we go through the clauses in the bill that relate to those variations.

Ms WOOLDRIDGE (Eastern Metropolitan) — Separate to the variations for the ratios that are specified in the bill — understanding of course that they are separate — does this level of ratios represent, as the minister said, the highest quality and safest care?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her further question. I am very proud of the fact that as a government we are putting these ratios into place. We are the first Australian jurisdiction to do so; no other state has done this. We think we are putting in place through this legislation the best quality care we can provide for Victorian patients.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. The second-reading speech says at the end:

> The Andrews Labor government will continue to work with nurses and health services to make further improvements to these ratios over time.

What further improvements does the minister anticipate may be warranted?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. She is essentially asking me to look into the future. The government has not commenced those consultations. We will obviously, as I indicated earlier, always continuously review and monitor this legislation, as we do with all legislation. Once this legislation is passed, assuming it has the support of the chamber, we will commence those consultations with parties about further improvements.

Ms WOOLDRIDGE (Eastern Metropolitan) — One of the things that this bill specifically excludes is public mental health services. Can the minister confirm or assure the committee that public mental health services will not be incorporated under a specific nurse-patient ratio legislation in the future?

Ms MIKAKOS (Minister for Families and Children) — What I can advise the member is that we took to the election a commitment to enshrine into legislation the provisions of the Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2012–16. Public mental health

services are not covered by the EBA and have therefore never had nurse-to-patient ratios in place. The staffing arrangements for public mental health wards are set out in the Victorian Public Mental Health Services Enterprise Agreement 2012–16. This bill cannot introduce ratios into those wards without creating an inconsistency with that particular enterprise agreement. The government's commitment has been to enshrine into legislation the nurse-to-patient and midwife-to-patient ratios as they currently exist, and this bill is delivering on that election commitment.

Ms WOOLDRIDGE (Eastern Metropolitan) — Do I take it from that that the minister is unable to provide any assurance to the committee of any changes in relation to public mental health services into the future?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that we cannot predict further improvements that might occur over time. We made an election commitment specifically about nurse-to-patient ratios as referred to in the EBA that I have mentioned on a number of occasions. We have met that election commitment and that is the subject of the bill before the chamber.

Ms WOOLDRIDGE (Eastern Metropolitan) — Coming back to an earlier comment in relation to the question about any substantive variations for the future, given that the only thing the minister has flagged is potentially clarification around local agreements, can I also ask: can the minister confirm that no party will have the ability to veto any proposal? This is something that was in the EBA prior to 2012. It is something that was removed from the EBA in 2012. Given that the minister has flagged that there is no substantive variation from the EBA, except for the one already mentioned, is the minister able to confirm that the regulations will not include an ability of any party to veto a proposal?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I can assure the member that what is being enshrined in this bill and also in the regulations is the codification of the existing EBA. The existing EBA does not include any veto powers, and I specifically refer the member to clause 42 of the EBA in respect of this matter.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. Can the minister outline any costs of implementing this bill, either to the government or to health services or anyone else who may incur a cost as a result.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. The services that are impacted by this bill are all covered by the Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2012–16 and are therefore already meeting the ratios as required by the enterprise agreement. The implementation of this legislation should therefore have no financial impact on health services or on the government. Ongoing consultation is being undertaken with the Magistrates Court relating to the implementation and cost of the new compliance and enforcement regime. However, this is not expected to have a significant cost impact.

Ms WOOLDRIDGE (Eastern Metropolitan) — One element of the bill that has not been touched on by the minister that may have a cost impact — a matter which is detailed further in the bill — is that some services, particularly small rural health services, may be operating below ratio. They do have an option over a 12-month period of resolving that locally either by maintaining it or meeting the ratios. Does the minister anticipate that there will be any cost to small rural health services operating below ratio, and, if not, for those that are operating below ratio and have to go up to ratio, how that cost is expected to be met?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. There should be no additional cost to small rural health services because they are currently being funded to meet the ratios as they are currently set out under the EBA. That is the law as it stands at the moment and they are being funded accordingly. The bill has been drafted to recognise the challenges faced by small rural hospitals in recruiting staff from an often depleted workforce market. The bill includes a transitional provision allowing any below ratio arrangements already in place referred to as a current workload management arrangement, or CWMA, in the enterprise agreement to continue for a period of one year.

This provision gives hospitals with wards with a below ratio arrangement in place up to 12 months from the commencement of the bill to either propose a variation to ratios utilising the relevant provisions in the bill or adjust their rosters to meet the ratio requirements. This will allow the health service some time to consider which of these options is most appropriate to address their circumstances. The ratio variation arrangements within the bill enable these services to address their specific challenges through the utilisation of the flexibility provisions either by a formalised variation from ratios proposal, similar to a clause 42 proposal

under the enterprise agreement, or by entering into a formalised local agreement.

Mr ONDARCHIE (Northern Metropolitan) — My question relates to the minister's reference to the Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2012–16. Does the government have confidence that it can successfully negotiate enterprise agreements with the public sector unions?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for his question. We are a government that is committed to treating our public sector with respect, unlike the previous government, which had nine months in a very heated industrial dispute with nurses and a two-year dispute with the paramedics. We came into government and resolved the paramedics dispute within a couple of weeks. In my case, as Minister for Families and Children, while the kindergarten staff are not public sector employees, their EBA dispute also ran for two years, and we have managed to resolve that particular dispute for the benefit of Victorian families.

What I can say to the member is that we will have good-faith negotiations with our public sector workforce, whether it be the nurses and midwives or other public sector employees. In relation to this particular EBA, as I indicated earlier, it runs out early next year and we will begin those negotiations with that workforce in that period of time.

Mr ONDARCHIE (Northern Metropolitan) — I thank the minister for her answer. Given her obvious pride in the government's ability to negotiate enterprise agreements — and she waxed lyrical about the things that have been done in her short period in government — clearly the answer to my question is yes; she has a view that the government can successfully negotiate these enterprise agreements with public sector unions. If it is the case that she feels she can do this, and she has talked about her pride in being able to do it already, why is it necessary to enshrine part of an enterprise agreement in legislation if the minister feels the government can confidently do these things?

Ms MIKAKOS (Minister for Families and Children) — I thank Mr Ondarchie for his question. I think he is leading with his chin. Essentially we are David Davis-proofing nurse-patient ratios into law. We are proofing these ratios from a future Liberal government. Mr Ondarchie needs to say clearly whether his intention is to keep these ratios in this legislation or to repeal them.

As someone who stood side-by-side with the nurses outside our local hospital, the Northern Hospital — Northern Health — in appreciation of the important work they do I am very proud today to say that we as a government are introducing this legislation to ensure that we can protect a very important element of patient care in Victoria from the ravages of a future coalition government.

I hope the position Mary Wooldridge has taken as shadow Minister for Health is the one that will have carriage rather than the position that the Leader of the Opposition in the other place, Matthew Guy, has taken, because when we announced the intention to bring this bill into the Parliament he made a number of statements that have me very concerned. On 30 August he said that the bill has:

> … nothing to do with patient safety, patient procedure or patient health, it's got everything to do with numbers for the union movement.

He also said:

> No-one knows how much this is going to cost and no-one has seen the bill.

He said.

> Another hit to the budget.

And he said:

> It's all about sops to the union.

I hope Mr Guy has changed his mind since 30 August, but they were the comments he made at his doorstop after the government made these announcements.

I note Ms Wooldridge has said that the opposition is not opposing the bill, and I am grateful for that, but if Mr Ondarchie wants to come in here and ask questions like this, I put it to him that he is really leading with his chin. We all remember very well, and the Victorian public remembers very well, the context in which the Labor Party made this election commitment. It was a very vicious industrial dispute where essentially nurses made a decision in their EBA negotiations with the previous government that they would put the nurse-to-patient ratios and patient care over their pay claim. That is to their credit, and I commend them for that. If Mr Ondarchie wants to know the context, we are Liberal-proofing these ratios.

Mr ONDARCHIE (Northern Metropolitan) — I note the minister's claim about support for Northern Health, the same hospital that has received over $100 million worth of cuts from this government, which has not committed to its further expansion. The

government cannot be one thing on one hand and one thing on another.

I pick up Ms Mikakos's sensitivities around this matter, and quite frankly she should be embarrassed by them. I pick up the point she made today as a campaign platform, which says that her government has the capacity to successfully negotiate enterprise agreements; that is what she said. If that is the case, why then does the government need to enshrine this? Why does it not just have a successful enterprise agreement when it comes up in 2016? Why not just do it? It is either one or the other. We know why the government is doing this, but why does the minister not tell us the truth?

Ms MIKAKOS (Minister for Families and Children) — Mr Ondarchie does not seem to have listened to the answer I gave to his previous question, because essentially he has asked the same question. I am very happy to be here all afternoon, for as long as it takes, because this is a critically important piece of legislation for Victorian patients. It is about safeguarding patient care and ratios into the future.

Mr Ondarchie interjected.

The DEPUTY PRESIDENT — Order! Mr Ondarchie has asked his question. The minister is attempting to answer it, so I suggest that he listen and not interject.

Ms MIKAKOS — Mr Ondarchie may not like the answer I am giving. He needs to go back and have a discussion with his previous leader in this house, the previous Minister for Health, about the campaign he waged against Victoria's nurses during the coalition's time in government and be reminded of that. Mr Ondarchie should well remember that he was a member of the previous government and therefore he too was responsible for what was a very protracted dispute with nurses and midwives in this state, and also with our paramedics and others in our health system as well as other public sector workers, including teachers. The contrast is very stark between our approach, which is putting patient care first, and the approach taken by the previous government, which attempted to negotiate it away during the last EBA dispute. Essentially the previous health minister, David Davis, who has gone into hiding now — —

Honourable members interjecting.

Ms MIKAKOS — He was attempting to negotiate — —

Mr Ondarchie interjected.

Ms MIKAKOS — Mr Ondarchie has a selective memory. Mr Davis was attempting to negotiate away the nurse-to-patient ratios. He attempted to negotiate away the nurse-to-patient ratios, and to their credit, nurses put the ratios first. We got the dispute resolved after a lengthy disputation, and we will put these ratios into legislation now so we can protect them into the future and safeguard patient care.

Mr ONDARCHIE (Northern Metropolitan) — I thank the minister for that protracted answer. To allay any of her concerns, I am prepared to stay for as long as it takes, so she should not be worried about that. I refer the minister to the second-reading debate in the Assembly and the speech made on 17 September by Ms Suleyman, the member for St Albans, who said:

> The Andrews Labor government is committed to giving Victorians the best quality health care, which the people of Victoria deserve. The bill will ensure that patients are safe and that staffing levels are protected, and that is a necessity and a foundation for our system.

That essentially summarises what the minister just said about putting patient care first. Does the minister agree with those sentiments?

Ms MIKAKOS (Minister for Families and Children) — I am happy to go through *Hansard* and quote members of the coalition as well, but the answer is yes.

Mr ONDARCHIE (Northern Metropolitan) — Given that the minister agrees with the sentiment that the bill is about putting patient care first and ensuring that patients are safe and staffing levels are protected, is she able to advise the house as to when a doctor-to-patient ratio bill will be introduced?

The DEPUTY PRESIDENT — Order! Does the minister choose to answer that question, given that it does not bear any resemblance to anything in the bill?

Ms MIKAKOS (Minister for Families and Children) — I have to query the relevance to clause 1 of the bill of the matters Mr Ondarchie is now seeking to raise. I draw your attention to that matter, Deputy President, because the bill is specifically about nurse-to-patient and midwife-to-patient ratios. Perhaps Mr Ondarchie wants to come in here and announce new coalition policy. Can he tell us whether that is new coalition policy and how much it will cost? We know the coalition has form in this regard under the leadership of Mr Guy, the Leader of the Opposition in the Assembly. We know the coalition is sitting on the fence as to whether it will keep or scrap the public holidays we have introduced. We know it is sitting on

the fence on many issues. I draw the issue of relevance to your attention, Deputy President.

The DEPUTY PRESIDENT — Order! I draw Mr Ondarchie's attention to standing order 12.19, for future reference, which relates to not directly quoting a contribution made in the Assembly during the previous six months.

Mr ONDARCHIE (Northern Metropolitan) — Thank you, Deputy President. I draw your attention to the fact that in answering the question the minister was wide ranging when she talked about the grand final public holiday, thus opening up the discussion to a wide range of topics, which I am happy to take up with her. The question I just asked the minister was quite specific, and it went to her comments about putting patient care first, which was an answer she provided to Ms Wooldridge in response to her last question. I ask the minister: if that is the case, and given the quote I provided from the member for St Albans in the Assembly that referred to safe staffing levels, will the government look to introduce a doctor-to-patient ratio?

Ms MIKAKOS (Minister for Families and Children) — I have already made the point that we are discussing clause 1, which relates to the purposes of the bill.

Mr Ondarchie interjected.

The DEPUTY PRESIDENT — Order! Without interjection, Mr Ondarchie.

Ms MIKAKOS — The bill is specifically about safe patient care and nurse-to-patient and midwife-to-patient ratios. I have to question the relevance of Mr Ondarchie's line of questioning. His leader should be mindful that we need to undertake this debate with a degree of seriousness, and Mr Ondarchie bringing in all sorts of extraneous issues is a poor reflection on the coalition and the seriousness with which it is treating this debate.

Mr ONDARCHIE (Northern Metropolitan) — I remind the minister that she opened up the debate to wideranging topics when she referred to the grand final public holiday in answer to my previous question. I ask: given that the minister said putting patient care first is the primary objective of the bill, are there any other elements of the health service that the government will seek to introduce ratios for?

Ms MIKAKOS (Minister for Families and Children) — If Mr Ondarchie was listening 20 minutes or so ago, he would have heard his leader ask me a question about mental health, and I made our position very clear. We are enshrining into legislation a key election commitment of the Labor Party. We made a clear and specific commitment about enshrining nurse-to-patient and midwife-to-patient ratios in legislation. That is what we are delivering. We are a party that delivers on its election commitments, and we are doing that today.

Mr ONDARCHIE (Northern Metropolitan) — Given, as I said, that in the minister's earlier response to Ms Wooldridge she talked about putting patient care first, I ask: apart from nursing and midwifery, are there any other components, elements or service provisions of the public health system that the government will look to introduce ratios for, given the minister's focus on putting patient care first?

Ms MIKAKOS (Minister for Families and Children) — I again refer Mr Ondarchie to answers I gave to questions from his leader just 20 or 25 minutes ago. I indicated to the house that we as a government will continually look at improvements to the health system. We will be monitoring this legislation. We have already made specific investments in the health system through our first budget. Of course we will be looking at further improvements to the health system, and we will be doing that in a consultative manner with the people who manage our hospitals and with the people who work in them.

Mr ONDARCHIE (Northern Metropolitan) — Picking up the minister's point about putting patient care first, are there any memberships associated with the Health Services Union (HSU) that the government will look to introduce ratios for as part of service provision in our health system?

Ms MIKAKOS (Minister for Families and Children) — I refer Mr Ondarchie to the question his leader asked me around mental health beds and the answer I gave. I have already covered this issue. Perhaps he was not listening, but we have traversed this issue already.

Mr ONDARCHIE (Northern Metropolitan) — With respect, I asked the minister a specific question around the membership of the Health Services Union. Are there any elements of the Health Services Union that the government will look to introduce ratios for in the public health system?

Ms MIKAKOS (Minister for Families and Children) — Mr Ondarchie may not be aware that there are nurses who may be members of the Health Services Union who already have coverage through this EBA that we are enshrining in legislation. In terms of the

main coverage of that union, however, the issue relates primarily to beds in the mental health system, and I have already referred to this issue in response to a question Ms Wooldridge asked much earlier.

Mr ONDARCHIE (Northern Metropolitan) — Are there any services covered by members of the Health Services Union who are not nurses that the government will look to provide patient ratios for in future?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the HSU has some coverage over enrolled nurses. The election commitment was very clearly to enshrine in legislation nurse-to-patient and midwife-to-patient ratios. That is the election commitment we are implementing through this bill. There is no intention to go further in relation to the issue of HSU membership, which the member has raised, at this point. That is not something the Labor Party took to the election. We are committed to implementing all our election commitments. I have clearly spelt out the position in relation to the other EBA in answer to Ms Wooldridge's question. I know Mr Ondarchie may not have been listening at that time, but we have traversed this issue already.

Mr ONDARCHIE (Northern Metropolitan) — In the total range of services provided by our health system to patients in Victoria, and picking up the minister's point that putting patient care first is the priority here, is the minister now confirming that the only ratios this government will seek to put into hospitals are around nurses and midwives?

Ms MIKAKOS (Minister for Families and Children) — What I am confirming is that we made a clear election commitment, and it related to the Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2012–2016. That is what is in the bill we have before us. I covered the issue earlier in relation to the Victorian Public Mental Health Services Enterprise Agreement 2012–2016, when I said in response to Ms Wooldridge's question that public mental health services are covered by the public mental health EBA. They are not subject to nurse-to-patient ratios. That is outside the scope of our election commitment. We are implementing precisely what we took to the election, which related to the other EBA that I mentioned.

Mr ONDARCHIE (Northern Metropolitan) — Just to get some clarity, because I actually know what the bill says and I do not really need the minister to read it back to me, when it comes to the total provision of health services within our public health system, is the minister saying that on top of the mental health nurses, whom the government is leaving out, every other service provider will be left out of ratios in the system as well?

Ms MIKAKOS (Minister for Families and Children) — Again I refer the member to previous answers I gave to Ms Wooldridge where I talked about the fact that we will be looking at continuous improvement of our health system. We are going to be monitoring the legislation. We are going to be looking at our health system. We are interested in making further improvements, but that is not confirming the implementation of ratios. I am saying we are looking at improvements to our health system. We are clearly enshrining in legislation the scope of the election commitment. We could go around this issue forever and a day, but I think we have traversed it at some length.

Mr ONDARCHIE (Northern Metropolitan) — In relation to the minister's answer to Ms Wooldridge's last question where she said that putting patient care first is her primary objective here, is she able to name any other services in the health system that the government will look to put ratios in?

Ms MIKAKOS (Minister for Families and Children) — I again draw Mr Ondarchie's attention to the purposes clause of the bill. Mr Ondarchie is now wanting to traverse well beyond the scope of the bill.

Mr Ondarchie — How about answering my question? You can't dodge it now.

Ms MIKAKOS — I can tell Mr Ondarchie that in relation to preschools we are implementing new ratios from 1 January 2016. That was something the previous government made no effort to do. That is by virtue of a national law. We have got that well in train with a funding commitment. But we have a bill here with very narrow confines. The scope of this bill is nurse-to-patient ratios. I really think we should be focusing on nurses and midwives, who are the subject of the bill, rather than having questions that go much further than clause 1.

Mr ONDARCHIE (Northern Metropolitan) — Given the minister is so keen to make sure that this is a narrow debate, I find it quite curious she decided to introduce a discussion about kindergartens and ambulances. If she wants to make this wide ranging, then let us do that. But I will not ask about the preschool and kindergarten sector; I will narrow this just to the health system, for the minister's own convenience. Aside from nurses and midwives, excluding mental health nurses, who have already been

pushed out to the side, are there any other services in the health system that the government will look to introduce patient ratios for?

Ms MIKAKOS (Minister for Families and Children) — I have now addressed this question in multiple forms, multiple — —

Mr Ondarchie — I would have stopped asking if you had answered it.

Ms MIKAKOS — Mr Ondarchie has asked the same question over and over now about a dozen times. I refer him to clause 1 of the bill, which relates to:

> … requirements that the operators of certain publicly funded health facilities staff certain wards with a minimum number of nurses or midwives; and
>
> … the reporting of compliance with and enforcement of those requirements.

It is a pretty narrowly confined bill we have before us. Mr Ondarchie may not like the answers I am giving him, but he is asking the same question over and over. We have covered this issue now on numerous occasions. I have addressed this issue.

Mr ONDARCHIE (Northern Metropolitan) — I will make this easy for the minister. Given that she has just read to me again the purposes of the bill, will the minister confirm with a simple answer, yes or no, that all other services in the public health system will be excluded from ratios?

Ms MIKAKOS (Minister for Families and Children) — Mr Ondarchie is essentially asking me to crystal ball gaze in relation to what the future needs of our health system might well be. I was very clear about this particular issue when I said, in response to the same question that Ms Wooldridge asked, that we are implementing a clear election commitment that was confined in its scope. It related to one enterprise bargaining agreement. That is the bill we have before us. I cannot predict what might happen in the future because I am not the Minister for Health, as the member is aware, but we are obviously interested in looking at continuous improvements to the health system. I have now said that probably a dozen times. I hope that it has finally registered.

Ms FITZHERBERT (Southern Metropolitan) — I have questions on a couple of issues. The first is a follow-up question to a response the minister gave earlier to Ms Wooldridge when she indicated that in relation to the drafting of the regulations one of the areas that would be different would be, if I am recording the minister's words correctly, to include clarity around the issue of principles and the operation of local agreements. Can the minister give us some indication of what those principles are and where they are derived from?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Fitzherbert for her question. I can advise her, as I confirmed earlier, that the only area where there may be a need for further clarity with respect to the regulations is in the area of local agreements. This is because the current EBA is silent on the matter of the principles and the process by which these local agreements can be arrived at, although obviously they are occurring. We will be looking at clarifying these matters and putting them into the regulations. These principles will be derived from current practice, and the clarification will be occurring with the parties to the current EBA.

Ms FITZHERBERT (Southern Metropolitan) — Can I confirm that in relation to achieving clarity within the regulations about the principles on which the local agreements are based the government will be relying on existing customs and practice alone?

Ms MIKAKOS (Minister for Families and Children) — The advice I have is that the new regulations with respect to local agreements will be derived from current practice.

Ms FITZHERBERT (Southern Metropolitan) — I have a question that goes to an issue Ms Wooldridge raised earlier about the potential cost implications of the nurse-patient ratios for rural and regional hospitals. I noted the minister's answer that rural and regional hospitals are already funded to pay for the ratios and that therefore there will be no cost implications. That is not what many rural and regional hospitals believe. It is certainly not the feedback I have had. I have spoken to a number of people who have real concerns about the cost implications for their organisations. Clause 1 of the bill headed 'Purposes' says that one purpose of this legislation is to provide for:

> (b) the reporting of compliance with and enforcement of those requirements.

I ask the minister whether she would be prepared to commit to report to the Parliament on the financial impact, if any, of the introduction of these nurse-patient ratios where they do not currently exist in rural and regional hospitals. I suggest that it would be appropriate to report this to the Parliament once the new system has been in operation for 12 months — that is, looking at the period after any rural and regional hospitals which are not currently compliant have come to some form of arrangement for addressing their non-compliance in

accordance with the terms of the bill. It would be good for the Parliament to see a report on the financial implications.

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Fitzherbert for her question. We are again traversing some common ground on issues we have canvassed before, but, as I indicated earlier, our small rural hospitals are funded to meet the ratios. They are currently set out in law through the current EBA and, as I indicated earlier, the bill has been drafted recognising the challenges faced by small rural hospitals in recruiting staff from an often depleted workforce market. As it does at the moment, the department will continue to assist small rural health services to recruit their workforce.

Ms FITZHERBERT (Southern Metropolitan) — I have a few further questions following on from that answer. How will the department assist rural and regional hospitals to address this issue?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Fitzherbert for her further question. We will be working with small rural health services to identify their needs, as the department does at the moment. I indicated to the committee earlier that there is a provision in the bill that relates to a 12-month transition period for services with below ratio arrangements in place. Health services will have 12 months from the commencement of the bill to either propose a variation to the ratios utilising the relevant provisions in the bill or to adjust their rosters to meet the ratio requirements. This will allow those health services some time to consider which of these options is most appropriate to address their particular circumstances.

Ms FITZHERBERT (Southern Metropolitan) — I understand that clause within the bill and how it is intended to operate. My question is about digging into the specifics of the kind of support that rural and regional hospitals will be given by the department to comply within that period. If I understood the minister's answer correctly, it is not obvious to me that anything in addition to what is being done by the department at the moment is going to be provided. My simple question is: what will the department do in addition to what it is now doing to assist rural and regional hospitals to comply?

Ms MIKAKOS (Minister for Families and Children) — I advise the member that the department is developing an implementation guide to assist health services in the transitional period, and it will be advising health services and assisting them in making the transition. As I indicated, there is this 12-month transition period, so they will be advised and given assistance as to how to meet those arrangements in that transition period.

Ms FITZHERBERT (Southern Metropolitan) — Will hospitals be funded for change management processes as a result of these changes?

Ms MIKAKOS (Minister for Families and Children) — As the bill is codifying the current EBA, there should not be a need for change management processes, because it should be enshrining the current ratios and the arrangements that are already in place.

Ms FITZHERBERT (Southern Metropolitan) — From that answer, do I understand that the minister is saying that every hospital in the state is currently employing at ratio?

Ms MIKAKOS (Minister for Families and Children) — What I am saying is they should be because that is the current law as it is set out in the EBA. It is federal law and it is an EBA that has been in place for a number of years. There are obviously variations that are possible through the terms of both the EBA and this bill, and there are also transitional provisions in the legislation.

Ms FITZHERBERT (Southern Metropolitan) — On that, in one of her earlier answers the minister referred to some of the local arrangements that some hospitals have that are not employing to ratio. Those hospitals are generally smaller hospitals outside of Melbourne. In part the purpose of this bill is to implore those hospitals to start employing at ratio. It is believed that some small hospitals are not employing at ratio. Therefore, if they are to change within the 12-month period that the minister has referred to a number of times, they will be changing their work practices. It is logical to expect that they will be employing additional staff. Therefore there will be an additional cost and there will be a change process they will need to go through.

The minister has spoken to us about the kit or handbook that is going to be provided to guide people through this process. For some hospitals this might be quite a process. Again my question is: for hospitals going through this process, using the handbook that the department is going to provide, and potentially looking at changing longstanding work agreements that have been reached with local union representatives, is there going to be any funding for the cost of this change management process?

Ms MIKAKOS (Minister for Families and Children) — I have already indicated to the committee that the department will be working closely with health service providers in relation to these matters. There will be assistance and guidance offered from the department, as well as the implementation guide I referred to previously.

Ms FITZHERBERT (Southern Metropolitan) — I have one extra question, going back to an answer the minister gave when I asked her to give a commitment to the committee that the government would report on the financial implications, if any, of this legislation. The government and the minister have asserted that it will be cost neutral. With respect, I cannot see how that will be the case. I ask again whether the minister will commit to come back after the 12-month transition period is over, after there have been another 12 months or so of the running of this new stage, and report on the financial implications, if any, for Victorian hospitals.

Ms MIKAKOS (Minister for Families and Children) — I remind Ms Fitzherbert that on Tuesday we had a number of health service providers table their annual reports in this house, and in 12 months time I imagine we will have another lot of annual reports from health service providers tabled in this house. That is the vehicle by which health services account for their financial positions, and obviously that is something that will occur again next year and in future years.

Ms FITZHERBERT (Southern Metropolitan) — With respect, given this is a policy change that is being initiated by the government that may have system-wide implications in terms of cost, is it not reasonable for the government to provide an explanation of what that cost would be to the sector?

Ms MIKAKOS (Minister for Families and Children) — These are matters that could be canvassed directly with the health minister in the future in relation to the implementation.

Ms Wooldridge interjected.

Ms MIKAKOS — Ms Fitzherbert is not talking about the present time. She is talking about what might happen in the future. Obviously there are the normal vehicles of the Parliament available to members to ask those particular questions. However, I remind Ms Fitzherbert that our health services provide annual reports, and in about 12 months time I imagine we will see health services provide their annual reports to the Parliament yet again.

Ms FITZHERBERT (Southern Metropolitan) — I understand we will still be part way through the transition process. On the timetable that has been outlined it will not even be in operation at that stage. I am asking for a commitment now from the government to give a clear explanation of the cost implications of this, if any, after the bill has come into effect and has been in operation after the transition period.

Ms MIKAKOS (Minister for Families and Children) — Obviously a new EBA will be negotiated next year, but we anticipate that all of these matters will be in place within the time period to which the member referred. However, I reiterate that the usual reporting mechanism for health service providers is through their annual report and those reports will continue to come before this Parliament.

Ms FITZHERBERT (Southern Metropolitan) — I did see that the annual report of the Department of Health and Human Services was issued this week along with the annual reports of local hospitals. Is the government prepared to commit to putting that measurable outcome into the health department report — the financial implications of this policy change, if any?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Fitzherbert for her question. It makes particular assumptions. We do not accept its premise, in that we do not accept that there are funding implications for this change, because as I have said on a number of occasions, our health services are funded to provide the ratios as they are currently set out in a legal instrument called the EBA. I point out to the member that by virtue of this legislation it is possible that matters will be reported as breaches. If there are breaches, matters could be raised with the secretary of the department and also with the courts. There are provisions in the bill that relate to these matters. Obviously those matters will be reported upon if there are breaches.

Clause agreed to.

Clause 2

Ms WOOLDRIDGE (Eastern Metropolitan) — In relation to the commencement I ask the minister if she could outline the steps that need to occur before this act commences. She has referred to a few of them, so it would be useful to have a rough time frame — regulations completed, clause 42 and schedule C coming out of the EBA et cetera. I ask the minister if she could outline the steps that need to occur for this bill to commence and outline the time frame.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. In

respect of clause 2 and the proclamation or the commencement of the bill, it is intended that the bill will be proclaimed once the elements within the current Nurses and Midwives (Victorian Public Health Sector) (Single Interest Employers) Enterprise Agreement 2012–2016 have been amended under either the current or the successor enterprise agreement. Further, as I have already indicated to the member, there is the matter of the regulations needing to be completed. I have already given the time frame to the member of until the end of the year in response to earlier questions on this matter.

Ms WOOLDRIDGE (Eastern Metropolitan) — Can I get an assurance from the minister that this bill will not be proclaimed prior to the regulations being concluded?

Ms MIKAKOS (Minister for Families and Children) — I can give the member that assurance.

Ms WOOLDRIDGE (Eastern Metropolitan) — So that would say that the bill will not commence. I understand that there is a move for the application to vary the EBA — that is, the removal of schedule C and clause 42. That is expected to occur this year. We may have a scenario where the two relevant parts are removed from the EBA. The regulations are not yet concluded and the bill has not yet been proclaimed. Is the plan to do them all simultaneously, or if there is a gap in that timing, how will that be managed?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the time lines are being worked through with the parties at the moment. Obviously there is the issue of the amendment of the EBA that needs to occur, and we are working through this issue with the parties to ensure that that occurs.

Ms WOOLDRIDGE (Eastern Metropolitan) — Can I ask if it is the minister's expectation that the current EBA will be varied rather than that the new EBA will be determined without the relevant clauses in it?

Ms MIKAKOS (Minister for Families and Children) — The advice that I have is that the answer is yes.

Ms WOOLDRIDGE (Eastern Metropolitan) — Just a clarification then: given that in that scenario we could have a situation where the relevant clauses are removed from the EBA before the regulations are completed and the legislation is proclaimed, can we have an assurance that those things will happen simultaneously rather than there being a period of time in which these matters have been removed from the EBA but not yet legislated, proclaimed and enacted?

Ms MIKAKOS (Minister for Families and Children) — I can give the member the assurance that these matters obviously need to be sequenced very closely together, so the amendment to the EBA will occur in very close proximity to the subsequent proclamation of the bill, because obviously the terms of the EBA continue in their entirety until such time as the EBA is amended.

Clause agreed to; clause 3 agreed to.

Clause 4

Ms WOOLDRIDGE (Eastern Metropolitan) — My question goes to the issue of the reference to the expected number of patients, when that term is not used in the current EBA. Will this mean that hospitals have to staff unoccupied beds, or will they be able to roster as they presently do?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I refer her to clause 9, which shows that we are talking about actual patients, so the reference is obviously to patient numbers rather than bed numbers.

Ms WOOLDRIDGE (Eastern Metropolitan) — Is the minister saying the reference in clause 9 is to actual numbers as opposed to beds that might be available but not have a patient in the bed? Does that mean basically hospitals can roster and plan as they presently do, and there is no change from the status quo?

Ms MIKAKOS (Minister for Families and Children) — The answer is yes. In a situation where there are 24 patients and 28 beds, the ratio would apply to the number of patients, as is currently the case.

Clause agreed to; clauses 5 to 24 agreed to.

Clause 25

Ms WOOLDRIDGE (Eastern Metropolitan) — Hopefully we can move through some of these matters more quickly, given the context and the discussion we have had on clause 1, and I thank the minister for that.

In relation to clause 25, will the prescribed conditions referred to in clause 25(2) mirror the local circumstances described at page 126 of the EBA?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. It is intended that the prescribed criteria referred to in clause 25(2) will closely replicate the current

circumstances described within part IX of schedule C on page 126 of the EBA, as those local circumstances apply in the local hospital. For example, the local circumstances of the pre-existing condition of the patient will need to be considered and assessed locally to inform how the local operating theatre ratios will need to be increased or decreased to address that situation. However, the criteria regarding the pre-existing condition of the patient will be relevant criteria for all hospitals, although it will need to be applied based on the local circumstances.

Ms WOOLDRIDGE (Eastern Metropolitan) — Given that the explanatory memorandum refers to complying with non-statutory provisions such as the EBA, will the regulations replace the local circumstances set out in the EBA or interact with them? Effectively what I am asking is: will it still be at the discretion of the health services?

Ms MIKAKOS (Minister for Families and Children) — It is intended that the regulations will replace provisions within the enterprise agreement directly relating to nurse-to-patient ratios, including schedule C of the EBA that I referred to earlier.

Ms WOOLDRIDGE (Eastern Metropolitan) — If I can just clarify further, will the health services still have the discretion that they have currently?

Ms MIKAKOS (Minister for Families and Children) — I am advised that the answer is yes.

Ms WOOLDRIDGE (Eastern Metropolitan) — We might have covered some of these matters, but under the EBA there is no prescribed process required in considering local circumstances. If the regulations mirror the local circumstances, will they impose any procedural requirement beyond that currently found in the EBA?

Ms MIKAKOS (Minister for Families and Children) — The intention is to replicate the provisions within the enterprise agreement as much as possible, with the aim of not imposing any additional burdens on any party.

Clause agreed to; clauses 26 to 31 agreed to.

Clause 32

Ms WOOLDRIDGE (Eastern Metropolitan) — In relation to clause 32, which is headed 'Quality of care paramount', with respect to other considerations as prescribed, as referred to in clause 32(b) of the bill, will the regulations mirror the five considerations that must be addressed as described in clause 42.1(c) of the EBA?

Ms MIKAKOS (Minister for Families and Children) — I am advised the answer is yes.

Ms WOOLDRIDGE (Eastern Metropolitan) — Will the prescribed requirements in the regulations vary or alter any of the conditions described in clause 42.1(c), and I may as well ask at the same time, will there be any other considerations prescribed in the regulations in addition to those that are currently outlined in clause 42.1(c), such as consent or approval of a union or some other party?

Ms MIKAKOS (Minister for Families and Children) — As I have advised the member previously in relation to other clauses, the intent is to closely replicate the provisions as described in the EBA, in this case as described in clause 42.1 of the EBA, in the regulations. In relation to the other matter that the member referred to, which is in respect of consent or approval of a relevant union, I can advise the member that it is not anticipated that there will be any other overarching considerations prescribed in the regulations, other than those described at clause 42.1(c). It is, however, intended that each type of ratio variation proposal will have the provisions specific to that type of proposal within the enterprise agreement replicated in the regulations.

Ms WOOLDRIDGE (Eastern Metropolitan) — I have a last question, just to give a bit of high-level context. My question is: is the test for a proposal consistent with the full bench decision in the Barwon Health matter — that is, that the service is required to consider quality of patient care, but it is not the rationale for a variation?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. The court case that the member referred to was a case that related to an interpretation of the current EBA. I can advise the member that the bill refers to 'primary consideration' as set out in clause 32. The intention is to closely replicate the current law, and that includes the common law as it currently stands. Obviously relevant precedents are relevant in this consideration.

Mr ONDARCHIE (Northern Metropolitan) — In relation to division 4, which is headed 'Variations from ratios', and in relation to the government's legislation, what is the government's view where a service provider is unable to meet the ratios due to activities outside their control?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that, as is currently the case, all disputes would go through a local

dispute resolution process. It is unlikely in the circumstances of a situation such as a natural disaster that matters would go further than that, but I can advise the member that the provisions that relate to penalties relate to serious or wilful breaches. If we have a situation where there is an actual disaster, obviously that would fall outside the scope of a wilful breach.

Mr ONDARCHIE (Northern Metropolitan) — I thank the minister for her answer. Outside of natural disasters, what about elements that are outside the control of health service providers?

Ms MIKAKOS (Minister for Families and Children) — The member asked specifically about circumstances outside health service providers' control. If it is outside their control, again it would not be a wilful breach, so there would not be a penalty imposed in those circumstances. I do make the point that there are other clauses further on in the bill that are more relevant to the issues the member is raising around penalties and the dispute resolution process. I am not happy to go into further detail on those while we are on this clause, but I will do so when we get to those clauses.

Clause agreed to.

Clause 33

Ms WOOLDRIDGE (Eastern Metropolitan) — We are flying through relative to our start, Deputy President. I think we are going well, making progress.

In relation to clause 33, which is about the redistribution of nursing or midwifery hours, will the prescribed redistribution principles mirror those set out in clause 42.2(c) of the EBA?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member, as I have advised previously, that the answer is yes, it is intended that the prescribed redistribution principles will closely replicate those set out at clause 42.2(c) of the EBA.

Ms WOOLDRIDGE (Eastern Metropolitan) — That section of the EBA addresses a number of issues, in fact seven different issues, two of which relate to short shifts and shift length and which are not reflected in the legislation. Can I ask whether short shifts will be reflected in the regulations or whether they will continue to remain within the EBA?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the government's commitment is to enshrine the nurse-to-patient and midwife-to-patient ratios as they currently exist in the EBA into legislation. As the length of the shift is not directly related to ratios, the bill and corresponding regulations will not cover short shifts. It is intended that any limitations or restrictions on short shifts will remain a matter for the EBA. As the bill does not limit short shifts, it is intended that the corresponding regulations will omit any of the principles set out at clause 42.2(c) that directly relate to shift length.

Ms WOOLDRIDGE (Eastern Metropolitan) — Will the regulations in relation to the prescribed redistribution principles introduce any principles in addition to those found in clause 42.2(c) of the EBA?

Ms MIKAKOS (Minister for Families and Children) — As I indicated to the member earlier, it is our intention to enshrine the provisions of the EBA, in this particular instance in relation to the principles set out at clause 42.2(c).

Ms WOOLDRIDGE (Eastern Metropolitan) — Just to conclude on clause 33, will the requirement in clause 33(2)(a) of the bill require employers to address more matters in their proposals than is currently the case? Specifically, will employers have to address the equivalent of the EBA principles at clause 42.2(c) in addition to the considerations at clauses 42.1(b) and (c) of the EBA?

Ms MIKAKOS (Minister for Families and Children) — No. It is intended that the regulations will require the operator of a hospital to only address matters in a proposal that are currently required under the EBA. To redistribute nursing hours the operator of the hospital must address both overarching considerations outlined in clause 42.1(c) of the EBA as well as the principles specifically outlined in clause 42.2(c). This is currently the case, and it is intended that the regulations will seek to replicate this requirement.

Clause agreed to.

Clause 34

Ms WOOLDRIDGE (Eastern Metropolitan) — Clause 34 relates to below ratio distribution, and my questions are in a similar theme in order to get some clarity in each of those clauses. Will the prescribed requirements set out in the regulations reflect the current EBA requirements at clause 42.3(b)? Specifically, will an employer be required to provide a written proposal to affected nursing staff addressing the considerations at clause 42.1(b) and (c), provide a copy to the ANMF and provide a period of up to one month

for consultation and, as in clause 42.5, good faith consultation?

Ms MIKAKOS (Minister for Families and Children) — Yes, that is what is in the EBA now. It is intended that the regulations will replicate the prescribed requirements set out in clause 42.3(b) whereby procedural requirements for consultation with affected staff and the relevant union relating to below ratio proposals are detailed.

Ms WOOLDRIDGE (Eastern Metropolitan) — Will the prescribed requirements exceed or alter those currently applying under clause 42.3(b) of the EBA, and if so, will the prescribed requirements include a requirement, for example, that consent of the union must be obtained?

Ms MIKAKOS (Minister for Families and Children) — As I indicated to the member previously, it is intended that the prescribed requirements in the regulations will replicate the provisions in the EBA.

Clause agreed to.

Clause 35

Ms WOOLDRIDGE (Eastern Metropolitan) — In relation to clause 35, which deals with an alternative staffing model, will the prescribed procedures referred to at subclauses (2) and (3) of clause 35 be the same as at clause 42.4 in the EBA — that is, will the regulations provide one set of prescribed procedures for an alternative staffing model? What we are trying to work out here is whether they will have to be repeated from a trial to ongoing or whether it will be one process.

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that it is intended that the prescribed procedures referred to at subclauses (2) and (3) of clause 35 will closely replicate clause 42.4 of the EBA, which provides a procedure for proposing, trialling and implementing an established alternative staff model based on nursing hours per patient day. These provisions have previously been agreed to by the parties to the enterprise agreement.

Ms WOOLDRIDGE (Eastern Metropolitan) — Perhaps I could just clarify. Does that mean that there would be a smooth transition from trial to ongoing, or would the process need to be repeated to embed it as an ongoing initiative?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question and refer her to clause 49(4) in the transitional provisions part of the bill that essentially saves any existing alternative staffing models into these new arrangements.

Ms WOOLDRIDGE (Eastern Metropolitan) — I think the question is slightly different. It is about the utilisation of an alternative staffing model to there being a trial and having proven the trial, or supported the trial, for that then to become an ongoing mechanism. This is not a transition from what we currently have to what it will be under the bill; this is about the utilisation of clause 35 as a mechanism to trial an alternative staffing arrangement and then embed that in practice. I am just trying to answer the question about whether, having trialled it and having gone through the prescribed requirements of a trial, that process will need to be replicated a second time to embed that, or it will be deemed to have occurred, having gone through it for the trial purposes.

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that if a trial is currently underway it will be able to transition under the transitional clause I mentioned earlier, clause 49(4), without the need to start the process again. For example, if you are eight months into a process and you have not got to the end of the 14-month process, you do not need to start again; you get the benefit of that initial period. Under these transitional provisions, that continues.

Ms WOOLDRIDGE (Eastern Metropolitan) — Will matters referred to in clause 42.4 of the EBA that are not in clauses 35(2) and 35(3) of the bill be included in the regulations?

Ms MIKAKOS (Minister for Families and Children) — It is intended that the procedure set out in clause 42.4 of the EBA will be replicated. These provisions have been agreed to by the parties to the EBA, and there is no intention of amending or omitting any aspects in the regulations, although issues such as skill mix that are already set out in the act will not need to be replicated in the regulations.

Ms WOOLDRIDGE (Eastern Metropolitan) — Will the procedures in the regulations provide any requirement in addition to those set out at clause 42.4 of the EBA?

Ms MIKAKOS (Minister for Families and Children) — It is not anticipated that the regulations will provide any further requirements that are in addition to those described in clause 42.4 of the EBA.

Clause agreed to.

Clause 36

Ms WOOLDRIDGE (Eastern Metropolitan) — Clause 36 is headed 'Local agreements to vary'. Given a local agreement to vary does not derive from the EBA — that is, it is currently as of right — will there be a prescribed procedure in the regulations, and if so, what will this be?

Ms MIKAKOS (Minister for Families and Children) — I think we covered some of this issue earlier, but I can advise the member that the enterprise agreement does mention local agreements in a couple of places, specifically in schedule C, which outlines that the nurse-to-patient and midwife-to-patient ratios have been replicated in the bill. Therefore the inclusion of the local agreement provision is directly derived from the intent of the enterprise agreement.

Whilst the enterprise agreement does not set out processes, the intent of the local agreement provision is that it can be utilised for matters where agreement has been reached through local consultation. The prescribed procedures in the regulations will be developed in consultation with relevant stakeholders, and I think we covered this issue earlier when I was talking about how that would essentially be derived from current practice.

Ms WOOLDRIDGE (Eastern Metropolitan) — Given that not all hospitals can access enough nurses to staff the ratios, and we may have some agreement or otherwise on that, will there be any requirement on a relevant union or local staff, given this process, to act in good faith where a local agreement to vary is sought?

Ms MIKAKOS (Minister for Families and Children) — Yes, it is intended that the regulations will require all parties involved in negotiating a local agreement to act in good faith.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister. Will the relevant union be able to terminate a local agreement to vary, and if so, how would this occur, and would notice need to be given?

Ms MIKAKOS (Minister for Families and Children) — I think essentially the member is asking if the union has a veto under this clause. The answer is no. The requirement is for the parties to act in good faith and to reach agreement by consultation.

Ms WOOLDRIDGE (Eastern Metropolitan) — It is actually a question not about the process of agreement, but if a local agreement to vary is in place, can that be subsequently terminated?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the agreements will be able to be terminated and that the termination provisions will be set out in the local agreements themselves.

Ms WOOLDRIDGE (Eastern Metropolitan) — Will there be any guidance in the regulations in relation to how those termination procedures may be considered?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the regulations will prescribe a minimum number of conditions that will be set out in these local agreements and that the minimum conditions will include a termination clause.

Clause agreed to.

Clause 37

Mr ONDARCHIE (Northern Metropolitan) — In relation to compliance and reporting, can the minister advise if any additional public servants will need to be employed by the department to deal with the matter of compliance and reporting?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the answer is no.

Mr ONDARCHIE (Northern Metropolitan) — I thank the minister. In relation to clause 37 of the bill under part 3, headed 'Compliance and reporting', will any additional staff be required by the service providers to deal with the reporting requirements?

Ms MIKAKOS (Minister for Families and Children) — I am advised that the answer is no.

Mr ONDARCHIE (Northern Metropolitan) — I just want to seek a guarantee from the minister that service providers will not be adding any additional staff as an unintended consequence of this bill.

Ms MIKAKOS (Minister for Families and Children) — I have already responded to the member's question, and he needs to remember that we are moving provisions in an existing EBA that the health service providers are currently subject to and enshrining them in legislation, so it is not anticipated there will be any requirement for health service providers to take on additional staff to meet compliance and reporting requirements.

Clause agreed to; clauses 38 to 40 agreed to.

Clause 41

Ms WOOLDRIDGE (Eastern Metropolitan) — I refer to clause 41, headed 'Local dispute resolution', under part 4, headed 'Enforcement', and I ask the minister: when will the prescribed dispute resolution procedures be developed and who will be consulted?

Ms MIKAKOS (Minister for Families and Children) — The prescribed dispute resolution procedure will be developed and finalised through a consultative process over the coming weeks prior to the commencement of the bill. Obviously it will involve the parties to the EBA: the Victorian Hospitals Industrial Association and the Australian Nursing & Midwifery Federation.

Ms WOOLDRIDGE (Eastern Metropolitan) — At page 35 the explanatory memorandum talks about changes that are necessary and appropriate, and so I ask: what changes to the EBA dispute resolution procedure is it the government's view will be necessary and appropriate?

Ms MIKAKOS (Minister for Families and Children) — The intent will be to replicate the dispute resolution procedures in clauses 11 and 42.5 of the EBA and the regulations. Some changes relating to the jurisdiction of the Magistrates Court instead of the Fair Work Commission will be required as well as any resulting process and procedural elements relating to the change in jurisdiction. Wherever possible it is intended that the procedure and provisions will be faithfully replicated.

Ms WOOLDRIDGE (Eastern Metropolitan) — Do I take it from the minister's response then that the necessary and appropriate changes outlined in the explanatory memorandum relate purely to the legislation itself and enacting, for example, as the minister has said, the transition from the commission to the Magistrates Court, and not anything beyond that?

Ms MIKAKOS (Minister for Families and Children) — The intention is not to go further. We are seeking to replicate the provisions, but the member is obviously aware of the change in jurisdiction, given that we will not be dealing with an EBA as such and therefore the Fair Work Commission is not relevant, and we are inserting the Magistrates Court as the alternative mechanism.

Ms WOOLDRIDGE (Eastern Metropolitan) — For a dispute concerning a proposal made under division 4 of part 2, will the prescribed dispute procedures be limited to whether good faith consultation has occurred, as currently provided by clause 42.5 of the EBA?

Ms MIKAKOS (Minister for Families and Children) — Yes, clause 42(1)(b)(iii) specifically limits disputes concerning division 4 of part 2, so where the good faith consultation has occurred, this faithfully replicates the provisions in clause 42.5 of the enterprise agreement.

Ms WOOLDRIDGE (Eastern Metropolitan) — Given current dispute resolution procedures have been effective without it, why is it the government's view that it is necessary to introduce an injunctive relief mechanism? Why was this preferred to the current status quo, which provision is in the EBA's dispute resolution procedures?

Ms MIKAKOS (Minister for Families and Children) — I advise the member that the injunctive process has been introduced as disputes will now be heard in the Magistrates Court. The intent of the injunctive relief is to have a similar effect as the status quo within the enterprise agreement framework. The compliance regime has been drafted to maintain the same or similar rights of review under a Victorian jurisdiction rather than the federal jurisdiction with the intent of not imposing any additional burdens on any of the parties, wherever possible. I make the further point to the member that obviously as the EBA sits under federal jurisdiction at the moment, most matters go to the Fair Work Commission. However, the potential is there for parties to go to the Federal Court where they could pursue injunctive relief.

Ms WOOLDRIDGE (Eastern Metropolitan) — I seek some further clarification from the minister in relation to that response, because my understanding is that injunctive relief can require that an employer cease current practices until an issue is resolved, whereas under the current status quo, say, under ratio staffing would actually continue until the issue is resolved. You could effectively have a quite opposite outcome under injunctive relief than you have under the current practices of status quo. Can the minister clarify for me if that is correct, or is she saying that if it is consistent, the injunctive relief will always reinforce the status quo until the dispute is resolved?

Ms MIKAKOS (Minister for Families and Children) — I advise the member that it will be up to the court to decide in the particular circumstances about retaining the status quo, but that is usually what is associated when you get injunctive relief.

Ms WOOLDRIDGE (Eastern Metropolitan) — I am not a lawyer and I do not have experience, so let me seek further clarification. Presumably this is different from the current status, because it is completely in the

hands of the court as to what it determines. One determination may be that the employer, say a small rural health service, ceases to staff under ratio even if it has been embedded in a current workplace practice for some time. The dispute would get resolved, but in the interim the health service would have to staff up to ratio, which it may not be able to do.

Ms MIKAKOS (Minister for Families and Children) — I can advise the member, as I stated earlier, that currently there is injunctive relief available to parties in the federal jurisdiction through the Federal Court, so we are just seeking to replicate the arrangements that are already in place for parties, including injunctive relief.

Ms WOOLDRIDGE (Eastern Metropolitan) — In the briefing that was provided we were advised that very few cases go to the commission, and I think the advice was that no cases have gone to the Federal Court, so presumably it is possible, but it is a two-step process. The first step with the commission would require a status quo continuation. In this scenario now what we have is the dispute resolution going straight to the Magistrates Court where injunctive relief may be provided. My question goes back to what I originally asked, which is: why is injunctive relief now a first port of call as opposed to something that would happen down the track after having gone through a conciliation, arbitration and mediation process potentially through the commission? Now the first port of call may be injunctive relief and a requirement for the health service to change its current practice.

Ms MIKAKOS (Minister for Families and Children) — I am advised that under the current arrangements it is possible to go straight to the Federal Court and pursue injunctive relief, so we are seeking to replicate the existing arrangements as closely as possible.

Ms FITZHERBERT (Southern Metropolitan) — I have a question in relation to the way mediation will function under the change to the Magistrates Court. In the Fair Work Commission it is compulsory to have mediation first before going to arbitration if that is unsuccessful. In the Magistrates Court, as I understand it, you have mediation only if it is agreed between the parties. It seems that this is a significant change to what has gone before. Is it going to be the case that the decades-long practice of having mediation before going to arbitration will stop unless agreed, or is the dispute resolution clause going to include a compulsory first stop at mediation before going to arbitration in the Magistrates Court?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Fitzherbert for her question. The rules of the Magistrates Court enable the parties to agree to mediation. That is different to the rules of the Fair Work Commission and its ability to conciliate and arbitrate. Obviously with the changes in the jurisdiction it is very difficult to replicate the arrangements precisely because different courts, tribunals and commissions have different rules in place. But in relation to the matter that the member has suggested, this is an issue that might come up between the parties as we are consulting with them in the development of the regulations. That is a matter that could be addressed through the regulations if it is a matter that the parties wish to pursue.

Mr ONDARCHIE (Northern Metropolitan) — Clause 41(1) says:

> A nurse or midwife who works at a hospital covered by a ratio or a relevant union (as representative of the nurse or midwife) may notify the operator of the hospital of an alleged breach of the ratio or a ratio variation.

This goes to the question I asked not long ago. What happens if the breach of ratio is a result of something that has nothing to do with the service operator?

Ms MIKAKOS (Minister for Families and Children) — I refer the member to clause 43, which we are yet to come to, which relates to civil penalties. As I indicated to the member earlier, where there are circumstances outside of a health service provider's control there would not be a wilful breach and therefore there would not be a civil penalty imposed under clause 43.

Mr ONDARCHIE (Northern Metropolitan) — If putting patient care first is the key foundation for this bit of legislation, what happens if there is a breach of ratio due to the activities of, say, the union, which may, for example, have a stop-work meeting, a protest outside Parliament House or, dare I say it, members standing in uniform outside a pre-polling station, and the service provider therefore cannot manage its ratio?

Ms MIKAKOS (Minister for Families and Children) — It is a pretty preposterous suggestion that ratios will not be able to be met because members of a union decide in their own free time to attend a political activity or participate in our democratic processes.

Mr ONDARCHIE (Northern Metropolitan) — To cover off what the minister said, given the revelations in the *Herald Sun* over the last few weeks, we cannot be sure right now who is being paid to do pre-polling and who is not. Putting that aside, what happens if there

is a stop-work meeting at the hospital and labour is withdrawn, thereby dropping the ratio?

Ms MIKAKOS (Minister for Families and Children) — Again I refer the member to clause 43, which we are not yet on, which relates to wilful breaches and civil penalties. If it is a matter that is outside the control of the health service provider, I cannot see how the Magistrates Court would be satisfied that the non-compliance was a wilful breach on the part of the health service provider.

Mr ONDARCHIE (Northern Metropolitan) — Is the minister indicating to the house, given the penalties that are in place as a deterrent, that she does not see stop-work meetings being something that is common practice in our health services any longer?

Ms MIKAKOS (Minister for Families and Children) — The member is asking me about penalties, and I am referring him to clause 43 — we are not on clause 43 as yet — which uses the language of 'wilful and serious' non-compliance in terms of the jurisdiction of the Magistrates Court to impose a penalty if it is satisfied that that test has been met. I am not able to gaze into a crystal ball and speculate on what industrial action may or may not be taken, but I have made pretty clear how the test applies in relation to civil penalties under clause 43. It would involve a situation where the health service provider wilfully breached the existing ratios.

Clause agreed to.

Clause 42

Ms WOOLDRIDGE (Eastern Metropolitan) — The minister has touched on this, but I want to ask it as a question I foreshadowed. From the perspective of small rural hospitals where they cannot staff to ratio, there may be a scenario where they are required to by the courts. What assistance will the government give to small rural hospitals to prevent them potentially having to face an injunction or being issued with a penalty?

Ms MIKAKOS (Minister for Families and Children) — I again refer the member to the answers I gave previously in relation to small rural hospitals in which I indicated that the bill was drafted recognising the challenges faced by small rural hospitals in recruiting staff from an often depleted workforce market. The bill enables these services to address these specific challenges by utilising the flexibility provisions, either with a formalised variation from ratio provision, similar to a clause 42 proposal under the EBA, or by entering into a local agreement. Where a formal written agreement exists between all affected parties, any below ratio staffing levels will be able to continue. Where a formal written agreement does not exist between all affected parties, the operator of the hospital affected by the legislation will have 12 months from the date of implementation either to amend its staffing levels to meet ratio or to utilise the relevant variation from ratio provision within the bill.

Clause agreed to.

Clause 43

Mr ONDARCHIE (Northern Metropolitan) — I refer the minister to clause 43(2), which says:

> The Magistrates' Court may impose a penalty on the operator only if satisfied that the non-compliance was wilful and serious.

I also refer the minister to her answer to me moments ago, when she referred to clause 43 and a health service provider wilfully or seriously breaching the ratio. What happens if the breaching of the ratio is a union-led activity and not the fault of the operator?

Ms MIKAKOS (Minister for Families and Children) — I refer the member to clause 43(1), which refers to 'the operator of a hospital'. It is the operators of hospitals that put in place the ratios or the ratio variations. It is intended that this provision under clause 43 will limit the imposition of a civil penalty to circumstances where non-compliance is serious in nature and has been undertaken in a wilful manner, as I have explained to the member already. It is intended that civil penalties would be applied in exceptional circumstances and would not be applied in circumstances where a hospital has knowingly breached the ratios due to inadvertent or unavoidable circumstances, such as where nurses or midwives are unavailable.

Mr ONDARCHIE (Northern Metropolitan) — The minister went to great lengths to talk about the penalties applied to the operator of a hospital. I am asking: if an operator does not have the capacity to provide those ratios because, for example, the union withdraws its labour during a period of time and therefore puts the operator in breach, would the union be penalised for that activity?

Ms MIKAKOS (Minister for Families and Children) — I am advised that the answer is no.

Mr ONDARCHIE (Northern Metropolitan) — Can the minister explain to the Victorian taxpayers, who ultimately may have to fund any penalty that is applied, why it is that the operator has all the onus for providing

the ratios yet the union that provides the labour does not?

Ms MIKAKOS (Minister for Families and Children) — Because the operators run and manage our hospitals.

Mr ONDARCHIE (Northern Metropolitan) — That being the case, does the minister think that in circumstances where the operator is unable to supply labour because the union has withdrawn its labour the hospital should be penalised?

Ms MIKAKOS (Minister for Families and Children) — I think I have covered this in various ways already.

Mr Ondarchie interjected.

Ms MIKAKOS — Yes, I have. I have explained to Mr Ondarchie that the test in clause 43 relates to wilful and serious non-compliance. I just explained to him a few minutes ago that it is intended that civil penalties would be applied in exceptional circumstances and would not be applied in circumstances where a hospital has knowingly breached the ratios due to inadvertent or unavoidable circumstances, such as where nurses or midwives are unavailable.

Mr ONDARCHIE (Northern Metropolitan) — Where labour is withdrawn from a service provider under the direction of the union, would the minister classify the withdrawing of that labour as wilful and serious non-compliance?

Ms MIKAKOS (Minister for Families and Children) — This is obviously a matter for the courts to determine. The test is set out very clearly in relation to the issue of wilful and serious non-compliance. However, as I have explained, where there are inadvertent and unavoidable circumstances, I cannot see how the court would be satisfied that that was wilful and serious non-compliance.

Mr ONDARCHIE (Northern Metropolitan) — Given that primary patient care is the focus, and the minister said that to us earlier in the afternoon, would the minister regard the withdrawing of labour and therefore the denigration of the patient ratio by a union as harming patient care?

Ms MIKAKOS (Minister for Families and Children) — I know that the member is reflecting his clear anti-union bias here. But we do have laws in this country that enable unions and employees to collectively bargain, including taking industrial action, and there are laws and parameters around that action. I have already addressed this issue several times now. The test is clearly set out in clause 43. It relates to wilful and serious non-compliance on the part of operators. It is our expectation that this would be applied in exceptional circumstances.

Mr ONDARCHIE (Northern Metropolitan) — I am just trying to get clarity about exactly what the minister is saying, because she is a little bit all over the place here. Is the minister saying that the only penalties that can be imposed are on the operators, irrespective of labour being withdrawn by somebody outside their control?

Ms MIKAKOS (Minister for Families and Children) — This bill is not industrial relations legislation; it clearly relates to patient ratios. There is a provision in this bill that, as I explained, it is anticipated would be applied in exceptional circumstances involving wilful and serious non-compliance. Ultimately it will be for the Magistrates Court to determine the appropriate circumstances in which that test is met.

Mr ONDARCHIE (Northern Metropolitan) — Would the minister think the withdrawal of labour affecting the ratios that the government is looking to put in place would have an adverse effect on patient care?

Ms MIKAKOS (Minister for Families and Children) — I know Mr Ondarchie wants to ask questions that are completely extraneous to the clause we have before us. The clause that — —

Mr Ondarchie — Just answer it.

The DEPUTY PRESIDENT — Order! The minister, without assistance. Mr Ondarchie has already asked the question.

Ms MIKAKOS — The clause relates to civil penalties; it does not relate to industrial disputation in any form or manner. I have answered the question in relation to how this clause is intended to operate on numerous occasions.

Mr LEANE (Eastern Metropolitan) — I appreciate that this process affords me the chance to make a comment and not necessarily ask a question. I would like to assist Mr Ondarchie with the clarity he needs. He is insinuating that nurses will be directed by some third party divorced from them to withdraw their labour. He is divorcing the nurses from their union — it is their union — and talking about them being told what they should do with their labour. That is naive and insulting to the nurses. He has suggested they would freely and without any conscience take action and leave

patients with no care. Mr Ondarchie might want to name instances where that has actually happened in the past.

Mr Ondarchie — You've completely missed the point.

Mr LEANE — I think Mr Ondarchie is missing the point, because he is trying to go down the line that nurses will be told by some evil third party what they should be doing with — —

Mr Ondarchie — I didn't say that.

Mr LEANE — Mr Ondarchie did indicate that. He has suggested that some third party will tell nurses what they should be doing with their labour. The committee stage has been taken down a track that is moronic and insulting to the extreme.

Ms MIKAKOS (Minister for Families and Children) — Further to that, for Mr Ondarchie's benefit, I point out that the Fair Work Act 2009 covers the issue of withdrawal of labour. As I made clear earlier, this is not a piece of industrial legislation. This is a bill that relates specifically to nurse-to-patient ratios. But there are other mechanisms in other legislation, in the Fair Work Act and in the terms of the EBA itself, that will continue to apply in relation to these matters.

Mr ONDARCHIE (Northern Metropolitan) — I note — —

Ms Mikakos — You are just showing how much you hate nurses — that is what you are doing.

The DEPUTY PRESIDENT — Order! Minister!

Mr ONDARCHIE — The day is getting longer and clearly some of us are getting tired. I note Mr Leane's comments and I also note that nobody in this chamber brought him back to the clause in the bill that we are talking about, so he had free rein to talk openly and not in relation to the clause. That being the precedent, let me touch on what Mr Leane said. At no time have I denigrated a nurse in my contribution today. As a person who has worked in and run part of a hospital, and as a person who has undertaken shifts in the emergency department at a hospital, I know that at no point in today's contribution have I made any denigrating comments about nurses.

Having worked amongst them and with them — which I say to Ms Mikakos is something I have done — I have nothing but the utmost respect for the work that nurses do, and at no point in today's discussion, at no point in any question I have asked and at no point in any commentary I have made on this bill have I sought to infer, chosen to infer or in fact inferred any denigration of nurses and their profession. Let us be clear about that. What I am asking about, if the minister is not sure, is primary patient care, which is where she started with this. If she is getting offended and getting upset because I am asking direct questions that go to primary patient care, that is a problem she has to deal with, but what I am hearing from the minister is that if the operators breach compliance, they will be taken to the Magistrates Court, but if somebody else does, then that is a different matter. That is unacceptable when it comes to primary patient care, which is where the minister started.

Clause agreed to; clauses 44 to 46 agreed to.

Clause 47

The DEPUTY PRESIDENT — Order! I remind the committee that this bill has 49 clauses and 3 schedules.

Ms WOOLDRIDGE (Eastern Metropolitan) — You have reminded us that we are very close to the end. We are making good progress.

My question to the minister is in relation to clause 47, which is headed 'Pre-existing higher staffing arrangements'. Can the minister advise the committee of how many hospitals and health services are currently operating over ratio?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that any hospital that is currently operating below ratio has been accommodated within the bill with transitional provisions which allow this to continue for 12 months and allow for proposals to vary ratios. Hospitals that currently comply with the enterprise agreement have the ability to staff a ward with additional nurses or midwives. This has been replicated in the bill in clause 9(1)(c), which specifically states that the bill does not prevent the operator of a hospital from staffing a ward with additional nurses or midwives beyond the number required by the ratio.

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for her comment, but that did not answer the question, which was how many health services are currently operating over ratio in the context of a CWMA?

Ms MIKAKOS (Minister for Families and Children) — I advise the member that we do not have the number of current work management arrangements.

The reason for that is these matters are concluded through an exchange of letters between the parties at a local level and may not necessarily involve the department.

Ms WOOLDRIDGE (Eastern Metropolitan) — In response to a question on this clause the minister also talked about below ratio staffing, which I will ask about when we get to the next clause.

Given that this was an election commitment and that the government has had 10 months to draft this bill, has the government ever asked the question of the health services that it consulted with extensively in relation to this and deals with on a very regular basis on a whole range of matters whether they had existing CWMAs that were above or below ratio?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that obviously there is the principle of devolved management that applies here and the local health providers enter into these arrangements at a local level themselves with the relevant parties.

Ms WOOLDRIDGE (Eastern Metropolitan) — So does mean the answer is no, the department has never actually asked?

Ms MIKAKOS (Minister for Families and Children) — I advise the member that we are aware that some current work management arrangements are in place, and that is by virtue of the fact that the department has been directly involved. But I cannot advise the member of the total number because, as I indicated, with devolved management practices the parties enter into these arrangements at a local level and therefore the department may not be aware of the total number.

Ms WOOLDRIDGE (Eastern Metropolitan) — Just to clarify, as part of this bill, except where the department may have been involved for some reason other than the bill — that is, in resolving them — the government has not asked health services if they either have a CWMA for over ratios or under ratios?

Ms MIKAKOS (Minister for Families and Children) — There are transitional arrangements in place, as I have explained and the member is well aware, that relate to these matters; therefore there is no direct need for the department to ask, because these matters will transition across under the terms of the bill. But we are aware of some of them because the department has been actively involved in the resolution of these matters in the past.

Ms WOOLDRIDGE (Eastern Metropolitan) — Could the minister tell me how many over ratio and how many under ratio CWMAs the department is aware of?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Obviously it is a matter about which I did not have any forewarning. Therefore I do not have a specific number to give the member, but I am happy to take that matter on notice and come back to her.

Ms WOOLDRIDGE (Eastern Metropolitan) — It was question 10 on page 2 of the letter that I provided to the minister — just so that is clear. Given we had a ruling recently from the President that there is no requirement or mechanism by which to enforce a commitment to take a question on notice, could I have a commitment from the minister in terms of what form that response will take and in what time frame?

Ms MIKAKOS (Minister for Families and Children) — I can assure the member that I will write to the Minister for Health in relation to this matter and seek a response to the member's question. Obviously the member has the ability to pursue this matter further through the usual mechanisms of the house.

Ms WOOLDRIDGE (Eastern Metropolitan) — As a sign of good faith in regard to pursuing this matter and getting some resolution on it, would the minister consider copying me into the letter sent to the Minister for Health so that we can have some confidence that these matters will be pursued? It is also requested of the minister that where there is an under ratio CWMA — and I am not seeking identifying information — if the department knows that information, could the response also provide what level of under ratio that CWMA represents? Effectively what I am clarifying, and it goes to some of the questions we asked earlier, is there are some CWMAs under the ratio — we know that is the case — and there will be a gap between the ratio and where it is currently agreed that they operate. For those that the department knows about it would be useful to know the magnitude of the difference between how much under the ratio they are and what it would take to meet that ratio.

Ms MIKAKOS (Minister for Families and Children) — I am happy to provide the member with a copy of the letter that I will send to the Minister for Health in relation to these matters, and I note the comment she made about de-identified information.

Clause agreed to.

Clause 48

Ms WOOLDRIDGE (Eastern Metropolitan) — Getting agreement under the current practice can take some time. I mentioned the Barwon Health case earlier; I think that was 15 months or so. Some of them have taken 9 or 10 months, and some of them have extended quite beyond the one-year period. Why was 12 months thought to be a reasonable time frame in which to require the resolution of the existing issues, when the practice in the commission has been that it can be significantly longer?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the Barwon Health case was a test case that was determined and then appealed, and it was heard by the full bench of the Fair Work Commission. Therefore it took considerably longer than the 12-month period. There have been other clause 42 disputes that have been resolved in under 12 months, so therefore 12 months was regarded as an appropriate period of time. I also advise the member that I understand there are currently no such actions underway at present, so the 12-month transition timing should be sufficient.

Ms WOOLDRIDGE (Eastern Metropolitan) — Can I also clarify one point? I think I had a response to it earlier when the minister said that the regulations and the bill would be enacted and a functioning EBA reflecting those two would be in place. I just want to make sure that no 12-month period would start until the regulations are well in place so that the mechanism of how to resolve this in terms of the detail is laid out for the health services.

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the 12 months cannot commence until the regulations themselves have commenced, and the 12-month period commences at that point.

Ms WOOLDRIDGE (Eastern Metropolitan) — I will ask one last set of questions in relation to the issue we were discussing previously, which concerned those that are under ratio. The minister said previously that there is no cost because these hospitals are all funded to operate at ratio. The minister has also said, I believe, and I might need some clarity on this, that the department knows of some CWMAs that are under ratio. I know she responded directly on those that are over ratio. Perhaps I need to ask: does the department know of or has it been involved in any CWMAs that have also been under ratio? Given that there is a clear and explicit acknowledgement that some health services are operating under ratio and given we saw many annual reports tabled yesterday at which break-even was a tight objective, how can the minister say that this will not have a financial penalty on those health services when clearly all funding is currently being used to run the service and there is a gap between the level they are staffing at and the ratio to be achieved?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that the department is not aware of any below ratio agreements. We have asked the service providers as well as the VHIA, and no-one has come forward to indicate that there are any in place.

Ms WOOLDRIDGE (Eastern Metropolitan) — I just want to clarify that, because it is slightly different. I know we started on clause 47 and are now on clause 48; that may be the cause of the confusion. In relation to below ratio staffing arrangements, is the minister saying that the department has asked each of the health services whether they have below ratio staffing arrangements in place and that no responses have been provided?

Ms MIKAKOS (Minister for Families and Children) — Just to be clear, the VHIA has asked the health services providers, not the department directly, and none were forthcoming in indicating that any were in place.

Ms WOOLDRIDGE (Eastern Metropolitan) — With the multitude of information and the thousands of pieces of data that are required by the department and the government of individual health services, has the government not asked the health services about their staffing arrangements so that it can be informed in the development of this bill or in its assessment of financial implications?

Ms MIKAKOS (Minister for Families and Children) — I have just indicated to the member that the VHIA has pursued this particular issue with health service providers, and the indication was that there were none below ratio.

Ms WOOLDRIDGE (Eastern Metropolitan) — Can I ask then, did the government or the department ask the VHIA to do that on behalf of the government and report back?

Ms MIKAKOS (Minister for Families and Children) — I am advised that that occurred as part of the consultation for the development of this bill.

Ms WOOLDRIDGE (Eastern Metropolitan) — Did the government ask the VHIA to provide a

response, and has the VHIA not provided a response of health services that are currently operating below ratio?

Ms MIKAKOS (Minister for Families and Children) — I can assure the member that the VHIA did respond to the department. Obviously that is the industrial body that supports the health service providers, and it advised the department that there were no health service providers that were below ratio.

Ms WOOLDRIDGE (Eastern Metropolitan) — Will the government and the department now seek to satisfy themselves directly in preparation for this that there are in fact no health services that are operating below ratio either with a CWMA or without?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that we are confident about our discussions with the VHIA, and we will continue to have discussions with that organisation, which is a representative of the health services providers, as we go forward in the finalisation of the regulations and other associated matters to bring this legislation into operation.

Ms WOOLDRIDGE (Eastern Metropolitan) — I would just like to clarify the minister's earlier response. Is the advice she has had from the VHIA that there are no health services operating under ratio, either with or without a CWMA, or is it that the VHIA does not know of any? There is a difference between having an assurance that no-one is there versus the scenario that the VHIA does not have any information that would show otherwise.

Ms MIKAKOS (Minister for Families and Children) — The advice I have is that the VHIA has advised that no service has been forthcoming in disclosing this matter.

Ms WOOLDRIDGE (Eastern Metropolitan) — I am sorry to persist on this, but I think it is important because in the consultation I have done directly, health services have said they operate below ratio. I can understand why there might be some nervousness in alerting the government formally to that through the process. I suppose I ask once more: will the government satisfy itself not through the VHIA but directly as part of the many pieces of information provided — it could be as part of the multitude of different agreements and discussions that are had — as to how many and which services are going to have to go through these 12-month processes and therefore establish what sort of guidance and support it might put in place?

Government members have talked about details of the transition arrangements and the matter of the 12 months many times, so presumably they anticipate that some health services are going to need to utilise these — otherwise the government would not be putting them in in the first place. In the absence of any advice through a third party, will the government be satisfying itself in relation to how many services are currently operating below ratio and what the ramifications might be of having to meet those ratios?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Obviously the member would understand that whilst we may ask the question, health service providers may not always wish to be forthcoming in indicating that they are currently in breach of the EBA. The member may be aware of health service providers that are in that situation. Obviously they have the ability to contact the department and indicate that they are in that situation as we transition to these new arrangements and also indicate what assistance they may need in terms of advice going forward and in terms of the transitional provisions contained in the bill.

Ms FITZHERBERT (Southern Metropolitan) — I think what Ms Wooldridge was talking about was not employers who are in breach of the EBA but employers who have entered into a CWMA made locally, which is a completely legitimate thing to do within the existing framework. Nonetheless I think we all understand why employers might not be willing to be totally open about that, given the way it can be misinterpreted — for example, in the way it just has been. I guess, therefore, what we are asking about is whether the government has a clear understanding — and whether it has made any effort to obtain that understanding directly itself — of how many health employers are quite legitimately under ratio and have entered into a CWMA. I just wanted to clarify that that is the situation we are asking about. We are not asking about people who are in breach of the EBA.

I note further that employers in Melbourne choose to be over ratio, and generally in the country regions we are talking about workforce shortages. It is not necessarily a wilful desire to be under ratio. It is simply not being able to find the staff. I wanted to clarify and put on the record that that is the situation we are talking about. We are not seeking to ask about people who are simply breaching the EBA. We are talking about people who have utilised completely legitimate mechanisms. In fact the mechanism the minister referred to earlier when she talked about an exchange of documents between the parties to those agreements is what is under discussion here.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. I can advise her that regardless of the reasons, health service providers have not come forward with this information. Obviously they are able to do so and can contact the department about these matters going forward. We have, however, pursued this issue through the appropriate body, which is their representative body, the VHIA. As I indicated earlier, no provider was prepared to indicate to their representative body that they were in those circumstances.

Clause agreed to; clause 49 agreed to; schedules 1 to 3 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Ms MIKAKOS (Minister for Families and Children) — I move:

That the bill be now read a third time.

In doing so, I thank all members for their contributions during the course of the debate.

Motion agreed to.

Read third time.

CRIMINAL ORGANISATIONS CONTROL AMENDMENT (UNLAWFUL ASSOCIATIONS) BILL 2015

Second reading

Debate resumed from 17 September; motion of Ms MIKAKOS (Minister for Families and Children).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this afternoon to make some relatively brief remarks on the Criminal Organisations Control Amendment (Unlawful Associations) Bill 2015. At the outset I refer to the record of the coalition in supporting strong measures in our statute book to deal with criminal organisations, and in particular the challenges that law enforcement faces in dealing with outlaw motorcycle clubs. This is an area that the previous Napthine government spent a considerable amount of effort on in developing a number of changes to the statute book to address the growing problem of criminal organisations, in particular, as I said, outlaw motorcycle gangs, and the more sophisticated way in which their criminal activities have been undertaken in recent years.

Some of the measures that the coalition implemented include the introduction of control orders and anti-association orders for gang members and an anti-fortification regime to allow Victoria Police to have the capacity to remove fortifications where they are installed on club headquarters. These are all tools to assist in the fight against organised crime, and in particular that associated with outlaw motorcycle clubs.

Of course this is a problem on a national level. It is a challenge for all state jurisdictions to ensure that their laws remain contemporary, given the changing sophisticated challenge around criminal organisations, and to ensure that they remain relatively consistent in the sense that we do not have a situation where one state fails to enact new provisions when other states do move and in doing so make the state that does not act a more attractive destination for organised criminal activity.

As a state Victoria needs to be mindful of remaining up to date with, and in many cases ahead of, changes in the law in jurisdictions such as New South Wales and Queensland. We have seen strengthening of the regimes in Queensland and New South Wales, as we saw in Victoria under the previous government, and we have seen sophisticated challenges to the strengthening of those regimes in those jurisdictions. Indeed at the end of last year the New South Wales regime was tested in the High Court, and the strength of that regime in New South Wales was validated by the High Court. That is a very positive development and something that other jurisdictions should be able to rely upon in setting their own frameworks, because as a state we do not want to be in a situation where we are seen as having a weaker regime to tackle criminal organisations and therefore become an attractive destination for criminal activity. Where other jurisdictions strengthen their laws, we need to move in parallel to ensure that we have a similarly strong regime. That is where the coalition has some concerns with the legislation that is before the house today. We express concern about the way in which it has been framed and in particular some of the exemptions that apply and indeed even a comparison with the provisions of the Summary Offences Act 1966, which this legislation will seek to repeal.

The main provisions of the bill insert new provisions in the Criminal Organisations Control Act 2012, which was a piece of legislation introduced by the coalition government. New section 124A creates a new offence of unlawful association when an individual is served with a notice in relation to their engagement or association with another person named in the notice,

and the offence is where those persons so named in that notice associate on three or more occasions in a 3-month period, or six or more occasions in a 12-month period. The regime then creates a framework by which Victoria Police can issue those unlawful association notices, vesting that power in senior police officers to issue the notices where they reasonably believe that an individual has associated with a convicted offender and that an offence is likely to be prevented if those individuals are not associating. There has to be a reasonable belief on the part of the senior officer seeking to issue the unlawful association notice that deterring that association will prevent criminal activity.

However, the bill also includes in proposed section 124A a series of very broad exemptions to the regime in which the unlawful association notice has no effect. These are set out in proposed section 124A(4). Subsection (1) creates the offence of associating in breach of an unlawful association notice, but it then states that in a number of circumstances a notice will not apply or have effect — that is, it will not be an offence to associate in the following circumstances. These include:

> in the course of lawful employment or the lawful operation of a business; —

I note it says lawful operation of a business, not the operation of a lawful business —

> … in the course of participating in education or vocational training;
>
> … while either or both of them —

the parties —

> are being provided a health service;
>
> … while either or both of them are being provided legal advice;
>
> … while in lawful custody …

and, most significantly —

> (f) for genuine political purposes, or in lawful protest or industrial action;

That is an incredibly broad provision which allows parties who would otherwise be subject to the unlawful associations provision to get around that regime. Political activity, lawful protest or industrial action is remarkably broad. You only need to look at some of the activity which has been disclosed in the Royal Commission into Trade Union Governance and Corruption and some of the activity that has been occurring with the Construction, Forestry, Mining and Energy Union here in Victoria — which was strongly opposed by the previous government but which has been given a free pass by this government — to be concerned about the breadth of that provision in particular.

Even the exemptions of participating in education or training, in the operation of a business or while both parties are being provided legal advice give enormous scope for the regime to be effectively avoided. The coalition is concerned about the breadth of those exemptions and notes the difference in those exemptions from the regime that exists in New South Wales. The Victorian exemptions are substantially broader than those that apply in New South Wales.

Likewise, we are concerned about the number of associations — three in 3 months and six in 12 months — that are required for an offence to be triggered and note that that is a higher number of associations between the two parties than is required under the New South Wales regime to trigger an offence. It is easier to continue to have contact between two parties under this regime in Victoria than in the regime that applies in New South Wales. That goes to the key issue that I started with — that is, if we are seen as having a weaker framework than New South Wales and Queensland, Victoria will become the destination of choice for the type of criminal activity we are seeking to avoid.

The other key provision of the bill is the repeal of section 49F of the Summary Offences Act 1966. It is an existing but little used provision. It provides:

> (1) A person must not, without reasonable excuse, habitually consort with a person who has been found guilty of, or who is reasonably suspected of having committed, an organised crime offence.
>
> (2) The accused bears the burden of proving reasonable excuse for habitual consorting to which a charge of an offence against subsection (1) relates.

The act then goes on to define 'organised crime offence'. In the existing regime, which I understand has had little use in the Summary Offences Act, the scope of the offence is quite clear.

The exemptions being introduced with this legislation do not exist in the existing regime, which also lacks the complexity of the framework around the operation of the unlawful association regime. The burden of proof in determining that there was a reasonable excuse for the association falls on the parties that are accused under the current legislation, which will not be the case under the unlawful associations provision.

The coalition strongly supports the improvement of our statute to deal with the issue of criminal organisations and outlaw motorcycle gangs, but we are concerned

that this legislation falls short of what currently exists in New South Wales and may leave Victoria with a regime that is seen as preferable by criminal organisations and outlaw motorcycle gangs to that in New South Wales and therefore may leave Victoria vulnerable to being a destination of choice for this type of activity. The coalition government had a strong record of improving the statute in respect of criminal organisations, recognising their mobility and the increasing sophistication of their operations. We are disappointed that this piece of legislation does not continue that trend by ensuring that we have a regime as strong as that in New South Wales and Queensland, which would have a deterrent effect against the continued growth and transfer of that criminal activity from other states to Victoria.

Ms PENNICUIK (Southern Metropolitan) — The Greens will not be supporting the Criminal Organisations Control Amendment (Unlawful Associations) Bill 2015, as was flagged by my colleague Mr Hibbins, the member for Prahran in the Assembly, when he spoke on the bill the other week. The bill will amend the Summary Offences Act 1966 to repeal the longstanding existing offence of consorting and will also amend the Criminal Organisations Control Act 2012 to insert a new offence of unlawful association. I take this opportunity to remind the house that the Greens did not support the 2012 act or the amendments that were made to it in 2014. Similarly we will not be supporting this bill.

It is worth noting what the current offence of consorting under the Summary Offences Act 1966 is and also pointing out that that offence is in the Summary Offences Act 1966 and not in the Crimes Act 1958. Under the Summary Offences Act 1966:

> A person must not, without reasonable excuse, habitually consort with a person who has been found guilty of, or who is reasonably suspected of having committed, an organised crime offence.

This has a penalty of two years imprisonment. The accused bears the burden of proving a reasonable excuse for habitual consorting to which a charge of an offence against the first subsection relates. The act continues:

> … In this section —
>
> ***organised crime offence*** means an indictable offence against the law of Victoria, irrespective of when the offence was or is suspected to have been committed, that is punishable by level 5 imprisonment (10 years maximum) or more and that —
>
> (a) involves 2 or more offenders; and
>
> (b) involves substantial planning and organisation; and
>
> (c) forms part of systemic and continuing criminal activity; and
>
> (d) has a purpose of obtaining profit, gain, power or influence.

The reason that has been given to us for repealing this offence is that somehow it is not good enough. This is the first I have heard of it not being good enough, and I have been in here for nine years. Not only that, I have only heard it asserted; I have had no evidence presented to me that there is any problem with this longstanding offence.

Changes introduced by this bill, as I said, will amend the Criminal Organisations Control Act to include a new purpose, which is to prohibit individuals associating with individuals convicted of serious criminal offences for the purpose of preventing the commission of offences. That is what we already have under the Summary Offences Act 1966, so I am mystified as to how the new provision — and I will get to that later in my contribution — will improve upon the existing provision.

This bill creates a new offence under the Criminal Organisations Control Act 2012 of unlawful association, such that an individual who has been served with an unlawful association notice by the police must not associate with an individual specified in that notice on three or more occasions within a 3-month period or on six or more occasions within a 12-month period. This is an offence that is indictable, triable summarily, and the penalty is three years imprisonment or 360 penalty units, or $54 600, if convicted, or both. This is a very high penalty for the commission of no crime, except for associating with someone, and with no requirement for evidence that that association was for a nefarious purpose.

There are exceptions under clause 5 in that it is not an offence if the unlawful association of individuals involves family members and those individuals associate for a purpose that is not an ulterior purpose. An ‘ulterior purpose’ is defined as the purpose of planning, inciting or committing an offence or expanding an organised criminal group or network. However, it falls upon the family members who may or may not have been convicted of any crime — certainly not convicted of an indictable offence under the definition in the bill — to prove that they were not associating with their family member for an ulterior or nefarious purpose. That is one key problem with this bill. It will — and it has already in New South

Wales — capture innocent people who are guilty of nothing. They can be captured and caught up in this regime that has been put in place already in New South Wales and South Australia. It was put in place in New South Wales in 2012 and in South Australia earlier this year. The Greens did not support either of those bills.

Other exceptions to the offence of unlawful association include lawful employment, education, provision of a health service, legal advice, for genuine political purposes or lawful protest or industrial action. Again it falls upon persons who may be caught up in this situation to account for their actions.

Going back to the stipulation about three or more occasions in three months or six or more occasions within a 12-month period, one wonders how that provision is going to be administered, enforced or monitored and how that is an improvement on the existing offence under the Summary Offences Act 1966. In terms of the three or more occasions or the six or more occasions, it could be that two persons may in fact be consorting for nefarious purposes, but it might only take them one or two occasions to carry out their nefarious purpose. However, they will not be caught up by this provision, and it cannot be enforced until they have met on three occasions within three months and been well monitored.

The minister says that while there is a higher threshold in the current consorting laws than the level of offending required to trigger the new unlawful association laws, the current offence provides no clarity on how many meetings constitute habitual consorting and does not provide a mechanism for the issue of a formal warning as a precondition to the commission of an offence. It may not, under the provisions of the Summary Offences Act 1966 as it stands now, provide a mechanism under the act, but the police always have the discretion to issue a warning. The minister goes on to say:

> The current offence does not exclude legitimate forms of associations; instead it provides that a person accused of consorting must provide a 'reasonable excuse' for the meetings.

Under the Summary Offences Act 1966 as it now stands the police need to do some work and collect some evidence before they can bring the matter to a court, as they have to present to a court that there are issues arising from the association or consorting.

An exemption can be applied for the chief commissioner to attend a gathering or event. Any rejection of this application is reviewable, but it is reviewable by another police officer, so it is not an independent review of that decision by the police. Unlawful association notices will be issued by a senior police officer to an individual who is 18 years or older if the officer reasonably believes that the individual has at least on one occasion associated with an individual convicted of an applicable offence tried on indictment and reasonably believes that the commission of an offence is likely to be prevented if those individuals are prevented from associating with each other. But none of this can be tested in court.

Just on the reasonable belief of a police officer, a person can be issued with an unlawful association notice, a ticket, and then they will be on notice not to associate with that person three or more times within three months or six or more times within a year.

I draw the attention of the chamber to a problem the Greens have been alerted to with clause 5, which inserts new part 5A in the principal act. It is that the government should consider amending the wording of new section 124D(1) inserted by this clause to make it clear. It needs to change the phrase 'in respect of' to 'to' so that it reads 'A senior police officer may issue a notice to an individual who is 18 years old or older' rather than 'in respect of an individual'. The current wording makes that provision unclear.

The duration of unlawful association notices will be three years. As I mentioned, an individual who receives an unlawful association notice can apply to the chief commissioner for an internal review of the decision, and a new senior police officer will be appointed to review the decision. That review is not independent of the police, and that is a concern.

The new unlawful association laws are based on the New South Wales model, which as I mentioned, the New South Wales Greens also opposed. There have been problems with the New South Wales model, including Aboriginal persons being disproportionately issued with warning notices. While the amendments in the bill are an improvement on the New South Wales model — contrary to what Gordon Rich-Phillips was saying, which was that they make the model worse. That is probably because we have a charter of human rights and responsibilities, so the drafter of the bill would have to at least take notice of that charter in the drafting.

Ms Patten — Not much.

Ms PENNICUIK — That is right. Ms Patten said, 'Not much'. The drafter of the bill would at least have to do so if there has been a statement of compatibility. I do not heap as much praise on that one as I did on the

bill debated this morning in terms of its comprehensibility. That is because this bill fundamentally attacks human rights — people being free to associate and to only come before courts of law when they have been convicted of an offence.

It is not clear how these reforms are of assistance in combating crime when laws already exist to do that. Under the Crimes Act 1958 it is already an offence to attempt a crime or to conspire to commit a crime. Police can avail themselves of these powers to gather evidence, charge persons and bring them before a court. There has been no evidence presented by the government of the need to change the laws in this regard.

Under the previous bills in 2012 and 2014 police powers were significantly increased to deal with — or supposedly to deal with — organised crime, despite the laws that already exist to deal with those crimes. It is already a crime to attempt to commit an offence, it is already a crime to consort or work with others to plan a crime, it is already an offence to deal in drugs and it is already an offence to commit all the offences that apparently this law will make it easier to deal with. The Greens have not been presented with any evidence that the current statutes cannot deal with these offences.

Nevertheless, in 2012 and 2014 the Criminal Organisations Control Bill 2012 and the Criminal Organisations Control and Other Acts Amendment Bill 2014 were debated, and I spent a lot of time in Parliament pointing out the issues pertaining to the bill when it was proposed and in the act that came into being. We were told that we needed these powers to specifically target organised criminal gangs. I note that there was no mention then of consorting laws being a problem.

As far as I know, no organisation and no individual has been declared under the Criminal Organisations Control Act, so those particular provisions in the act brought in in 2012, which were increased and made even more draconian in 2014, have not actually been used. The provisions have not been used here, and where they have been used, in Queensland just recently, they were thrown out of court because the police fronted up and said they had no evidence against the persons charged. In fact the only time the provisions have been tested, they have not worked. If the police believe that contact between two people will involve committing an offence, then they already have conspiracy and attempt laws under the Crimes Act 1958 to deal with such contact.

The Law Institute of Victoria says that the criticisms of the New South Wales legislation apply equally to the proposed amendments in this bill and that if the police cannot make out the level of criminality sufficient to find liability for conspiracy or attempt, they should not be able to use the charge of consorting as a backup offence to ensure that people whom they suspect of being involved in criminal activity are charged and convicted. If the offence is used in this way, it becomes little more than a means of evading the proper procedural guarantees that are given to the accused at criminal law. These types of anti-association laws create offences based on who you know and not what you have done.

Just like the New South Wales Greens in relation to the introduction of the laws there, we are concerned that people with no criminal history who have not done anything wrong and may have no criminal knowledge or intent may receive a warning from police not to associate with anyone. Family members should not have to prove that there is no ulterior purpose in associating with a family member with the applicable criminal history under this bill — for example, someone's father, mother, daughter or son. Of course there are crime families, but we still believe the current statutes are able to deal with those.

The restrictions on freedom of association and movement under this bill are a concern. In the statement of compatibility the minister said that to curb these concerns a senior police officer can only issue a notice if they reasonably believe it will prevent the commission of further offences and that the individual receiving the notice can seek an internal review. However, this is not an independent review, and to protect people's human rights judicial oversight is always the preference of the Greens.

There is no judicial oversight of this aspect in the bill. While there is a court process involved, it only happens at a later stage after the person has been charged with unlawful association. In addition, the decision to issue a notice telling a person they cannot associate with another is entirely at the discretion of police, and that involves a major restriction on a person's freedom of association and gives the police a lot of power. There is a review provision contained in clause 8 that states:

> The Attorney-General must cause a review to be undertaken of the operation and effectiveness of this act during the report period.

The report period is until the act has been in operation for three years. It is different to the provision in New South Wales, where the review will be carried out by the Ombudsman. That provision also has more detail

about what is required, as well as the review being required to be tabled in both houses of Parliament. In that respect the New South Wales law is superior.

In his press releases and elsewhere the minister mentioned that we need to change the law because organised criminals are becoming more sophisticated and are using social media and operating online. On 31 August an article in the *Herald Sun* quoted him as saying:

> Crime gangs are becoming more sophisticated, particularly in terms of recruiting new members online and on social media —

and that therefore we need —

> … modern consorting provisions that keep up with the sophisticated forms of organised crime facing us in 2015.

I find that statement quite mystifying because I do not understand how the current laws fail to deal with this issue. The current laws are broad enough to deal with it, and I do not understand how issuing a ticket to somebody for associating is a sophisticated way of dealing with this issue. The police should be more sophisticated in concentrating their efforts on gathering the evidence they need to charge someone and bring them before a court. The article also stated:

> The new laws will also give new powers to the elite Echo task force, which has already ramped up its crackdown on outlaw motorcycle gangs …
>
> The group has conducted several raids which have uncovered a trove of guns, bullets, exotic weapons, drugs and hundreds of thousands of dollars cash inside clubhouses or associates properties.

If that is what is happening, that seems to be evidence that the current laws on the statute books are actually working and that we do not need to change them. We should not be changing these types of laws when they are already working and we have not been presented with any evidence for the need to do so.

As I mentioned, we opposed the Criminal Organisations Control Bill 2012, arguing that the police already have the powers needed under criminal law to deal with criminal organisations and that we were concerned about possible breaches of human rights. The Law Institute of Victoria and Liberty Victoria were of the same view. I tried then to refer the bill to the Legal and Social Issues Legislation Committee for an inquiry, and I also sought for that bill to be delayed until the High Court decision was handed down. That bill enabled the identifying of individuals and organisations as declared individuals or declared organisations, and it has never been used.

In 2014 amendments to this legislation included making more offences subject to a declaration, placing more restrictions on members of organisations, making changes in the standard of proof and introducing restrictive declarations. These amendments meant that the act would apply to a wider range of offences at a lower level that can trigger the making of a declaration against an individual or organisation. Prohibitive declarations and restrictive declarations were introduced, and many other changes were made. The Greens opposed these reforms and also attempted to have the bill referred to the Legal and Social Issues Legislation Committee, as I said. The previous government refused the referral of any of its own bills to those committees for review.

The Greens did support, however, the Fortification Removal Bill 2013, which provided the Magistrates Court, on application by the Chief Commissioner of Police, with the power to make an order to require the removal or modification of fortifications on premises that are connected to certain criminal offences. We supported that bill, although I did attempt to amend one clause of it.

It is worth repeating, as I did in 2012, 2013 and 2014, that the Greens support the police and the courts in dealing with organised criminals, organised crime and crime of all sorts. In order to do that the police and the courts need to be properly resourced, and we need proper legislation. We believe that we already have sufficient laws on the statute book. In fact prior to 2012 we had sufficient laws on the statute book to deal with organised crime. We already had in place such mechanisms as the chief examiner, who deals with organised crime issues; we had task forces in the police to do with organised crime; and we have offences under the Summary Offences Act 1966 and the Crimes Act 1958 to deal with these issues.

In relation to the bill, offences of conspiracy to commit an offence or an attempt to commit an indictable offence exist under the Crimes Act. All of these offences have been strengthened beyond what was required in our view in 2012, 2013 and 2014. They have already been strengthened too much. We do not need anything more than the powers that already exist in section 321M in the Crimes Act which states:

> A person who attempts to commit an indictable offence is guilty of the indictable offence of attempting to commit that offence.

Section 321(1) states:

> … if a person agrees with any other person or persons that a course of conduct shall be pursued which will involve the commission of an offence by one or more of the parties to the

> agreement, he is guilty of the indictable offence of conspiracy to commit that offence.

These are pretty clear provisions that already exist on the statute book.

Under the bail and parole laws, courts can impose conditions such as curfews, restrictions on where a person can go and conditions not to have contact with certain persons, as can parole conditions made by the Adult Parole Board of Victoria. We have more than enough laws and we need to use them and make sure that the evidence is collected to ensure that prosecution is successful. Just using a system of notices is not enough.

The Greens opposed the laws introduced in South Australia and New South Wales. Mark Parnell, who is a Greens member in the upper house in South Australia said the legislation:

> … sets a very bad precedent for how this state deals with legal issues. The irony of this bill being passed on the 800th anniversary of the signing of the Magna Carta is not lost on many people.

This is the anniversary of the year the Magna Carta was signed, which was obviously a first step in establishing rights for people. This is not the time to be introducing laws that take away those rights. Mr Parnell continued:

> I think that this legislation is a low point in South Australia's legislative history. To just remind members, this bill and the methods it uses has been roundly condemned by every legal organisation in this state and every group concerned with human rights and civil liberties. It is not to say that the people who are opposing this bill are friends of bikies — I know we are not. We want our communities to be safe and we want the police to have appropriate powers to detect and prosecute crime. The fact is that this legislation goes a step too far … it captures people who are innocent and do not deserve to be captured, and it infringes on strongly held … legal principles.

We feel the same about the legislation before us today. Bill Potts, a criminal lawyer, has said that anti-consorting laws in Queensland have proved ineffective on gangs' operations. Just recently a case was dismissed against bikies known as the 'ice-cream bikies', who were arrested while buying ice-cream. The dismissal in Southport Magistrates Court of the charges against the five alleged bikies, who were arrested under anti-association laws after they bought ice-cream during a Gold Coast holiday in January 2014, came as the prosecution revealed that it had no evidence against any of the accused. That was the first outing of those laws in Queensland. We should not be going down a similar path in Victoria when we already have a perfectly fine consorting law in the Summary Offences Act 1966.

Part of the media interest around this relates to drug crimes. The Greens are certainly concerned about the rise of drug use in the community, but leading drug experts also say that there is too much emphasis on law and order when it comes to tackling the country's ice problem, for example. Eminent public health campaigner David Penington and Victoria's Drug Court magistrate Tony Parsons have renewed calls for an approach that focuses equally on treatment and prevention while also understanding the need to deal with supply.

These laws are directed at who you mix with and not the purpose of the mixing. Associate Professor Steel from the University of New South Wales said:

> In a modern-day society there should not be an offence of speaking to anybody unless the nature of a conversation is a conspiracy.

David Shoebridge, a Greens MP in New South Wales, said:

> … Parliament should not … criminalise the simple fact of speaking or texting to people who have previously been convicted of an indictable offence.

Concerned innocent people could be caught up in these new laws and concerned family members have to prove that interactions with those with an indictable offence background are reasonable. As with other tranches of laws that have come through the Parliament over the last three years and are unnecessary additions to our statute book, the Greens will not be supporting this bill.

Ms PATTEN (Northern Metropolitan) — I am pleased to speak in the debate on the Criminal Organisations Control Amendment (Unlawful Associations) Bill 2015. The stated aim of this bill is to prohibit individuals associating with individuals convicted of serious criminal offences for the purposes of preventing the commission of offences. It will create an unlawful association notice and an indictment notice for breaching that notice. The explanatory memorandum refers to the purpose as being appropriately targeted at disrupting criminal networks.

I think preventing two people from associating with each other is a very novel method of doing this: one must have been convicted of an applicable offence but the other, who is given the notice, does not have to have committed any crime whatsoever or done anything wrong. The bill allows for exceptions for family, employment, education, health et cetera, as previous speakers have mentioned. It also requires that the convicted offender be convicted of an applicable offence which is also indictable, and that has raised the

bar so that it is not someone who has been convicted in the Magistrates Court.

I think this is completely illogical. It is an arbitrary control of relationships — the enforcement of which is questionable. The way the bill is written is vague at best and incredibly discriminatory at worst. I am not proposing any amendments to the bill. I think it is based on a fundamental lack of logic. The logic of this bill is that we are attempting to stop people talking to convicted criminals through this instrument, but, if they do, we are going to send them to prison where it is more than likely that they are going to be speaking to criminals.

These types of laws are not new of course. In my reading on this topic I saw that Chief Justice French noted in a recent case in New South Wales that laws like this — those directed at inchoate criminality — date back to the 14th century. An early example is a statute that was enacted around that time that deemed a person found in the company of gypsies for over the course of a month to be a felon. We have moved on from gypsies; we are now onto Gypsy Jokers.

Consorting offences throughout history have had one consistent feature, and that is that they are about targeting activity that is not criminal. They are also about targeting specific people who we as a society do not like. At the moment it is motorcycle gangs, but earlier it was gypsies, and it will be someone else as time goes on. This legislation is so broad that it could affect anyone and everyone.

As Ms Pennicuik and Mr Rich-Phillips mentioned, there is similar legislation in other jurisdictions, and it has been proven not to work. The Queensland laws are still in review. We have all heard about the ice-cream-eating bikers who were jailed for three weeks. The police admitted they had absolutely no evidence, and it cost the state $500 000 to pull over some bikers who were hanging out together eating ice-cream. This is what this sort of law results in.

In New South Wales there was the case of Charlie Foster. He was 21 and had an intellectual disability, and he thought he was out shopping with some friends when he was pulled up for consorting. The magistrate did not want to send this poor intellectually disabled kid to jail, but the legislation provided him with no alternative to imposing a term of imprisonment. The beautiful irony is that when Mr Foster was in jail in Tamworth he shared a cell with one of the persons he had been sent to jail for associating with. In the end Mr Foster was released because his appeal was upheld and the prosecutors knew it was a ridiculous result. Having said that, the High Court has upheld the legislation.

This legislation has some real legal issues. There is no court appraisal under the legislation, so when police serve a notice and create this restriction of association there is no court supervision in any way. It is entirely in the hands of the police. It is also in the hands of the police if someone breaches a notice. The bill gives police incredible powers to restrict citizens who do not have criminal records and then puts them at risk of criminal prosecution as a result of these notices. It is an extraordinary conflict of interest.

At the very least the police should be required to make an argument to a court on a case-by-case basis as to why an order is needed and to demonstrate how the preconditions listed in the legislation are met — that is, they should demonstrate how an offence is likely to be prevented if the individuals are prevented from associating with each other. But the legislation does not do that.

An affected person should have the right to appeal a decision or have the opportunity to challenge the making of an order. When someone is handed an association notice they should have the opportunity to ask for a proper review or have some form of appeal process with an independent body, but there is no course of appeal in this bill. There is no mechanism, except an internal one. The bill allows a person to appeal to the police commissioner if they do not agree with a notice. That has to be done within 28 days, with no extension of time. If you do not get in contact with the police commissioner within those 28 days, your right to appeal is completely extinguished. You have absolutely no right after that.

We are not even sure what the government is trying to prevent with this. The precondition for the serving of a notice by a senior police officer is a belief on reasonable grounds that the commission of an offence is likely to be prevented if these individuals are prevented from associating with each other. That is incredibly vague. When you are talking about sending someone to jail over these conditions, it is dangerous to have such vagueness in legislation.

Police Association Victoria spoke to me about this, and even it is concerned about it. The police association is very concerned about this bill because it is not sure what evidence is required to show the commission of an offence is likely to be prevented if these people are stopped from associating. It does not know how to satisfy the test. I agree, I do not know either. The police association also questioned why it is not an offence

unless you associate more than three times in 6 months or six times in 12 months. Again, it said that this does not make any sense — you are trying to prevent a crime from being committed but will allow these people to associate anyway just a few times? The police are saying that the law is unworkable and unenforceable.

This raises another issue. We do not have to go through the current consorting provisions in the Summary Offences Act 1966 as Ms Pennicuik has already done, but what about conspiracy in the Crimes Act 1958? If the accused and at least one other person entered into an agreement to pursue a criminal offence, it is conspiracy. If the parties intended to form an agreement and the parties intended that the principal offence would be committed, it is conspiracy. We already have provisions to cover that within the current legislation.

What about attempt? The accused intended to commit an indictable offence and the accused attempted to commit that offence — these would be grounds for issuing one of these notices, but we already have grounds for a conviction and to charge them. Further crimes such as aiding, abetting, being complicit in the commission of a crime or an offence all allow police, after some analysis and some investigation, to prevent the commission of an offence based on fact. If the police must establish that the commission of an offence is likely to be prevented if these individuals are prevented from associating with each other, they would have enough evidence for conspiracy or contempt.

The bill continues in its vagueness in describing what conduct it is going to prohibit and what conduct is unacceptable. It may expose somebody who has no criminal conviction and no criminal history to being criminally prosecuted. The term 'associate' is defined within the act as meaning in company with or to communicate with by any means, including electronically. To be in company with is incredibly broad. Does it mean to be on the same bus, to be on the same plane, to be in the same pub or to be at the same football oval? If people are being exposed to prosecution for criminal offences, we need much greater precision and certainty in describing conduct. What if they are in the same Facebook group? What if they like the same football team on Facebook? Are we going to have police trawling through Facebook, trawling through Twitter and trawling through Instagram to monitor these association notices?

The bill claims that the laws are directed at motorcycle gangs, but the applicable offences are extremely broad and they are not necessarily crimes you would imagine just someone from a motorcycle gang committing. The offences are so wide that I think this bill will have unintended consequences, and it could and will be very easily used by police for a whole range of reasons — —

Ms Pennicuik — And has been.

Ms PATTEN — And has been, as Ms Pennicuik says.

The research around the cycle of disadvantage tells us that imprisoning someone perpetuates that cycle. The young and vulnerable are targets for recruiters. This legislation just makes it even easier. A lawyer, Bill Doogue, has said:

> Consorting laws are, in effect, the criminalisation of relationships. They are used by the police to control people who they believe to be likely to fall into criminal behaviour … Overpolicing creates more offending and the people that are targeted are the people police don't like. It becomes a vicious cycle.

The government seems very proud that this legislation will only apply to those aged over 18, so no minors can get caught up in it. I can tell members now that we are going to see a whole lot of 16-year-olds acting as go-betweens for motorcycle gangs — unless, that is, these criminals decide to adhere to this legislation and conclude, 'Oh, right, we can't associate. I'll stop selling drugs and I'll move on to find an occupation without crime'.

This is going to cost a huge amount to monitor. I do not see how it is going to reduce crime in any way. Katie Miller, president of the Law Institute of Victoria, said:

> Police time would be better spent using their extensive powers to investigate crimes based on past conduct, including planning, conspiracy or attempt to commit crimes.

She said the law creates offences based on who the accused knows, not what the accused has done. Hugh de Kretser from the Human Rights Law Centre said:

> Instead of criminalising who people spend time with, the government and police should be focused on investigating and prosecuting actual crimes.

That sounds like common sense. This piece of legislation is not common sense. In fact it is fundamentally illogical that in order to stop an individual associating with criminals, the government is going to throw them into jail with criminals.

In addition to that there is this magic number of times individuals can meet before the risk of criminal activity is too great. The legislation says people can associate on up to three occasions in 3 months or six occasions in 12 months and somehow they will not conspire to commit a crime. This underlines the fact that this is bad

legislation. If a person is likely to fall into crime just by being in another person's presence, surely we should simply say, 'You can't be in that person's presence full stop'. To say, 'You can be together three times. When you get to the fourth date, that's when all the action happens', is nonsense.

I have an idea. If we really want to stop motorcycle gangs and organised crime, we should legalise drugs. That is what these organisations are predicated on. That would cut their financial legs and topple their empires entirely. We would not have to waste our time and resources on this utterly pointless and unworkable piece of legislation — —

Mr Dalidakis — Or this speech.

Ms PATTEN — I thank Mr Dalidakis. I am also concerned that while we are one of the few states in Australia that has a Charter of Human Rights and Responsibilities — —

Ms Shing — Did you read the statement of compatibility?

Ms PATTEN — I did read the statement of compatibility, and I like how it manages to sidestep almost everything by saying, 'It might actually be in breach. However, we think there's a good reason for it'. This legislation is clearly in breach. There is the fact that you have no right to appeal. There is the fact that you are now impinging on the rights and freedoms of people who have not had any convictions. They are not criminals — they have done nothing wrong. We might as well forget the Charter of Human Rights and Responsibilities if we are going to allow legislation like this through. It is in complete breach of the freedoms of this — —

Ms Shing — Are you going on the record saying we should forget the charter of human rights?

Ms PATTEN — I am saying that if we are going to introduce legislation like this, we clearly have no respect for the Charter of Human Rights and Responsibilities, which I personally have a lot of respect for, which is why I am not supporting this bill.

It does not address the key issues. It avoids responsibility. It will waste time and resources. The police do not like it. We could be spending these resources actually dealing with crime. It will target the disadvantaged and vulnerable, set them up to fall into cycles of criminal offending and create an industry of recruitment. I could say it is a prophylactic to try to prevent crime, but it is full of holes. It is not safe.

Ms SHING (Eastern Victoria) — It is with considerable optimism at the notion of brevity that I rise tonight to make my contribution to the debate on the Criminal Organisations Control Amendment (Unlawful Associations) Bill 2015. I note from the contributions that we have heard in the chamber this afternoon that the coalition supports the bill, building as it does on the criminal organisations control legislation in 2012, which was then the subject of amendment in 2014. I note also, to pick up on the position adopted by Ms Patten in her contribution, that the statement of compatibility might as well not have operated in respect of this bill. To paraphrase her contribution just now, that is because it ostensibly achieves nothing by way of an appropriate balance between rights and freedoms on the one hand and measures for effecting policy imperatives on the other.

Ms Patten — I could not have said it better myself.

Ms SHING — I note that Ms Patten has indicated that she could not in fact have said it better herself. I want to place that on the record, so I am not later accused of verballing her, which I would hate to do in this context.

I note that for the sake of completeness the statement of compatibility is an exhaustive document which goes through the balancing of the competing interests that are at the heart of making sure that we have an outcome that fixes, as part of an overall schema, the way in which criminal networks, including outlaw motorcycle gangs, operate and, as part of a broader suite of initiatives, counteracts organised crime and counteracts, for example, the spread of illicit drugs as part of trade routes and gang activity. This bill does what is necessary to give effect to the anti-consorting laws to enable police to disrupt outlaw motorcycle gangs and other criminal networks. These laws are similar to the anti-consorting laws recently introduced in New South Wales and South Australia. They also build upon the robust nature in which these notices can be issued. The bill comes about as a consequence of close work with Victoria Police to boost powers to better combat criminal gangs.

The new laws allow Victoria Police to warn a person not to associate with another person who has previously been convicted of a serious offence if the police officer believes the issuing of a notice will prevent further offending. That is an exercise of discretion; however, it must be a reasonable belief. To that end there are safeguards built in which perhaps Ms Patten might find some comfort in. I note also that there are avenues for appeal in the event that a notice is issued and is later

challenged by someone who is the subject of such a notice.

In closing I recommend this bill to the house. I note that it achieves a significant amount, which is supported by the coalition; that it delivers on an election commitment; that it is consistent with legislation in other jurisdictions that has separately been subjected to challenge to the High Court; and that it appropriately, reasonably and proportionately — as per the statement of compatibility — addresses a policy challenge as part of maintaining community safety, reducing the incidence of drug-related crime and the spread of illicit substances among people who can ill afford to develop dependencies. We have seen that through ice; we have seen that in the way in which crystal methamphetamine and other substances are made available to market. I commend the bill to the house.

Mr HERBERT (Minister for Training and Skills) — I cannot tell you how delighted I am to summarise the debate on this bill and wish it a speedy passage through the chamber. I want to make some brief comments. There has been a lot of talk about human rights and the need for this bill, or the lack of need for this bill, and I respect that there are a whole range of different viewpoints. Legislation is of course a balancing act, and we think we have got the balance right.

There is no conspiracy to bring in harsh conditions around the country. The reason that state government after state government is bringing in similar laws is to try to protect the citizens they are duty bound, through legislation and within our democracy, to protect. No-one wants to bring in laws simply because they are going to make life harder, and that is true in Queensland, New South Wales, South Australia and Victoria. It is just not on. Whilst there are slight differences in the manner in which these laws are enacted across those states, we believe we have got the balance right in terms of our laws being similar to those of New South Wales but with greater protections.

There was a bit of talk about the charter of human rights. I recall Ms Pennicuik's earlier comments on the statement of compatibility in relation to the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Bill 2015. I actually took note of what she said in the debate on that piece of legislation, and I read the statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006 for this bill. If members had read it, they would see that human rights are certainly protected.

There are safeguards in this bill that some people think are frankly too strong. We are dealing with some pretty heinous people here. We are not talking about the bikie clubs that ride to Trentham every Sunday. I sometimes have a beer with them in the beer garden of the Cosmopolitan Hotel. They are good people having a good day out, drinking the odd coffee. No — we are talking about outlaw bikie gangs, which are among the biggest producers of methamphetamines in this country. They are involved in all sorts of serious crimes, and we have to arm the police with the tools they need to stop these criminal activities.

I commend the bill to the house.

House divided on motion:

Ayes, 30

Bath, Ms (*Teller*)	Melhem, Mr (*Teller*)
Bourman, Mr	Mikakos, Ms
Carling-Jenkins, Dr	Morris, Mr
Crozier, Ms	Mulino, Mr
Dalidakis, Mr	O'Donohue, Mr
Dalla-Riva, Mr	Peulich, Mrs
Davis, Mr	Pulford, Ms
Eideh, Mr	Purcell, Mr
Elasmar, Mr	Ramsay, Mr
Finn, Mr	Rich-Phillips, Mr
Fitzherbert, Ms	Shing, Ms
Herbert, Mr	Symes, Ms
Jennings, Mr	Tierney, Ms
Leane, Mr	Wooldridge, Ms
Lovell, Ms	Young, Mr

Noes, 7

Atkinson, Mr	Patten, Ms (*Teller*)
Barber, Mr	Pennicuik, Ms
Dunn, Ms	Springle, Ms
Hartland, Ms (*Teller*)	

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

NATIONAL PARKS AMENDMENT (NO 99 YEAR LEASES) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr JENNINGS (Special Minister of State); by leave, ordered to be read second time forthwith.

Statement of compatibility

Mr JENNINGS (Special Minister of State) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter), I make this statement of compatibility with respect to the National Parks Amendment (No 99 Year Leases) Bill 2015.

In my opinion, the National Parks Amendment (No 99 Year Leases) Bill 2015 (the bill), as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will amend the National Parks Act 1975 (the act) to:

(a) reduce the maximum term of a lease that may be granted for certain areas of land under the act from 99 years to 21 years; and

(b) reduce the maximum term of a lease that may be granted for specific areas of land in the Point Nepean National Park, the Mount Buffalo National Park and the Arthurs Seat State Park from 99 years to 50 years; and

(c) make other miscellaneous amendments that are consequential to the above amendments or are administrative in nature.

Human rights issues

There are no charter rights relevant to the bill.

The bill will not impact on any existing leases granted under the act and therefore it will not engage section 20 (property rights) of the charter.

Hon. Gavin Jennings
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

Mr JENNINGS (Special Minister of State) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The National Parks Amendment (No 99 Year Leases) Bill 2015 will amend the National Parks Act 1975 to implement the government's election commitments to 'remove the government's ability to grant 99-year leases' and to 'not allow large-scale development in our national parks'.

In particular, the bill will:

(a) reduce the maximum term for a lease that may be granted under the general leasing power from 99 years to 21 years; and

(b) reduce the maximum term for a lease that may be granted in respect of specific areas of land in Point Nepean and Mount Buffalo national parks and Arthurs Seat State Park from 99 years to 50 years.

Protecting our most precious areas of public land

Labor is proud of its role in the process of establishing the state's system of national, state, wilderness, marine, coastal and other parks under the National Parks Act — a system built up over many years by governments of both persuasions and mostly with bipartisan support.

Our national and other parks aim to be representative of the diverse natural environments occurring on public land as well as providing protection of significant natural and cultural features and scenic landscapes. The parks attract a broad range of visitors and are critical to the social and economic wellbeing of our community, as well as the environment.

Victoria's national parks, which cover only a relatively small proportion of the state, are special places that include significant parts of our natural and cultural heritage. They need to be protected and sustainably managed for this and future generations. The Andrews Labor government is committed to doing just that by putting their care and protection back on the agenda.

Previous coalition governments have tried to exploit our national parks for commercial gain, such as the major tourism development proposed for Tidal River in Wilsons Promontory National Park in 1996 and the introduction of 99-year leases in 2013. National parks are not about large-scale developments nor should they be subject to the spectre of 99-year leases effectively providing rights akin to freehold over some of our most precious Crown land. As a community we have an important responsibility to ensure that we do not compromise the very values and qualities of national parks that led to their protection in the first place and which provide the basis for their enjoyment by many visitors.

The bill before the house will ensure that protection of our national parks is again at the forefront of decisions regarding their management and that the risk of damage from new large-scale development is no longer a threat. The government is committed to protecting these precious places. This includes ensuring that they remain accessible to all and that they are managed in line with community expectations.

The 2013 amendments to the National Parks Act to provide for leases of up to 99 years were not consistent with either community expectations or proper management of our parks. There is no need for 99-year leases in national parks. The 2013 amendments have not resulted in government being approached with any formal unsolicited proposals for long-term investment in national parks. Furthermore, it is illogical that the maximum lease term in the National Parks Act is greater than that for a development in a Crown land reserve or reserved forest.

Under the current legislative framework for most reserved Crown land, a lease term of 21 years already acts as the threshold to distinguish between small-scale and large-scale

(substantial) investment proposals. Limiting the maximum lease term in the general leasing power of the National Parks Act to 21 years will best support the government's policy to protect Victoria's national parks because it will act as a disincentive to any proposals for large-scale development in parks.

Investing in regional tourism

The government strongly supports tourism as a key part of Victoria's economy and it is working to encourage growth in the tourism industry across the state. Tourism is a significant contributor to the economy and to jobs for Victorians, particularly in regional areas. Nature-based tourism — and national parks — play an important role in the tourism economy, attracting many international, interstate and local tourists.

The government believes that the proper place for large-scale tourism developments is outside national parks where they do not impact on the park and where they can better support regional economies. This is consistent with the worldwide trend for resorts and similar tourism developments to be located outside national parks. Although there are more than 209 000 protected areas, including national parks, around the world, an analysis published in 2013 indicated that there were fewer than 250 examples of private tourism infrastructure located within such areas. Most of these examples arise from development that predated the establishment of the protected area, including heritage buildings or specialist viewing structures. In these cases, adaptive re-use of the existing infrastructure can provide for public use consistent with protection of environmental values. The key example within Victorian national parks where this may be applicable is the Point Nepean Quarantine Station.

Nevertheless, locating large-scale tourism development outside parks closer to regional towns and business operators is more likely to support regional economies, as well as minimise the risk of adverse impacts on parks. In many cases, there are sites on other Crown or private land adjacent to national parks that would be more appropriate for such development. There are numerous good examples in other jurisdictions to support this view. For example, most people think that Peppers Cradle Mountain Lodge in Tasmania is located inside the Cradle Mountain-Lake St Clair National Park. But it is not — it is located outside the park, adjacent to its boundary. There are also the Southern Ocean Lodge located on private land between a national park and a conservation park on Kangaroo Island, and the Fiordland Lodge in New Zealand, located on private land but with views into the nearby Fiordland National Park.

This approach is also consistent with the views of the late Bill Borthwick, the highly regarded former Liberal Victorian Minister for Conservation in the 1970s, who countenanced against commercial developments in parks and who wrote in an article in the *Age* in 1996 that 'a long-term plan that positively supported and encouraged the development of commercial facilities outside our national parks … would be the best long-term plan for sustainable ecotourism'.

The government will work with local and regional towns and businesses to provide real, substantial measures to build regional tourism in those communities and achieve increases in visitation. This will include developing a process for reviewing how the government can best support private investment on private or other public land outside national parks. For example, the government will explore opportunities for improving visitor infrastructure required to enjoy iconic sites along the Great Ocean Road.

By removing the power to grant leases of up to 99 years, the bill will set the maximum lease term for most leases in national parks at 21 years. To support this, the government has developed principles and procedures to guide the process for granting a lease under the general leasing power. The tourism leases in national parks guidance note provides for consideration of opportunities for investments in small-scale, low-impact infrastructure aimed at improving the visitor experience in national parks. The guidance note gives assurance that the process will be transparent and inclusive of community views and that considerations for granting a lease will include serious and significant protections of the environmental values of the park.

Protecting our outstanding natural and cultural heritage while attracting private investment — site-specific leasing provisions

The government recognises that there are some cases where a lease term greater than 21 years may be required due to the nature of a proposal and the level of investment required, or the proposal is uniquely connected to the park and can promote its sustainable use and management. The government believes that these instances are best dealt with through site-specific legislation.

In particular, the government continues to support the site-specific leasing provisions in the National Parks Act for the Point Nepean Quarantine Station, Mount Buffalo Chalet and Arthurs Seat chairlift. However, it does not consider that a maximum 99-year lease term is either appropriate or necessary. The bill will therefore reduce the maximum term for a lease at these sites from 99 years to 50 years, consistent with the leasing provisions that were in place before the 2013 amendments.

The government considers that the potential to offer lease terms of up to 50 years at these sites is appropriate to attract the private investment needed. For example, it may be necessary to consider proposals for significant investment that incorporate adaptive re-use of the Point Nepean Quarantine Station and that demonstrate environmental sensitivity and sustainability.

The government did not support the lease granted to Point Leisure Group by the former coalition government because the development proposal included areas of Point Nepean National Park outside the quarantine station footprint. However, the government will consider future private investment proposals that are consistent with the objectives of preserving the cultural and environmental heritage values of the site and ensuring safe and regular public access.

For the Arthurs Seat chairlift, situated in Arthurs Seat State Park, the level of investment secured needs to be commensurate with securing the construction of a new viable and safe chairlift on that site. The government has successfully negotiated a 50-year lease with the Arthurs Seat Skylift Pty Ltd for the construction and operation of an all-weather, all-abilities access gondola that will be a world-class tourism attraction.

Any future longer term lease for the Point Nepean Quarantine Station, Mount Buffalo Chalet or Arthurs Seat chairlift will

only be granted after consultation with the National Parks Advisory Council and if the minister is satisfied that:

(a) the purpose of the lease is not detrimental to the protection of the national park, including its historic, Indigenous, cultural, natural or landscape features; and

(b) the proposed use, development, improvements or works are of a substantial nature, of a value which justifies a longer term, and the granting of a longer term lease is in the public interest.

The bill will remove the provisions regarding in-principle approval and agreement to lease that applied to longer term leases. The in-principle approval stage required public consultation, but this was limited to those who may be affected by the proposal and it was unclear what information was to be provided to the community.

Instead, the government is committed to effective and inclusive community consultation on private investment proposals in national parks. Any potential development will be subject to consultation requirements at an early stage and consultation will continue as required throughout consideration of any proposal so that all interested parties can have input into the process before a decision to grant a lease is made. The tourism leases in national parks guidance note that the government has developed to complement the bill provides for consultation processes that are flexible and that can be adapted to suit individual proposals and how to best engage the community.

Conclusion

Removing the power to grant leases of up to 99 years in parks under the National Parks Act is consistent with the government's commitment to protect these special places from large-scale commercial development. It is also consistent with the widely recognised purpose and intent of national parks as our most precious areas of public land that we, as a community, have a responsibility to protect and preserve for this and future generations.

I commend the bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 15 October.

PREVENTION OF CRUELTY TO ANIMALS AMENDMENT BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Ms PULFORD (Minister for Agriculture) on motion of Mr Jennings; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms PULFORD (Minister for Agriculture), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter'), I make this statement of compatibility with respect to the Prevention of Cruelty to Animals Amendment Bill 2015.

In my opinion, the Prevention of Cruelty to Animals Amendment Bill 2015, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

1. Overview of the bill

The purpose of this bill is to make various amendments to the Prevention of Cruelty to Animals Act 1986 (the act) to strengthen the administration and enforceability of the act. The amendments include improving courts' capacity to make control orders under section 12 of the act following a finding of guilt for an animal cruelty offence, with provision for monitoring compliance with those orders, the enhancement of the powers of Prevention of Cruelty to Animals (POCTA) inspectors and specialist inspectors to enable better enforcement of part 2 of the act, and the enhancement and clarification of the powers of authorised officers for the regulation of scientific procedures under part 3 of the act. The bill also amends the act to introduce and clarify offences in relation to animal fights, baiting and luring, as well as increasing penalties for offences of cruelty and aggravated cruelty to animals.

2. Human rights issues

Presumption of innocence — reverse onus

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

Clause 5 of the bill substitutes section 9(1)(g) of the act to make it an offence to sell, offer for sale, purchase, drive or convey an animal that appears unfit to be sold, purchased, driven or conveyed. Section 9(2) of the act provides that it is a defence to a charge under section 9(1) against an owner of an animal to prove that, at the time of the alleged offence, the owner had entered into an agreement with another person by which the other person agreed to care for the animal. Section 9(2) thereby places an onus of proof on the accused. As clause 5 introduces an offence to which a reverse onus applies, it is necessary to justify the resulting limit on the right to be presumed innocent.

In my view, this limit is justified under section 7(2) of the charter. The purpose and effect of the defence in section 9(2) of the act is to provide the owner of an animal with an opportunity to escape culpability in the event that an act of cruelty is committed upon an animal. The existence of an

agreement with another person to care for the animal in question will be particularly within the knowledge of the accused and it is reasonable that the onus be on the accused to show that there was such an agreement. The prosecution would still first have to prove the elements of the offence of animal cruelty.

The purpose of imposing a legal burden is to ensure the effectiveness of enforcement and compliance with the act, by enabling the offences to be effectively prosecuted and thereby operate as an effective deterrent. The importance of this purpose is to prevent an owner from falsely claiming that another person was charged with taking care of the animal, which would be difficult and onerous for the Crown to investigate and prove beyond reasonable doubt.

Although an evidential onus would be less restrictive upon the right to be presumed innocent, it would not be as effective because it could be too easily discharged by a defendant, leaving the prosecution in the difficult position of having to prove that the defendant had not entered into the alleged agreement. The inclusion of a defence with a burden on the accused to prove the matter on the balance of probabilities achieves an appropriate balance of all interests, bearing in mind, in particular, that the defendants will be owners of animals and reasonably be expected to have taken steps to enable them to discharge their responsibilities of properly caring for their animals.

The bill also contains various offences containing reverse evidential onuses. Clause 10 of the bill amends section 13 of the act. New subsection 13(4) provides that in any prosecution for the offence of keeping or having the custody, care or control of an animal for use as a lure or kill for the purpose of blooding a greyhound or in connection with the training and racing of any coursing dog, evidence that the accused kept or had the custody, care or control of a prohibited animal at a place used for those purposes is evidence, in the absence of evidence to the contrary, that the accused did so for those prohibited purposes. By effectively requiring the accused to adduce contradictory evidence, new subsection 13(4) may therefore be viewed as imposing a reverse evidential onus of proof.

However, I do not consider that an evidential onus limits the right to be presumed innocent. Courts in other jurisdictions have taken this approach. Once a person has adduced some relevant contradictory evidence, the burden shifts to the prosecution to prove the elements of the offence. Evidence of a prohibited animal having been at a place used for prohibited purposes only amounts to evidence, not proof, that the accused had the animal for such purposes. The provision is therefore not as strong as an evidentiary presumption needing to be displaced. Further, here the accused is only required to raise evidence of matters that would be within their personal knowledge (for example, of alternative reasons as to why the animals were in the relevant place). For these reasons, in my view the provision strikes an appropriate balance of interests and, even if it did limit the right to be presumed innocent, it would be reasonable and justifiable under section 7(2) of the charter.

For the same reasons, it is my opinion that the various 'reasonable excuse' and 'reasonable belief' provisions in the bill do not limit the right to be presumed innocent and, if they did, would be reasonable and justifiable.

Clause 10 of the bill inserts new section 13(1G) of the act to provide that it is an offence for a person, without reasonable excuse, to attend an event or place where a person is using an animal as a lure or kill for the purpose of blooding a greyhound or in connection with the training and racing of any coursing dog.

Clause 27 of the bill amends section 24ZR(3) of the act to provide that a person must not, without reasonable excuse, contravene or fail to comply with any direction or requirement of a POCTA inspector.

Clause 47 inserts new part 3AA of the act, within which new section 36Q(2) provides that a person must not, without reasonable excuse, refuse or fail to comply with a requirement of an authorised officer to give certain information.

Clauses 29 and 30 of the bill provide exceptions to offences on the basis of a reasonable belief that a relevant person held a required licence authorising certain scientific procedures.

By creating 'reasonable excuse' and 'reasonable belief' exceptions, these offences may be viewed as placing an evidential burden on the accused, in that they require the accused to raise evidence as to a reasonable excuse or belief. However, in so doing, these offences do not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse or belief, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution. For these reasons and those set out above, the provisions do not limit the right to be presumed innocent.

Right to protection against self-incrimination

Section 25(2)(k) of the charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or herself or to confess guilt. The Supreme Court has held that this right, as protected by the charter, is at least as broad as the common-law privilege against self-incrimination. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid. The common-law privilege includes an immunity against both direct use and derivative use of compelled testimony.

This right is relevant to the new section 36R, introduced by clause 47 of the bill. New section 36R provides that it is a reasonable excuse for a person to refuse or fail to give information or do any other thing that the person is required to by or under part 3 or the new part 3AA of the act (which provides for the enforcement of part 3 obligations), if to do so would tend to incriminate the person. However, this protection does not apply to the production of a document that the person is required to produce by or under part 3 or part 3AA of the act. The limited abrogation of the privilege against self-incrimination in new section 36R, which applies to part 3 enforcement, mirrors existing section 24ZV which applies to enforcement under part 2 of the act.

The privilege against self-incrimination generally covers the compulsion of documents or things which might incriminate a person. However, at common law, the High Court of Australia has recognised that application of the privilege to pre-existing documents is considerably weaker than that accorded to oral testimony or to documents that are required to be brought into existence to comply with a request for

information. I note that some jurisdictions have regarded an order to hand over existing documents as not constituting self-incrimination.

The primary purpose of the abrogation of the privilege in relation to documents is to facilitate compliance with the act by assisting part 3 authorised officers, who are responsible for monitoring premises where scientific procedures are carried out, to access information and evidence that is difficult or impossible to ascertain by alternative evidentiary means. Taking into account the protective purpose of the act, there is significant public interest in ensuring that the environments that are regulated by part 3 (private and secure facilities largely within universities and medical institutes) are operating in compliance with the act.

There is no accompanying 'use immunity' that restricts the use of the produced documents to particular proceedings. However, any limitation on the right in section 25(2)(k) that is occasioned by the limited abrogation of the privilege in respect of produced documents is directly related to its purpose. The documents required to be produced are those that are connected with an alleged contravention of the act, because the powers to require production of documents under part 3 and part 3AA are only exercisable either where there is a basis on which entry and search of a premises is reasonably necessary for the purposes of monitoring compliance with part 3 of the act, or where a magistrate has issued a search warrant on the grounds that the premises contain evidence connected with a contravention of part 3 or the regulations. Importantly, the requirement to produce a document does not extend to having to explain or account for the information contained in that document. If such an explanation would tend to incriminate, the privilege would still be available.

Further, the obligation to keep particular records for compliance with the act is a prescribed condition of licences issued under part 3. The duty to provide these documents is consistent with the reasonable expectations of persons who operate a facility within a regulated scheme. Moreover, it is necessary for regulators to have access to documents to ensure the effective administration of the regulatory scheme.

There are no less restrictive means available to achieve the purpose of enabling authorised officers to have access to relevant documents. To excuse the production of such documents where a contravention is suspected would allow persons to circumvent the record-keeping obligations of the act and significantly impede authorised officers' ability to investigate and enforce compliance with the scheme. Any limitation on the right against self-incrimination is therefore appropriately tailored and the least restrictive means to achieve the regulatory purpose.

For the above reasons, I consider that to the extent that clause 47 imposes a limitation on the right against self-incrimination, that limitation is reasonable and justified under section 7(2) of the charter.

Right to property

A number of provisions in the bill provide for the seizure, disposal or destruction of animals in certain circumstances and may therefore interfere with an animal owner's right to property. Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. In order to be 'in accordance with law', any power which authorises the deprivation of property must be conferred by legislation or common law, confined and structured, formulated precisely, and accessible to the public.

In my opinion, any interference with property occasioned by the bill is in accordance with law and is compatible with the charter.

Giving effect to control orders

Clause 8 substitutes a new section 12 of the act to provide courts with the power to make a control order disqualifying a person from owning or being in charge of a specified kind or class of animal, where they are convicted, found guilty or found not guilty because of mental impairment of an offence under the act. Although the bill permits a court to make a control order following a finding of guilt for any offence under the act, in my opinion this is an appropriate discretionary power for a court to have in the context of the protective purpose of the act. New section 12AA will enable the court to authorise a POCTA inspector to seize and dispose of an animal to give effect to a control order. Although the court's power to make a control order is discretionary, its power to make such an order, and the circumstances in which it can authorise the seizure and disposal of animals, are clearly set out in the provisions. A person in respect of whom it is proposed to make a control order will have the opportunity to make submissions and give evidence to oppose the making of a control order, and new section 12AB provides for specified defences to the making of an order, including where a person can prove they were not the owner of the animal concerned in the offending and they were acting on instructions of an employer or the owner of the animal.

Once a court has determined to make a control order, prior to authorising seizure or disposal of animals the court must first be satisfied by evidence on oath or affidavit that there are reasonable grounds that a person is holding an animal on premises in contravention of the proposed control order. Where seizure and disposal is authorised by a court under new section 12AA, any disposal of animals must be performed in accordance with the existing disposal procedures and powers prescribed under division 6 of part 2A of the act, which includes taking reasonable steps to identify and contact the owner, and specifies the methods by which animals may be disposed of.

Emergency powers in relation to animal fights, baiting, blooding and luring activities

Clause 13 of the bill introduces a new section 24AA providing specific emergency seizure and disposal powers that apply to animals found on premises where prohibited animal fighting, blooding or using an animal as a lure or kill is likely to occur, is occurring or has occurred. This provision enables inspectors to lawfully seize, examine, feed and water animals, even where participants in these prohibited activities have fled the premises leaving their animals behind. The powers also enable inspectors to lawfully destroy an animal whose condition is such that it would continue to suffer if it remained alive. Unlike the emergency animal welfare powers in clause 16, there is no requirement that the welfare of the animal be at risk to enable it to be seized. However, the provision stipulates that prior to exercising the powers, a POCTA inspector must suspect on reasonable grounds that the premises contain an animal in respect of which a contravention of the act relating to animal fighting, blooding or using an animal as a lure or kill is likely to occur, is occurring or has occurred. Therefore, the power is clearly

confined by reference to the specific offence provisions that prohibit these activities.

Animal welfare emergency powers

Clause 16 of the bill introduces new sections 24FA, 24FB, 24FC and 24FD which enable the minister to authorise a specialist inspector to take immediate action where an animal's condition is such that it is likely to become distressed and disabled. At present, section 24E of the act requires a seven-day notice period where there are urgent concerns in relation to an animal's welfare, which can be problematic particularly where an animal welfare emergency occurs on a large scale or involves uncertainty surrounding ownership of animals in distress. These new emergency powers include the power of the minister to authorise the seizure and disposal of an animal; however, before exercising the power, the minister must believe on reasonable grounds that the animal is in such a condition or such circumstances that it is likely to become distressed or disabled, and that any action to remove the likelihood of that distress or disability is unlikely to occur due to the presence of certain prescribed circumstances such as significant interruption of food or water to the animal, abandonment of the animal, or the owner being unable or unwilling to care for the animal or resolve the welfare risk by reason of physical, financial or mental incapacity. The minister must also consider that it is reasonable to dispose of the animal having regard to a number of specified factors including the cost of holding and caring for the animal, the physical state of the animal, and whether it is reasonable or practicable for the state to retain possession of the animal.

Any seizure or disposal of an animal authorised by the minister in accordance with this clause requires written notice of the seizure and disposal to be given to the owner of the animal or, if the owner cannot be readily identified or contacted, to the person in charge of the animal, and may only be performed by a person who has appropriate qualifications to be appointed by the minister as a specialist inspector under section 18A of the act. Any disposal of animals authorised in accordance with this clause will be performed in the manner determined by the minister, or otherwise in accordance with the existing disposal procedures and powers prescribed under division 6 of part 2A of the act, which includes taking reasonable steps to identify and contact the owner, and specifies the methods by which animals may be disposed of.

Enforcement in relation to scientific procedures

Clause 47 of the bill introduces enhanced powers for part 3 authorised officers, including the power to enter and search premises, and seize any thing (that is not an animal) where the authorised officer believes on reasonable grounds that it is connected with a contravention of part 3 of the act, and the power to apply to a magistrate for the issue of a search warrant that can authorise the seizure of any thing (other than an animal). The circumstances in which items can be seized are clearly set out in the provisions. In the case of entry to monitor compliance of premises in respect of which a part 3 licence is granted, or where it is suspected on reasonable grounds that a scientific procedure using animals or the breeding of animals for that purpose is being carried out in contravention of part 3, the seizure of things may only occur where the inspector believes on reasonable grounds that the thing is connected with a contravention of part 3. Similarly, in the case of entry under a search warrant granted by a magistrate, a thing may only be seized or a sample taken where it is named in the warrant (or could have been included in a search warrant and it is necessary to seize or sample to prevent its concealment, loss or destruction) and is reasonably believed to be connected with an alleged contravention of part 3. In both cases, the removal of a document may only occur for so long as is reasonably necessary to make copies or take extracts and the bill stipulates clear and reasonable requirements for handling and returning seized items.

For these reasons, any deprivation occasioned by the seizure of property will be in accordance with law, and will not limit the right to property under section 20 of the charter.

Right to privacy

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. An interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances, just and proportionate to the end sought.

The right to privacy is relevant to a number of provisions in the bill. However, for the reasons set out below, it is my opinion that none of the provisions in the bill limit this right.

Enforcing compliance with control orders

Clause 11 of the bill provides for a court, on application by a POCTA inspector, to authorise the monitoring of a person's compliance with a control order or an interstate control order that disqualifies a person from owning or being in charge of a specified class or kind of animal. Authorised monitoring can include entering and searching premises (other than any part that is a person's dwelling) for animals, as well as examining, taking photographs or samples, seizing and retaining animals of the specified class or kind. This monitoring power may only be exercised where it has been authorised by a court, and the court must first be satisfied that there are reasonable grounds to believe that there is or will be non-compliance with the control order. The period for which the monitoring may be carried out will be determined by the court and specified in the order, along with any other conditions the court considers necessary.

The monitoring power is subject to a number of safeguards, including the requirement for inspectors to identify themselves and inform the occupier of the purpose of the visit, the prohibition on exercising the power in relation to a person's dwelling, and, if there is no occupier present, leaving a notice setting out prescribed information detailing what was done whilst on the premises and posting a copy of that notice to the owner and occupier. The power may only be exercised for the purposes of ensuring court-ordered control orders are being complied with. For these reasons, I consider the monitoring power to be neither unlawful nor arbitrary.

Emergency powers in relation to animal welfare and animal fights, baiting, blooding and luring activities

The emergency powers contained in clauses 13 and 16 of the bill provide for inspectors to enter premises at which prohibited animal fighting, blooding or using an animal as a lure or kill occurs, or where an animal's condition is such that it is likely to become distressed and disabled. The powers of entry under clause 13 may only be exercised by a POCTA inspector where the inspector suspects, on reasonable

grounds, that the premises contain an animal in respect of which a contravention of the act relating to animal fighting, blooding or using an animal as a lure or kill is likely to occur, is occurring or has occurred. In relation to the powers in clause 16 relating to animal welfare, entry may be effected by a specialist inspector appointed under s 18A of the act, and may only occur where a minister has authorised immediate action where an animal's condition is such that it is likely to become distressed and disabled. Although there is no notice requirement in clauses 13 or 16, in my opinion, this is necessary and appropriate, taking into account the urgent nature of taking action for the prevention of suspected animal cruelty in these contexts.

In my opinion, in both cases the powers are reasonable and appropriately confined. In both cases, the powers of entry are accompanied by appropriate safeguards including prohibition of entry to a person's dwelling.

Enforcement in relation to scientific procedures

For similar reasons, I am of the view that the powers of part 3 authorised officers to enter and require the production of a document or thing contained in clause 47 of the bill, are neither unlawful nor arbitrary. In the case of new section 36A, entry may only occur to monitor compliance of premises in respect of which a part 3 licence is granted and the licence-holder has therefore voluntarily submitted to compliance activities, or where it is suspected that a scientific procedure using animals, or the breeding of animals for that purpose, is being carried out in contravention of part 3 and accordingly the power is confined by reference to suspected contravention of the act. Further, entry must not be exercised on any part of premises that is used as a dwelling, may only be exercised at a reasonable time, and if the power is being used for the purposes of preparing a compliance report, the power must not be exercised unless the licence-holder has been given 24 hours written notice.

In respect of entry under a search warrant, a magistrate may only grant a warrant under section 36C if satisfied that there is on the premises a thing connected with a contravention of part 3 of the act. Things found on the premises may only be seized or a sample taken where it is named in the warrant (or could have been included in a search warrant and it is necessary to seize or sample to prevent its concealment, loss or destruction) and is reasonably believed to be connected with an alleged contravention.

The carefully circumscribed powers in each of these clauses reflect an appropriate balance between ensuring compliance with the regulatory scheme and the expectations of privacy of occupiers and other persons at the premises. Furthermore, each power has appropriate safeguards to ensure that any interference with privacy will not be arbitrary. For these reasons, I consider that the above clauses do not limit the right to privacy.

Hon. Jaala Pulford, MP
Minister for Agriculture

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

Mr JENNINGS (Special Minister of State) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Prevention of Cruelty to Animals Act 1986 is the key piece of animal welfare legislation in Victoria. Its purpose is to prevent cruelty to animals, encourage the considerate treatment of animals and improve the level of community awareness about the prevention of cruelty to animals. The Prevention of Cruelty to Animals Amendment Bill 2015 will amend the act to strengthen its enforceability and administration. These amendments will help to ensure that the purposes of the act can be met and that the investigation of offences against the act, and sanctions that may be imposed upon conviction, continue to be in line with community expectations.

The bill will amend the act to introduce improved powers to deal with large-scale animal welfare emergencies. While current powers are adequate in the majority of cases, they have proven to be inadequate in some circumstances, particularly where an animal welfare emergency occurs on a large scale or where there are complex ownership arrangements that make it difficult to identify and locate owners. For example, in 2012 nearly a million starving broiler chickens were seized from six properties across Victoria as a result of the financial difficulties of the owner of the chickens. The urgency of the situation required immediate seizure as the birds would not have survived the seven-day notice period required under the current ministerial seizure and disposal powers. Applications to the court were made to dispose of the birds, however, no such orders were made as it was argued the birds were no longer at risk because the department was caring for them. In addition, there were multiple parties asserting an interest in or ownership of the birds. Ultimately, the seizing authority arranged for the birds to be fed until they reached processing weight. The cost was approximately $80 000 a day and the sale of the meat from the birds did not cover those costs, leaving the state bearing outstanding costs in the order of $1 million.

There is an ongoing risk of animal welfare emergencies of this kind, particularly in intensive animal production systems. To address this situation the bill introduces amendments that would enable the issuing of a ministerial authorisation for seizure and disposal of animals, either immediately or after a specified period, to alleviate an animal welfare emergency. The provision includes the ability to hold seized animals at the premises while arrangements are made for their disposal. In addition the bill clarifies the intent of the act, where it refers to the risk to the welfare of animals, to make it clear this refers to the welfare risk if the animal was returned to an owner or person in charge.

The recent exposure of the use of live animals, such as possums, rabbits and piglets, as lures in greyhound training in this state and others resulted in swift action by this government to instigate investigations by the racing integrity

commissioner and the chief veterinary officer into animal welfare in the greyhound industry. While the use of animals in this way was already illegal, the ensuing reports recommended amendments to strengthen the existing provisions in the act. This bill introduces a number of those recommended amendments by creating new offences and strengthening existing provisions regarding baiting, blooding and luring, to provide stronger powers and increased penalties for these cruel activities.

Offences relating to possessing animals of a specified type on a property used for greyhound racing or training have been introduced, as have new offences for animal fighting and for a person being present, without a reasonable excuse, when luring or blooding activities are occurring. In addition, financial penalties for most offences relating to baiting, blooding, luring and fighting are being doubled to a maximum of 500 penalty units to bring these penalties into line with penalties for other aggravated cruelty offences, while being present during blooding or luring activities will have a maximum penalty of 120 penalty units.

The act will also be amended to introduce additional powers for entry onto properties where it is reasonably believed that animal fighting, baiting, blooding or luring is occurring and for the seizure, including holding the animals on the premises, and disposal of animals found at such events. Housing of seized fighting animals is difficult and costly due to their often aggressive nature and the number of animals likely to be seized. Dogs and cocks that are being trained or used for fighting have little prospect of being rehabilitated and rehomed to new owners and the dogs can pose a significant risk to the community and other animals. The bill will provide the department head with the power to declare dogs or cocks seized at fighting events as forfeit to the Crown.

Courts currently have the power to impose orders, either placing conditions on a person whenever they are in charge of an animal, or disqualifying them from being in charge of an animal for up to 10 years, where offences are considered to be of a serious nature. The bill will amend the act to remove the reference to serious offences to allow the courts greater discretion to impose control orders where they believe they are appropriate, such as where low-level offending has occurred and it would be beneficial to impose an order establishing preventative measures such as education to prevent reoffending.

Removing the reference to serious offences is not intended to limit a court's ability to impose disqualification where a person commits an offence of cruelty that the court determines warrants a ban. Currently there are a number of people who have had more than one disqualification order imposed by the courts and over half of the orders imposed are for the maximum 10-year period, leaving courts no option to impose a longer ban for repeat offenders to prevent further cruelty offences. The bill will enable courts to impose bans longer than 10 years, including lifetime bans, on people who have an existing disqualification order or have previously been subject to one. The bill will also enable orders to apply to the ownership of animals, not just to being in charge of animals.

There is currently no ability to monitor compliance with a court order except under warrant when there are reasonable grounds to believe that a breach is occurring. In a recent case a person with a history of aggravated cruelty and disqualification orders committed further acts of cruelty while under a disqualification order. The livestock were kept in areas shielded from public observation. The acts of cruelty may have been averted if inspectors had been able to monitor compliance with the order. The bill will introduce an amendment that will allow courts to authorise monitoring either when a control order is made or on application by an inspector. The powers of inspectors are provided for and the period and conditions of the monitoring would be specified by the court.

The bill will also make a number of amendments to existing powers and introduce new powers for inspectors to improve enforcement of the act. Inspectors will be able to require an owner or person in charge to muster and secure livestock to allow safe and efficient handling of animals during inspection, the taking of samples, and seizure if necessary. Spaying of animals will be made a prohibited procedure unless done by a veterinary practitioner and the definition of aggravated cruelty will be amended to clarify that it may be multiple acts of cruelty, which combined, result in the aggravated cruelty rather than just a single act. The offence to sell, offer for sale, purchase, drive or convey a calf that appears to be unfit because of weakness will be broadened to apply to any animal and include unfitness caused by emaciation, injury or disease. This will allow inspectors to take action in relation to any type of animal that is unfit for such purposes including domestic animals such as puppies and kittens.

Part 3 of the act regulates the use of animals in research and teaching. Organisations or persons wishing to use animals in research and teaching must hold a licence granted under this part of the act. Over the past 15 years, there has been considerable investment in biomedical research by successive Victorian governments. The bill will amend the act and regulation-making powers to modernise the licensing and fee structure to better accommodate the increasing diversity of licence-holders, reduce regulatory burden and improve cost recovery.

Amendments to the act will introduce a power to charge differential fees that align more closely to the administrative costs associated with the different size and complexity of licence-holders. This improved cost recovery will remove existing cross-subsidisation and enable very large licence-holders to consolidate their multiple licences into one large licence.

Further amendments will improve licence governance and accountability across all licence types. Amendments will require a natural person to be responsible for compliance under all licence types. A fit and proper test is introduced for licence applicants. External accountability is enhanced by a broadened scope for a ministerially appointed peer review committee to review scientific procedures under any licence.

The bill will improve compliance monitoring and enforcement by authorised officers. Proposed amendments will clarify the existing powers of authorised officers to enter and inspect licensed premises and to investigate suspected unlicensed animal research, under search warrant if necessary. If non-compliance is found, an improved notice to comply introduced by the bill will enable authorised officers to compel licence-holders to comply with licence conditions. The bill will enable the department to take the action described in the notice to comply, if necessary to alleviate animal suffering, and to recover the costs of doing so. A power to make adverse publicity orders is introduced to allow

the courts to impose a penalty that will impact the reputation of non-compliant organisations.

The bill will improve cost recovery by introducing a compliance monitoring fee to go into the 'Animals in Research and Teaching Welfare Fund', established by the bill, to fund compliance inspections and reports. The ability to charge this fee underpins the introduction of the tiered, different-sized licences by providing industry funding for compliance monitoring, which will benefit licence-holders as well as providing community assurance. Many funding bodies require independent review of licence-holder compliance with animal welfare standards. Departmental compliance monitoring meets this requirement and thus reduces regulatory burden on licence-holders who would otherwise need to convene a separate inspection to meet their funding agreement. The compliance monitoring fee will provide resources to ensure adequate frequency of inspections, and to appropriately recover costs of government services from beneficiaries.

The bill also makes a number of minor, consequential and technical amendments to clarify provisions and improve the enforcement of the act.

I commend the bill to the house.

Debate adjourned for Mr DRUM (Northern Victoria) on motion of Ms Lovell.

Debate adjourned until Thursday, 15 October.

PUBLIC HEALTH AND WELLBEING AMENDMENT (NO JAB, NO PLAY) BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Ms MIKAKOS (Minister for Families and Children) on motion of Mr Jennings; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms MIKAKOS (Minister for Families and Children), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter), I make this statement of compatibility with respect to the Public Health and Wellbeing Amendment (No Jab, No Play) Bill 2015.

In my opinion, the Public Health and Wellbeing Amendment (No Jab, No Play) Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The purpose of the bill is to increase immunisation rates for young children in the community. Vaccine-preventable diseases such as whooping cough, measles, polio and diphtheria, can cause serious illness, disability and death. Childhood immunisation has been proven to significantly decrease the risk of infection and spread of vaccine-preventable diseases.

The bill amends the Public Health and Wellbeing Act 2008, so that the person in charge of an early childhood service may not confirm the enrolment of a child at the service unless the parent or guardian of the child has provided an immunisation status certificate that demonstrates the child:

is immunised according to the appropriate standard vaccination schedule, or a vaccination catch-up schedule, or

has a medical contraindication for one or more vaccines.

The bill allows for certain categories of disadvantaged and vulnerable children to be enrolled without providing the immunisation status certificate, and requires the person in charge to take reasonable steps to obtain the certificate within 16 weeks of the child first attending the service. This will prompt the parents and carers of vulnerable and disadvantaged children to undertake vaccination and provide them with an additional opportunity to obtain information about how they can access immunisation services.

Human rights issues

Protection of families and children (section 17)

The bill engages section 17 of the charter, which provides that families are entitled to be protected by society and the state and that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

Vaccines protect vaccinated individuals by immunising them from the relevant disease. They also protect the community as a whole, by increasing the overall immunity in the community to reduce the spread of vaccine-preventable diseases. The rate of immunisation that effectively prevents the spread of a disease is known as 'herd immunity'. For example, the overall rate of immunisation required to achieve herd immunity for measles is 95 per cent. High rates of immunisation also provide important protection for those who cannot receive vaccines. This includes babies who are too young to receive vaccines or people who cannot receive vaccines for medical reasons (for example, due to an allergy to a component of a vaccine, or suppressed immunity).

The overall immunisation rate in Victoria for preschool-aged children has remained stable for the past five years, between 91 per cent and 92 per cent. However, some areas have rates closer to 85 per cent. Existing initiatives that promote immunisation and facilitate access to immunisation services have maintained the overall level, but have not achieved a significant increase in the overall rate.

In my view, the bill promotes this right due to the health benefits of immunisation described above.

The bill may also engage section 17(2) of the charter, in that children who are not fully vaccinated may be prevented from enrolling in early childhood services.

The competing rights of children under section 17 must be balanced against the benefits of an increase in immunisation rates, both for vaccinated individuals and the community as a whole. The serious impact of vaccine-preventable disease must be weighed against the relatively small number of children whose participation in early childhood services may be limited. The bill is designed to minimise the possible limitation on children's participation in these services by: allowing an exemption for children with a medical contraindication for vaccines; and allowing enrolment of disadvantaged and vulnerable children.

For these reasons I consider the bill does not unjustifiably limit the rights under section 17(2) of the charter.

Freedom of thought, conscience, religion and belief (section 14) and freedom of expression (section 15)

The effect of the bill is that children who are not vaccinated because their parents or carers have a 'conscientious objection' to vaccination may be unable to enrol in early childhood services. This engages the rights in sections 14 and 15 of the charter. Section 14 provides that a person has the right to freedom of thought, conscience, religion and belief. This includes the freedom to have or adopt a belief of his or her choice, and the freedom to demonstrate the belief. A person must not be restrained or coerced in a way that limits their freedom to have a belief. Section 15 provides that every person has the right to hold an opinion without interference.

The bill may be seen to limit the rights of the parents to freedom of conscience, religion or belief or to hold an opinion without interference, in that their child is not able to enrol in early childhood services because of the parent holding a belief (objection to vaccines) and demonstrating it (acting on the belief by choosing not to have their child vaccinated). It may be argued that the bill therefore restrains or coerces parents in a way that limits their freedom to hold a conscientious objection against vaccination, in that they will be faced with a choice between vaccinating their child, against their belief, or not being able to enrol their child in early childhood services.

I consider that any limitations imposed on sections 14 and 15 by the bill are justifiable having regard to the factors set out in section 7(2) of the charter, for the following reasons. Firstly, the bill does not purport to prevent a parent from holding or observing a belief that their child should not be vaccinated. Secondly, children and families have an interest in being protected from vaccine-preventable diseases, which can have serious, even fatal, consequences. The weight of scientific evidence demonstrates that vaccines are safe and effective, with the benefits greatly outweighing the risks. As outlined above, high rates of immunisation in the community, particularly amongst children, are fundamental to maximising the benefits of immunisation in preventing the spread of vaccine preventable diseases. It is expected that the number of children whose participation in early childhood education and care is impacted will be smaller than the number of people who benefit from an increase in immunisation rates. Existing, less restrictive means available to increase immunisation rates — measures focused on promoting immunisation and facilitating access to immunisation services — have not achieved a significant increase in the overall immunisation rate.

The right to freedom of thought, conscience, religion and belief and the right to freedom of expression must be balanced against the significant public health benefits to the community as a whole from having high rates of immunisation across the community. Those rights must also be balanced against the rights in section 17 of the charter, for children and families. Measures that increase the numbers of vaccinated children attending early childhood services protect the interests of the children and families who access those services. This protection is particularly important for those who cannot receive vaccines, due to age or a medical contraindication.

Medical treatment without full, free and informed consent (section 10(c))

It is noted that the bill will not mandate vaccinations, nor will it provide for the administration of vaccinations without consent. The right in section 10(c) of the charter that provides a person must not be subjected to medical or scientific treatment without his or her full, free and informed consent is therefore not engaged.

Privacy (section 13)

The bill engages but does not limit the right in section 13(a), which provides that a person has the right not to have his or her family, home or correspondence unlawfully or arbitrarily interfered with.

The bill will require that early childhood services collect information relating to a child. This will include information about the child's immunisation status, and information about whether the child is a disadvantaged or vulnerable child.

This information will be collected during the enrolment process, or during follow-up processes after enrolment as required under the bill. The provision of the information will be a condition of the enrolment process. In light of the enrolment requirements imposed under the bill on the person in charge of an early childhood service, the collection of the information would be consistent with the health privacy principles in the Health Records Act 2001, in that it would be authorised or required by law.

The collection of this information is fundamental to the purpose of the bill, since it is designed to:

> prompt and motivate parents and carers to arrange for their children to be up to date with their vaccinations;
>
> allow disadvantaged and vulnerable children to be enrolled, and their parents and carers to be provided with information about how to access immunisation services.

For these reasons, any interference with the privacy of children or their families is not considered to be arbitrary or unlawful.

Jenny Mikakos, MP
Minister for Families and Children

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

Mr JENNINGS (Special Minister of State) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The purpose of this bill is to boost vaccination rates across the Victorian community.

Vaccinations save lives. Childhood vaccinations have been proven to significantly decrease the possibility of infection and spread of vaccine-preventable diseases such as whooping cough and measles in the community. They provide young children with maximum protection against serious and potentially life-threatening illnesses.

Vaccinations protect not only immunised individuals, but also others in the community by increasing the overall level of 'herd immunity' in the population and minimising the spread of infection.

While the current immunisation rate for children under five years of age is around 92 per cent, the overall immunisation rate in Victoria has plateaued in recent years, and even a modest increase can have a significant benefit. Immunisation coverage of 95 per cent is necessary to halt the spread of particularly virulent diseases such as measles.

This bill gives effect to the Andrews Labor government's election commitment to require children to be fully immunised before they can attend child care.

Many childcare centres are co-located with kindergartens. To ensure the scheme is as effective as possible and includes as many children as possible, the government has expanded the policy to include kindergartens.

The policy will apply to more than 260 000 Victorian children attending approximately 3254 early childhood services that operate in Victoria. This includes a mix of private operators, local councils, community and other not-for-profit organisations. It does not apply to services for school-age children such as out-of-school hours care and vacation care programs, nor to casual occasional care such as crèches at shopping centres and gyms.

The bill will come into effect on 1 January 2016. From that date, a child will only be able to enrol in an early childhood education and care service if they are up to date with their vaccinations.

The bill recognises that there are some children who, for medical reasons, are unable to receive one or more vaccines and where this is documented, these children will be able to enrol in an early childhood education and care service. A recognised immunisation service provider would need to make an assessment of the child before giving the certification required for a medical exemption. Children may have a medical contraindication to a vaccine if they have a suppressed immune system or an allergy to one or more vaccines.

Conscientious objection to immunisation will not be an applicable exemption category. This recognises that vaccinations save lives, and is supported by extensive scientific evidence and expert medical advice.

The bill recognises that there are a number of vulnerable and disadvantaged children in the community who may be in exceptional circumstances or whose families find it difficult to access immunisation services. Children in these circumstances, which are outlined in the bill, will be able to enrol in an early childhood education and care service if their immunisations are not up to date on the proviso that for a period of 16 weeks after commencement at the service, the service will take reasonable steps to obtain the immunisation status certificate for the child.

In recognising that some of the criteria for these programs are complex and often change, the bill incorporates a provision for the Secretary of the Department of Health and Human Services to issue guidelines specifying the circumstances in which the criteria will apply.

During the 16-week period it is expected that early childhood education and care services will engage with parents and carers to obtain confirmation of immunisations, and to provide information about immunisations and how immunisation services can be accessed.

The provision for vulnerable and disadvantaged children strikes a sensible balance between controlling a public health risk and allowing access to early childhood education and care services. The proposed criteria are designed to ensure that those vulnerable and disadvantaged children will not face barriers to their enrolment. The 16-week time period will allow a genuine opportunity for engagement with families, which is a chance to identify and address any issues that are preventing the child from becoming immunised.

Penalties may apply to early childhood education and care services for breach of an existing record keeping provision under the Education and Care Services National Regulations 2011 that requires the enrolment record for each child to include the immunisation status of the child. Court fines may be imposed of up to $20 000 for failure to comply with the record keeping requirements in the Education and Care Services National Regulations 2011.

Authorised officers in the Department of Education and Training are responsible for approval, quality assessment and compliance monitoring of early childhood education and care services in Victoria. They are currently responsible for enforcement of the record keeping provisions under the Education and Care Services National Regulations 2011.

Changes to the Education and Care Services National Regulations 2011 will be submitted in 2016 to refer to the new requirements in this bill. These changes will relate to immunisation status certificates showing that a child's immunisations are up to date at the time of enrolment, that the chid has a medical contraindication or that the child meets the eligibility criteria for vulnerable and disadvantaged children. Existing record keeping provisions will be enforced prior to changes to the Education and Care Services National Regulations being made.

The bill imposes a number of obligations on early childhood education and care services in relation to seeking and obtaining proof of immunisation or medical contraindication, interpreting immunisation documents, and keeping records. Some of these requirements are already undertaken by services and others are extensions of existing activities that services are currently required to undertake.

The government looks forward to working collaboratively with the early childhood service sector and local government to make sure the changes are communicated to key stakeholders in a clear and timely manner.

This will enable the early childhood services sector and local government to understand and incorporate the changes into their enrolment processes and ensure a smooth transition to the new arrangements.

I commend the bill to the house.

Debate adjourned for Ms WOOLDRIDGE (Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 15 October.

VICTIMS OF CRIME COMMISSIONER BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr HERBERT (Minister for Training and Skills) on motion of Mr Jennings; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter'), I make this statement of compatibility with respect to the Victims of Crime Commissioner Bill 2015.

In my opinion, the Victims of Crime Commissioner Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will enshrine in legislation the position of the victims of crime commissioner who will be able to advocate to government departments and agencies for the recognition, inclusion, participation of and respect for victims of crime. The commissioner will also carry out inquiries on systemic victims of crime matters. The commissioner will report to the Attorney-General; and will provide advice to the Attorney-General and government departments and agencies regarding improvements to the justice system to meet the needs of victims of crime.

The bill also places the Victims of Crime Consultative Committee on a legislative basis. The committee provides a consultative forum for victims of crime to discuss issues of relevance with representatives from courts, prosecution, Victoria Police, victims' service agencies and the victims of crime commissioner. The committee will provide advice to the Attorney-General on matters of relevance to victims including policies, practices and reforms relating to victims issues and support services.

The establishment of specific legislation to embed the commissioner and the committee within the criminal justice system will complement other acts, which demonstrate the government's strong commitment to victims, including the Victims of Crime Assistance Act 1996 (the VOCA act), and the Victims' Charter Act 2006.

The definition of victim in the bill is the same as the definition in the VOCA act, which includes a primary victim, secondary victim or related victim of an act of violence. A primary victim is a person who is injured or dies as a direct result of an act of violence. A secondary victim includes a person who is present at the scene and who is injured as a direct result of witnessing the act of violence; and also includes a parent or guardian of a child, who is injured as a direct result of subsequently becoming aware of the act of violence. It should be noted that injury includes not just actual physical bodily harm, but also a mental illness or disorder or an exacerbation of a mental illness or disorder. A related victim includes a close family member, a dependant or a person who had an intimate relationship with a primary victim who died as a result of the act of violence.

The commissioner is also required by the bill, when performing a function or exercising a power, to have regard to the Victims' Charter Act 2006.

Human rights issues

Charter act s8 — Recognition and equality before the law

A significant proportion of the community are victims of crime, and many others feel the effects of those crimes. The victims of crime commissioner will undertake an advocacy role on behalf of victims and promote systemic reforms. The Victims of Crime Consultative Committee includes victim representatives and provides them with the opportunity to have input into policy and service development.

Although the commissioner will not become involved in individual cases and has no direct advocacy role in the courts, the systemic reforms that he will identify and promote will, in turn, promote the recognition and equality of victims before the law. Similarly, the work of the Victims of Crime Consultative Committee will contribute to the recognition and equality of victims before the law.

Charter act s13 — Privacy and reputation

Clause 18 of the bill allows the commissioner to request access to information held by the Secretary of the Department of Justice and Regulation.

Clauses 19 and 20 of the bill allow the commissioner to request the Chief Commissioner of Police and the Director of Public Prosecutions to provide full and free access to any record as is necessary to enable the commissioner to perform the commissioner's functions.

These organisations all have records relating to a significant number of members of the community, so there are numerous people whose privacy could be said to be compromised as a result of provision of records to the commissioner.

However, this is balanced by the terms of clause 18 and by clauses 19(3) and 20(3) of the bill which make it clear that intrusion by the commissioner into the privacy of a person is not arbitrary and is limited so that it may only occur when necessary for the commissioner to perform the functions assigned to the commissioner by the bill.

Clause 18 states that the secretary's obligation to give the commissioner full and free access to information held by the department only extends to that which is necessary to enable the commissioner to perform the functions under clause 23.

Clause 19(3) and clause 20(3) of the bill also provide further protections against any unjustified intrusion into a citizen's privacy. Those sections allow the Chief Commissioner of Police and the Director of Public Prosecutions to refuse to provide records where doing so would prejudice the investigation, enforcement or administration of the law, or prejudice a fair trial or impartial adjudication of a case, or disclose a record that is properly the subject of legal professional or client privilege, or disclose the identity of a confidential source in relation to enforcement or administration of the law, or endanger the lives or physical safety of those engaged in or in connection with law enforcement.

Clause 21 of the bill also provides a strong safeguard against misuse of information that may otherwise be said to intrude unreasonably on the right to privacy. That clause provides that, apart from the circumstances outlined in Clause 21(2), any person who knowingly discloses any identifying information obtained in the course of the performance of a function or the exercise of a power of the commissioner commits an offence punishable by up to 120 penalty units.

Clause 21(2) allows for the disclosure of identifying information, but not arbitrarily or unlawfully. Disclosure is only permitted where it is reasonably necessary:

> so that a person can perform a function or exercise a power of the commissioner;
>
> for the preparation or conduct or participation in legal proceedings;
>
> for the administration or enforcement of a court or tribunal order; or
>
> to obtain legal advice or representation.

Information may also be disclosed if that disclosure is authorised in writing by the person to whom the information relates, or is authorised or required by an act.

Similarly, information that may be received by the Victims of Crime Consultative Committee is protected by clause 46 of the bill. This clause provides that, apart from the circumstances outlined in clause 46(2), any person who knowingly discloses any identifying information obtained in the course of performing the member's role as a member of the committee commits an offence punishable by up to 120 penalty units.

Clauses 25, 28 and 29 of the bill enable the commissioner to make a report of an inquiry into a systemic victim of crime matter, an annual report and a report relating to any matter relating to the performance of the commissioner's functions. Those reports may engage the right to privacy, however there are reasonable limitations placed on the use of identifying information in any of the various reports by clause 30 of the bill.

The commissioner may use identifying information if the person to whom the information relates has given written consent. The commissioner may not use any information, whether identifying or otherwise, that would prejudice any criminal proceeding or investigation, any civil proceeding, an investigation by the Independent Broad-based Anti-corruption Commission (IBAC), any proceeding in the family division of the Children's Court, any proceeding in the Coroners Court, any proceeding under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 or any proceeding under part 7 of the Victoria Police Act 2013. The power to use information that might intrude on the right to privacy is therefore not arbitrary and is appropriately limited.

Accordingly, even if the commissioner's powers provide for the limitation of the right to privacy of certain people, those limitations are reasonable and justifiable. In my opinion, the bill is compatible with this right.

Charter act s17 — Protection of families and children

As noted earlier, the definition of 'victim of crime' in the bill encompasses family members in some circumstances. A secondary victim includes a parent or guardian of a child, who is injured as a direct result of subsequently becoming aware of the act of violence. A related victim includes a close family member, a dependant or a person who had an intimate relationship with a primary victim who died as a result of the act of violence.

This bill is therefore relevant to the right of protection of families and children. The functions that the commissioner has that are intended to advance the rights of victims will extend to those family members who fall within this extended definition of 'victim of crime'.

The commissioner's functions, as provided for by clause 13 of the bill, include advocating for the recognition, inclusion, participation and respect of victims of crime, carrying out inquiries, making reports and providing advice about victims of crime matters. Those functions engage the right of families and children to be protected by society and the state and the right of every child to such protection as is in his or her best interests.

Charter act s24 — Fair Hearing and Charter Act s25 — Rights in criminal proceedings

Section 24 of the charter act provides for the right to a fair hearing, and section 25 provides for fundamental rights of an accused in criminal proceedings. These rights may be engaged by the commissioner's functions of inquiring and reporting on victims of crime issues. However, any arbitrary or unlawful intrusion is safeguarded against by clause 22 of the bill.

Clause 22 prohibits the commissioner from performing a function or exercising a power in a manner that would prejudice legal proceedings or investigations. This clause is cast widely and explicitly notes criminal proceedings and

investigations; as well as proceedings in the Coroners Court, investigations by the IBAC and any proceeding under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997.

Therefore, the bill is compatible, in my opinion, with the rights prescribed in section 24 and section 25 of the charter act.

The Hon. Steve Herbert, MP
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

Mr JENNINGS (Special Minister of State) — I draw to the attention of the chamber that clause 38 was amended in the Legislative Assembly. The amendments were minor and have the effect of creating the ability to have reserve judges or magistrates serve on the Victims of Crime Committee. This amendment was requested by the Chief Justice of Victoria and was not opposed in the Assembly.

I move:

That the bill be now read a second time.

Incorporated speech as follows:

Victims of crime were once on the periphery of the criminal law, where they were treated as just another witness. In recent years, many changes have been made to recognise the particular harm that is suffered by victims of crime and to make their journey through the criminal justice system an easier and more respectful one.

The Victims of Crime Assistance Act 1996 and the Victims Charter Act 2006 were enacted in order to, amongst other things, provide assistance to victims, and to recognise principles that govern the response to those adversely affected by crime. Whilst those efforts have achieved much, more remains to be done.

Today I bring a bill to the house that takes another step towards the recognition of the rights of victims of crime, and the consideration of their experiences and concerns in formulating policy.

The Victims of Crime Commissioner Bill creates an independent commissioner, whose role will be to focus on the recognition of victims of crime in the justice system, to represent the interests of victims of crime to government and to promote the inclusion and participation of victims of crime in the justice system.

The inaugural victims of crime commissioner was appointed last year. Mr Greg Davies (APM) has served as the commissioner since October 2014 and has already been an effective advocate for victims of crime across many Victorian government agencies. I take this opportunity to thank him for the work he has already done, and the work he continues to do.

The bill formalises this role and establishes the victims of crime commissioner as a Governor in Council appointment, with clearly stated functions and powers.

The Victims of Crime Commissioner Bill also formally recognises the Victims of Crime Consultative Committee. This committee has existed since 2013, and is comprised of representatives of the court, the legal system and victims of crime. It has proven to be a valuable forum where victims of crime, judges and magistrates, and criminal justice professionals come together to discuss matters relating to policy and services for victims of crime. Formalising this committee in legislation will guarantee its continued existence, confirm its membership and create an ongoing mechanism for the voices of victims to be heard within the criminal justice system and within government.

The victims of crime commissioner

The victims of crime commissioner will provide a unique voice that can advocate for victims of crime in their dealings with the criminal justice system, and with government agencies. The bill defines 'victim of crime' broadly, in the same terms as the Victims of Crime Assistance Act 1996. The term encompasses those who are injured or who die because of violent crime, those who are injured by witnessing a violent crime, parents who suffer because their child is a victim of violent crime and the family members of those who die due to a violent crime.

As an independent and central point of contact for all victims who have experienced difficulties or confusion in dealing with the criminal justice system and government, the commissioner is in an ideal position to advise government on issues that arise at all points of the criminal justice system that adversely affect victims of crime.

This role will be independent of government and not beholden to any department or agency. The commissioner will be able to comment on any issue of concern to victims that he considers is worthy of enquiry. The commissioner will identify and enquire into problems in the system, and report his findings to the Attorney-General of the day and, through them, to Parliament.

To ensure this independence, the commissioner is appointed by the Governor in Council and holds office for five years. The commissioner may be appointed for one further term, so no one commissioner will hold office for more than 10 years.

While the commissioner will listen to individual victims' experiences and problems, the greatest benefit of the commissioner's role will be the ability to inquire into and report on a broad range of systemic issues across the justice system that affect victims in a range of circumstances.

Our intention is that the commissioner will focus on the big-picture issues that affect significant numbers of victims. The commissioner's role will extend beyond the consideration of the actual trial process and into the broader victims service system.

The commissioner will of course receive complaints from individual victims of crime. These individual complaints will assist the commissioner to identify the issues that are affecting victims of crime, and to target his inquiries at the right issues. Where possible the commissioner will provide advice and information to individual victims of crime.

However while the commissioner is able to advocate on behalf of victims of crime, our intention is that commissioners will not involve themselves with individual cases, or become involved in particular prosecutions. The commissioner is given a broad power to refer particular cases on, either to the Ombudsman, the Chief Commissioner of Police or the Director of Public Prosecutions. These are the agencies that are best placed to consider and respond to particular problems that might arise in individual cases.

The bill states that the commissioner's functions include:

(a) to advocate for the recognition, inclusion, participation and respect for victims of crime by government departments, bodies responsible for conducting public prosecutions and Victoria Police;

(b) to carry out inquiries on systemic victim of crime matters;

(c) to report to the Attorney-General on any systemic victim of crime matter; and

(d) to provide advice to the Attorney-General and government departments and agencies regarding improvements to the justice system to meet the needs of victims of crime.

The commissioner is given all the powers that are necessary and convenient to perform these functions. In particular the commissioner is given the right to require access to records from the Department of Justice and Regulation, in so far as is necessary to perform the commissioner's functions. The commissioner is also empowered to require records from both Victoria Police and the Director of Public Prosecutions. These records must be supplied, unless granting access to the records would be reasonably likely to prejudice an investigation or a trial; or disclose a confidential source of information or endanger a person.

It is the intention of government that all relevant government agencies will work in close cooperation with the victims of crime commissioner as required. Following the passage of this legislation, I will write to my ministerial colleagues seeking the cooperation of their departments and other relevant agencies.

The commissioner is given an explicit power to carry out an inquiry on any systemic victim of crime matter. This inquiry may be as a result of a specific request, or it may be on the commissioner's own motion. The commissioner may provide the Attorney-General with a report of such an inquiry and the Attorney may then, with the agreement of the commissioner, publish the report or table the report in Parliament.

In addition to these reports, the commissioner may also report to the Attorney-General on any matter relating to the performance of the commissioner's functions and these reports may also be tabled in Parliament. The commissioner's office will not be required to provide financial reports pursuant to the Financial Management Act 1994, but financial aspects of the operation of the office will be provided as part of the financial reports of the Department of Justice and Regulation.

We expect that the commissioner will deal with a number of sensitive documents. This bill provides safeguards — both for personal private information and for information that has the potential to impact ongoing legal proceedings. Any person who obtains information that could identify a person will be prohibited from disclosing it, unless that disclosure is necessary for certain reasons, including that it is necessary to perform one of the commissioner's functions or for the conduct of a proceeding in a court or tribunal.

Similarly, the commissioner is prohibited from performing any function or exercising any power in a manner that would prejudice any criminal proceeding or investigation, or any other legal process; such as an inquest.

In cases where the commissioner believes there is evidence of corrupt conduct, the commissioner must refer the matter to IBAC. He may also refer a matter to IBAC if it is relevant to the performance of IBAC's functions.

The commissioner will be most effective when he advocates for the interests and needs of all victims. The distress and suffering experienced by victims of crime often means they are not in a position to publicly express their concerns or issues. This bill gives the victims of crime commissioner the powers needed to become their voice, and to articulate victims' collective concerns and issues.

Victims of Crime Consultative Committee

As I have already mentioned, this bill also formally recognises the Victims of Crime Consultative Committee, which has now been operating for approximately two years.

In order to ensure the committee continues to exist in a robust form, that its composition is clear and that it provides victims with an ongoing opportunity to fully be heard by government and within the criminal justice system, it has been important to cement its place in legislation.

The committee is important as it provides an opportunity for victims of crime, judges and magistrates and justice agencies and victim of crime services to meet together and discuss ways to achieve improvements to policies, practices and service delivery. In this respect, the committee will provide valuable advice to the Attorney-General, which will be of significant assistance in continuing to improve the criminal justice system to ensure that it best serves all members of the community.

The committee comprises a chairperson, the commissioner, judicial members, a legal practitioner from the Office of Public Prosecutions, the secretary of the adult parole board, and a police officer. There will also be representatives of our victims' services. Most importantly, there will be up to seven victims of crime on the committee.

The judicial members of the committee are a judge or reserve judge of the Supreme Court, a judge or reserve judge of the County Court, a magistrate or reserve magistrate, a coroner or reserve coroner, and a magistrate or reserve magistrate of the Victims of Crime Tribunal. I am grateful for the cooperation received from the most senior ranks of the legal profession.

The chairperson is a Governor in Council appointment, holds office for up to two years and will be eligible for reappointment. The first chairperson was the Honourable Philip Cummins, AO, a former judge of the Supreme Court of Victoria and current chair of the Victorian Law Reform Commission. His Honour very ably held that position from the inception of the committee until 27 April 2015 when His

Honour Justice Bernard Teague, AO, commenced serving as chairperson.

Justice Teague, a former Supreme Court judge, a former member of the adult parole board and the 2009 Victorian bushfires royal commissioner, has extensive experience in the justice system in general and in the criminal justice system in particular, so brings invaluable knowledge and experience to this role.

There are many committed, articulate and passionate Victorians who are victims of crime and we want to hear the voices of as many of them as possible through this committee. For this reason, the tenure of a victims of crime representative on the committee will be limited to two years. This will ensure that there will regularly be new members who will have the opportunity to offer their experiences and insights. The committee will benefit over time from the knowledge and skills of numerous different victims of crime, all of whom — I am sure — will make valuable contributions to the work of the committee.

Up to seven new victim representatives are currently in the process of being appointed for a two-year period from 1 October 2015. The department has received many expressions of interest from members of the community; which reinforces how important it will be to enable as many people as possible to take a seat on this committee.

In order to ensure that the committee is able to meet and discuss relevant issues in a timely and appropriate way, it will have the ability to regulate its own procedure. The chairperson may convene a meeting of the committee at any time, and the meeting may proceed regardless of whether all members are present.

Committee members will from time to time be privy to sensitive information. The bill provides safeguards to ensure that a member may not disclose any identifying information obtained in the course of performing the member's role, unless authorised by the chairperson and the person to whom the identifying information relates. A member who knowingly discloses any identifying information obtained in the course of performing the member's role commits an offence punishable by up to 120 penalty units.

The committee has already demonstrated its ability to promote the objectives of the bill. The committee has achieved a number of goals. It has provided input to the Victoria Police victim-centric strategy and has been very active in projects which raise awareness of the impact of crime.

Over the last two years, victim representatives on the committee have worked with the Department of Justice and Regulation and participated in community education forums held during Law Week in May and regional forums in Traralgon, Shepparton, Geelong and Broadmeadows in November 2014.

Five of the victim representatives on the committee have recently participated in a film to help other families deal with the loss and grief which follows the death of a loved one as a result of an act of violence. The film is a moving account of their own experiences and journeys and will also be used by Victoria Police in training police members, and by the Office of Public Prosecutions to educate prosecutors.

As I said at the outset, there have been many improvements to the way victims are treated within the criminal justice system. But we can't be complacent. The creation of an independent victims commissioner and a standing victims consultative committee will ensure that the problems encountered by victims continue to be brought to government's attention.

This bill establishes a clear framework in which the commissioner and the consultative committee can continue with the important work of ensuring that victims of crime are accorded appropriate respect and dignity within the criminal justice system.

I commend the bill to the house.

Ms Lovell — On a point of order, Acting President, I just noticed that the copy of the bill I have has a handwritten amendment. I am wondering if that is part of parliamentary procedure.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! I have been advised by the Clerk that that relates to the statement that Mr Jennings just made to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 15 October.

WRONGS AMENDMENT BILL 2015

Introduction and first reading

Received from Assembly.

Read first time for Mr HERBERT (Minister for Training and Skills) on motion of Mr Jennings; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter'), I make this statement of compatibility with respect to the Wrongs Amendment Bill 2015.

In my opinion, the Wrongs Amendment Bill 2015, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill implements most of the recommendations made by the Victorian Competition and Efficiency Commission in its report *Adjusting the Balance — Inquiry into Aspects of the*

Wrongs Act 1958. The bill will make it easier for certain types of claimants to access compensation for their injuries.

Human rights issues

The bill does not limit any rights in the Charter of Human Rights and Responsibilities Act 2006.

Human rights protected by the charter that are relevant to the bill

The bill will promote the right to equality before the law (section 8 of the charter) because it will allow some claimants to bring claims for non-economic loss who would otherwise have been excluded from doing so. For example, a person who has a spinal injury that is rated at 5 per cent whole-person impairment is currently unable to bring a claim for non-economic loss. The bill will lower the threshold so that persons with spinal injuries rated at 5 per cent whole-person impairment can bring those claims.

The bill will promote the protection of families and children (section 17 of the charter) as it re-establishes the right to claim damages for loss of capacity to care for others, which will benefit families where the caregiver is injured and unable to provide care to his or her dependants.

The Hon. Steve Herbert, MLC
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

Mr JENNINGS (Special Minister of State) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill makes a number of amendments to the Wrongs Act 1958 to ensure that Victoria's personal injuries legislation operates clearly and consistently to benefit claimants who are injured by the negligence of others, while not unduly affecting the availability of insurance at affordable premiums. The bill implements most of the recommendations of the Victorian Competition and Efficiency Commission's report *Adjusting the Balance — Inquiry into the Wrongs Act 1958*, which identified a number of anomalies, inconsistencies and inequities in Victoria's personal injuries legislation.

In 2002 and 2003 significant reforms were made to Victoria's personal injuries laws as part of a nationwide tort law reform project in the wake of the collapse of HIH Insurance in 2001. The reforms were designed to restrict some common-law rights to compensation for negligence in order to reduce insurers' liability for damages, with the aim of relieving pressure on insurance premiums and ensuring the availability of insurance.

While there is evidence to suggest that the tort law reform project was successful in reducing insurance premiums, there are concerns that the reforms have disproportionately affected the rights of claimants to access damages, and some deserving claimants have been denied compensation.

In 2013 the Victorian Competition and Efficiency Commission reviewed the personal injury provisions of the Wrongs Act to identify any anomalies or inconsistencies, in order to ensure that the act is operating fairly and is not excluding genuine claimants from accessing compensation. The commission was asked to make recommendations for improvement to the act that would not place undue pressure on the price or availability of insurance.

The bill gives effect to most of the recommendations in the commission's report, and will make it easier for certain types of claimants to access compensation for their injuries. It is a responsible, evidence-based reform package.

The current whole-person impairment threshold for access to damages for non-economic loss, which compensates for pain and suffering and loss of enjoyment of life, is 'greater than 5 per cent'. The bill will lower this threshold for claimants with spinal injuries to '5 per cent or more', which recognises that spinal injury impairments are only assessed in increments of 5 per cent. This will mean that some claimants who suffer from spinal injuries who are presently unable to access compensation for non-economic loss will be able to do so, reflecting the fact that spinal injuries often have a major impact on a claimant's overall quality of life.

The bill will also lower the impairment threshold for claimants with psychiatric injuries, from 'greater than 10 per cent' to '10 per cent or more', which will slightly increase the pool of claimants who are eligible for compensation for psychiatric injuries.

The bill will also increase the maximum amount of damages that can be awarded for non-economic loss, from $497 780 to $577 050. This will bring the Wrongs Act into line with the Victorian workers compensation scheme, and will be of particular benefit to young or catastrophically injured plaintiffs, by allowing them to access more compensation for their injuries.

The bill will benefit injured parents and carers by reinstating a limited entitlement to damages for the loss of capacity to care for dependants. This head of damages formerly existed at common law but was abolished by the High Court of Australia in 2005. Reinstating the head of damages recognises the value of the work that is performed by parents and carers in the home, and the significant financial stress that can be placed on families as a result of the injury or death of a parent or caregiver.

The bill also makes changes to the cap on damages for economic loss so that it operates more fairly with respect to people with high earning capacity and their dependants.

The bill aims to ensure that Victoria's personal injuries legislation operates clearly and consistently, and makes important amendments that will lead to better, fairer outcomes for claimants.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 15 October.

RULINGS BY THE CHAIR

Questions without notice written responses

The PRESIDENT — Order! Earlier today during question time Mr Barber asked me to consider questions put by Ms Dunn to Ms Pulford, both substantive and supplementary questions, in the context of whether or not they had been adequately answered. I have subsequently had the opportunity to read both the questions and the answers provided, and I am of the view that it would be instructive if the minister were to provide written responses to both those questions to ensure that they are more adequately answered in the circumstances.

Questions on notice

The PRESIDENT — Order! I also indicate that Ms Crozier has written to me in respect of a number of questions she has put to the Minister for Families and Children, Ms Mikakos. In the first instance they are questions to the minister relating to questions on notice 1251 through to 1257. Ms Crozier believes there has not been an adequate response to those questions insomuch as in all but one of those responses the minister has relied on a statement that the information is available in the annual report and is available online. Ms Crozier's question raises an interesting concern for me, and I have had this concern previously in relation to a query I received from Mr O'Donohue, who sought weekly statistics in an area of interest to him. Ms Crozier seeks monthly statistics. As I understand it, the publication of statistics in the annual report is an annual figure rather than a monthly breakdown.

I am mindful of the fact that we ought not be seeking to be too onerous in terms of a minister's responsibilities in providing statistics, and that statistics need to be accurate. It occurs to me that some short time frame statistics are perhaps preliminary figures and have not necessarily been verified. That is one of the reasons why publishing dates are perhaps longer than some of us might have hoped. In the circumstances I am of the view that it would be better if a member, in this case Ms Crozier, were able to ask for perhaps quarterly statistics as distinct from monthly ones. I think that would still achieve what I imagine is Ms Crozier's objective of trying to determine trendlines — for instance, whether or not the number of calls to services or the demand on services is higher in a particular period of the year. I understand that Ms Crozier has sought monthly statistics, and Mr O'Donohue sought weekly statistics on another occasion, in order to determine trendlines.

We do need to compromise and make sure that we are fair to the process in this respect. However, notwithstanding those comments, on this occasion I seek that all those questions — 1251 through to 1257 inclusive — be reinstated on the notice paper in as much as I think that if those statistics are being collected, then it is a courtesy to a member of the house to provide those statistics rather than to refer the member to a website, which in some cases can be fairly difficult to navigate and actually find such figures.

Ms Crozier has written to me also in respect of further questions to the Minister for Families and Children — questions on notice 1244 through to 1250 inclusive. A similar circumstance prevails in the respect that Ms Crozier is seeking monthly figures. Perhaps she or other members will take under advisement my comments on the expectation of drawing down figures to achieve an effective trend line but without being overly onerous in terms of ministerial resources. Nonetheless, on this occasion I am certainly prepared to reinstate those questions — that is, questions on notice 1244 through to 1250 inclusive.

ADJOURNMENT

Mr JENNINGS (Special Minister of State) — I move:

> That the house do now adjourn.

Police station security

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Police, Mr Noonan. We are all aware of the very disturbing situation that took place in Parramatta, New South Wales, last Friday, and we are aware via commentary in the media about the security upgrades that have been commissioned at a range of police stations across Victoria to provide extra security to our policemen and policewomen, who do such a fantastic job. I noted with interest the comments of the Police Association secretary, Ron Iddles, on breakfast radio earlier this week, when he said:

> We've talked about changing security systems within police stations for 12 months now, it's time to walk the walk.

There have been media reports, and as I understand it the Endeavour Hills police station, which was the subject of a significant incident late last year, is having its security upgrade completed soon. I am aware that other stations in that vicinity, including the busy 24-hour Narre Warren North station, as I understand it, have yet to have their security upgrades completed, which the audit found was necessary.

I also make the point to the minister that, from my understanding, there have been no resources provided to Victoria Police in addition to the budget allocation made in May for Victoria Police to complete these most important security upgrades that are required as a result of the audit that was completed. The action I seek from Minister Noonan is that he provide Victoria Police with the resources it requires to enable it to complete the necessary security upgrade works at police stations that have been identified in the statewide audit that was undertaken and completed, reflecting the changed security environment in which we now find ourselves operating. That would be the action I seek from Minister Noonan.

School asbestos removal

Ms SHING (Eastern Victoria) — The matter I wish to raise this evening is for the attention of the Minister for Education, Mr Merlino. It relates to the commitment to address asbestos in schools, the plan to identify asbestos within Victoria's schools and to take care of the problems relating to potential exposure.

Gippsland has a number of school buildings, many of which I have visited, which contain asbestos which is largely undisturbed. In that context these buildings provide ongoing utility; they are facilities that are used and enjoyed by staff and students alike. Having said that, however, I note it is important that we maintain a steadfast commitment to safety in and around school buildings. Along with many others throughout Gippsland, and in particular in the Latrobe Valley, I am heartened by the commitment to address asbestos in schools to minimise health risks to people who might otherwise suffer unduly from exposure and the disease and ailments that can result, often much later in life.

The action I seek from the minister is an outline as to how Gippsland schools will be identified in terms of the presence of asbestos and how the plans are progressing for identifying them and for ensuring asbestos is removed in a timely and safe fashion so that kids, staff and the community can continue to have a safe learning environment.

Dairy industry

Mr PURCELL (Western Victoria) — The matter I raise tonight is for the Minister for Agriculture. South-western Victoria is one of Victoria's prime dairy regions and the fastest growing dairy region in the state. It produces more than 2.1 billion litres of milk from about 1500 farms with 440 000 cows. I am told there are about four cows per person in the region. The herd sizes are growing, and the number of cows in many dairies exceeds 2000. With this, however, brings a problem we see in western Victoria, which is the lack of three-phase power going into the dairies.

The dairy industry is the biggest exporter from the port of Melbourne and contributes something like $4.6 billion to the Victorian economy through exports. The lack of power has been a longstanding issue, one that has restricted the growth of the industry. As I raise this matter I am sure the minister is well aware that the Bracks Labor government implemented a subsidy system back in the early days which was very successful and helped the industry grow. I therefore urge the Minister for Agriculture to join us in meeting with south-western dairy farmers to gain firsthand updates on the issue and to review the funding initiatives to rectify this problem.

Tower Hill Wildlife Reserve

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Environment, Climate Change and Water. It relates to the Tower Hill Wildlife Reserve, which is very near the great regional city of Warrnambool, which I am quite sure that residents of Mulgrave will be able to get to with their 10 bridges which have been upgraded using country roads and bridges program funding.

The great Tower Hill Wildlife Reserve has a lot of visitors. Indeed upwards of 200 000 visitors attend the reserve each and every year. Given this significant visitation level, we want to ensure that this park is accessible to all members of our community, but at this point in time the reserve is without a toilet with disability access. It is important that all members of our community can go along and enjoy wildlife reserves such as the fabulous Tower Hill reserve. The action I request from the minister is therefore that she seek to fund the installation of a toilet with disability access at the Tower Hill Wildlife Reserve to ensure that all members of our community can enjoy the fabulous park.

Disability grants

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Housing, Disability and Ageing. I understand there is a round of small grants that will be available — they may be available now — to assist disability self-help groups to operate or maybe to undertake small projects or purchase some equipment. The action I seek is for his office to forward me personally the details of any appropriate associated documentation, so that I can take

it to a local disability group in Eastern Metropolitan Region that may need assistance in navigating this process.

Stronger Country Bridges program

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Minister for Roads and Road Safety, and the matter I wish to raise with the minister is an issue that came out of discussions I had with Corangamite Shire Council and the Liberal Party candidate for Polwarth, Richard Riordan.

As we have heard in this chamber for over a year now, local councils have been struggling with maintenance and upgrades of their roads and bridges, particularly with the loss of the coalition's $160 million roads and bridges program, which provided over $1 million per year to 41 rural councils across Victoria. Sadly, only today we have heard that the Andrews government's new Stronger Country Bridges program is so broad and has been so totally compromised that it includes funding of metropolitan bridges and that over a quarter of the first funding allocations under this program were given in close proximity to the Premier's electorate of Mulgrave. Not 1 of the 48 bridges allocated for funding sits in either the Polwarth electorate or the South-West Coast electorate.

Corangamite Shire Council has identified the Castle Carey Road bridge, which provides an important regional stock and freight route over the Mount Emu Creek, as a priority project for bridge replacement. Ms Shing might be familiar with that creek if she has been fishing down there. Interestingly enough the federal government has seen fit to help fund this bridge with $1.6 million, and, as I said, to its credit Corangamite Shire Council has also committed $1.6 million. The south-west community has been surprised and somewhat disappointed that this bridge replacement project did not receive state funding under the Andrews government's new Stronger Country Bridges program, given that it has received local and federal government support. Even more incredulous was the fact that 10 bridges in downtown Mulgrave received funding but none in the south-west.

The action I seek is for the minister to review the current allocation for the new Stronger Country Bridges program, have only country bridges meet the criteria for funding and have the Corangamite Shire Council application for a $2 million state contribution to the replacement of the Castle Carey Road bridge be seen as an urgent priority for funding.

Macedon Ranges equine centre

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Regional Development and it relates to establishing an equine centre in Macedon Ranges shire. My request is that the minister support the Macedon Ranges Shire Council to advance its planning for the establishment of an equine centre by providing the $150 000 required to develop a full business case for the centre.

The equine industry is a major industry in the Macedon Ranges and contributes an estimated $140 million annually to the local economy. To capitalise on this and further develop the shire as a premiere equine region, the Macedon Ranges equine strategy 2012–16 has been developed, which outlines seven strategic directions over five years to support the growth and development of the equine sector in the region.

Part of this strategy is the proposed establishment of an international standard indoor equestrian centre, which could attract and host international competitions and events. A Macedon Ranges equine centre feasibility study has been conducted. It found that an equine centre is feasible due to the high level of stakeholder support, that all options scoped have the potential to be financially sustainable and that its development would have a significant economic and employment impact.

Further, it says the benefits of hosting such a facility are extensive. Most importantly it would provide the community with access to a world-class facility that would deliver a considerable economic benefit, facilitate new business opportunities and create a wide range of skilled and unskilled jobs. There was overwhelming community support for the establishment of an equine centre in the Macedon Ranges, with 741 submissions, or 95.2 per cent of those involved in the community consultation process, supporting the proposal.

I recently met with the Macedon Ranges Shire Council mayor, councillors and executive, as well as the manager of economic development and tourism, regarding the future direction of the project. The council has resolved to continue to work with the Victorian government, because it will need ongoing support.

The feasibility study is complete, and the master plan has been approved by council, and recommendations for the next steps to be taken include the development of a full business case for the equine centre, including more detailed financial and economic modelling. I was advised that council requires $150 000 for the business

case. If the project is built, capital expenditure would be $40 million to $50 million. This could be funded as a possible public-private partnership, and council has been working with the Government Business Office in Dubai to seek investment. If it is able to seek enough interest, the project may not need government funding.

My request is that the minister support the Macedon Ranges Shire Council to advance the planning for the establishment of an equine centre by providing the $150 000 required for the development of a full business case for the equine centre.

TAFE funding

Mr EIDEH (Western Metropolitan) — The adjournment matter I raise today is for the Minister for Training and Skills, Steve Herbert. It is a known fact that all jobs start with skills. Skills come from education and vocational training, and the Victorian TAFE sector plays a vital role in getting people ready for work.

The Andrews Labor government has committed to high-quality training and as a result is creating more opportunity for jobs and growing our state's economy — things that were completely abandoned by the previous government. Not only did we see the manufacturing industry shut down under the coalition but we saw it TAFEs closed across the state too. It did this without giving a second thought to the lives and families this would destroy and the impact this would have on the Victorian economy. It did this when Victoria was in the middle of a jobs crisis. But this government is committed to rebuilding the Victorian TAFE system. Already the $320 million TAFE Rescue Fund is being delivered and is saving campuses and communities.

In addition to this, the government has committed $50 million to the TAFE Back to Work Fund to link students with local jobs. In my electorate this is very important, as there has been an ongoing issue with youth disengagement and unemployment. The government's TAFE rescue program and plan for creating 100 000 jobs in this state will support our most vulnerable and disengaged young people by saving the local learning and employment networks, which is great news for my electorate.

I ask the minister how these funds will be of benefit to the TAFEs within my electorate and what opportunities are being made available to encourage young people within my electorate to further their skills and training to make them job ready?

Multicultural affairs grants

Mrs PEULICH (South Eastern Metropolitan) — The matter that I wish to raise is for the attention of the Minister for Multicultural Affairs, and it relates to matters that I have raised here in the house on a couple of occasions already, and that is the need for funding and resources to be rolled out for short-term measures under the social cohesion and community resilience fund, for which the government has set aside $25 million over four years.

I understand that the minister is looking at medium and long-term measures, and that is commendable, but I think there is a strong need for short-term measures and resources to be rolled out to address matters which actually are a threat to our social cohesion and resilience. One of the matters that I have raised is a need to fund projects that aid the removal of online hate material and also material online that seeks to recruit and radicalise. Another example — and this is the specific matter that I am raising tonight — has to do with the cancellation of the wine festival in Bendigo as a result of a planned anti-Islam rally, as well as a counter rally, which was anticipated to cause ugly scenes yet again in a potentially violent confrontation between 650 activists on opposing sides.

As a result of the cancellation of the wine festival, it is expected that there will be a cost to the economy of the Bendigo community to the tune of about $500 000 and also significant funds lost in the preparation for the festival, as well as in ticket sales. It seems to me that it ought to be possible under the social cohesion and resilience fund for additional resources to be offered for short-term measures and priorities to the City of Greater Bendigo as well as to the Bendigo police and the business community to help them deal with these challenges and hopefully neutralise the situation. We need to be proactive in trying to find some reconciliation or solutions for these opposing sides, which are causing significant concern to the Bendigo community. I believe they are also stretching resources.

I ask the Minister for Multicultural Affairs to place on the agenda of the task force the need for its urgent consideration of short-term measures involving resources to be rolled out in areas where there are concerns or hotspots and where a response or leadership needs to be provided to the community under the banner of social cohesion and resilience funding.

In particular I think this is a good example of where additional support could be rolled out by the minister and his department, with the assistance of the Office of

Multicultural Affairs and Citizenship, to help provide leadership, additional resources and a coordination of efforts across agencies to help resolve matters that are clearly hurting the community. I believe this matter would be best served by a more proactive approach than has been the case in the past.

Aspergers Victoria

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Housing, Disability and Ageing, and it concerns an organisation I met with recently. Aspergers Victoria, a registered health promotion charity, has been providing essential information and support services to those living with Asperger's syndrome and autism spectrum conditions since 1991. The vision of the organisation is to promote the positives of Asperger's across the life span and to make a difference to the lives of individuals with Asperger's by providing support, knowledge and skill development to enhance the abilities and lives of people with Asperger's and their families. It should be pointed out that all of the board members and volunteers are either on the spectrum or have close family members living with Asperger's.

Aspergers Victoria began in 1991 with four families meeting in a suburban living room to discuss family issues related to the new diagnosis of Asperger's syndrome. From these humble beginnings it has grown dramatically. It now has 13 individual peer support and social groups running in five locations around Melbourne. These groups met 140 times during the last financial year, with over 2000 people attending. That is more than a threefold increase in just five years.

The groups cater for all members of the Asperger's community: adults, young adults, teens and girls and boys with Asperger's, along with their parents and carers, siblings and partners. Last year Aspergers Victoria delivered seven seminars, attended by nearly 750 people; attracted 40 000 visitors to its website; maintained Twitter and Facebook forums; produced four 20-page newsletters; engaged in face-to-face contact with nearly 3500 people; and serviced thousands of helpline calls and emails. It provides a resource library, information pack and fact sheets. It also supported four families after the suicide of their loved one with Asperger's.

The board and the volunteer team of nearly 40 people work hard together with little or no recognition, and last financial year they received only a single grant of $2272 from the then Department of Human Services along with donations of $3000. That barely covers the rent. That is where the problem arises that I wish to raise with the minister tonight. The organisation, Aspergers Victoria, is now at a crisis point. The work required to run the organisation is more than 500 hours per month. The volunteers who are running Aspergers Victoria right now just cannot continue to do it. It is burning them out, and they need support.

I asked the minister to make a time as soon as possible to meet with Lyndel Kennedy, the president of Aspergers Victoria, to discuss with her the needs of the organisation and to come to some arrangement whereby the government can make a financial contribution.

Port of Melbourne

Mr MELHEM (Western Metropolitan) — My adjournment matter is directed to my colleague and friend the Honourable Luke Donnellan, Minister for Roads and Road Safety, who is also Minister for Ports. It relates to the port capacity project. In my understanding the port capacity project is vital for our state during a time of economic transition. If we want the Victorian economy to thrive in a challenging and changing global economy, we must capitalise on our strengths. We have a great manufacturing industry here in Victoria, especially in my electorate of Western Metropolitan Region. Trade is the lifeblood of many local economies and workers out in the west, so it is vital that our infrastructure keep pace with the volume of traffic in our port.

The Andrews Labor government is not repeating the mistakes of past federal coalition governments and allowing our infrastructure to crumble and bottlenecks to build up through a lack of investment. Can the minister update me on how the port capacity project is progressing, what its impact will be and what benefits it will deliver to my constituents in the western suburbs of Melbourne?

Kindergarten funding

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Families and Children. Yesterday the minister confirmed that parents will be making a contribution to the cost of the new early childhood educators enterprise bargaining agreement — a fee of over $50 per year. What the minister has refused to rule out in answering questions I have put to her previously is the cost of the new ratios and whether that will also be passed on to parents.

As reported in a recent newspaper article, members of the early childhood sector have raised concerns about the cost of implementing the new ratios. They say fears

persist about whether there is enough funding for more staff and that in some instances kindergartens will have to increase their fees by between 5 per cent and 50 per cent. Various community kindergarten representatives I have met with confirm that they are extremely concerned about the funding shortfall, what it will mean for some of the most vulnerable families, how they will afford the additional payments and ultimately the ongoing viability of the kindergartens themselves. Members of the early childhood education sector are calling on the government to provide additional funding to ease the burden on kindergartens as they transition to the new ratios on 1 January 2016.

As there is considerable concern among the early childhood education sector, including educators themselves, managers and certainly parents, the action I seek is that the minister make her position on this matter very clear and give an assurance that any additional costs incurred in the implementation of the new ratios will not be passed on to parents.

Responses

Mr JENNINGS (Special Minister of State) — Mr O'Donohue raised a matter for the Minister for Police seeking the minister's support for funding to provide security upgrades across police stations. He referred to the Endeavour Hills station and an audit that has been undertaken about that requirement across Victorian police stations.

Ms Shing raised a matter for the attention of the Minister for Education seeking his advice about the way his department will assess and identify the incidence of asbestos in schools across the Gippsland region. She asked what might be the time frame for the consideration of the removal of asbestos from schools throughout Victoria, which is a commitment of the Andrews government.

Mr Purcell raised a matter for the attention of the Minister for Agriculture and reminded us of the significant financial and quality-of-life contributions made by dairy farms in the south-west. He has asked the minister to meet with south-western dairy farmers to discuss the reliability of electricity supply and the way support can be provided to dairy farmers to underpin the viability of that important industry of the south-west and to explore what funding options may be available to provide that support.

Mr Morris raised a matter for the attention of the Minister for Environment, Climate Change and Water seeking her support for the provision of toilet facilities to support people with disabilities and ensure that they are provided for in an appropriate fashion if they choose to visit the Tower Hill Wildlife Reserve.

Mr Leane raised a matter for the attention of the Minister for Housing, Disability and Ageing seeking information that he can disseminate through disability groups in his electorate of Eastern Metropolitan Region to make sure that any group that provides support, and certainly self-help support, for people with disabilities is well informed and is able to apply for the relevant grant programs that are available.

Mr Ramsay raised a matter for the Minister for Roads and Road Safety seeking his review of the allocations for the Stronger Country Bridges program and drew particular attention to a bridge requirement within the Corangamite shire.

Ms Lovell raised a matter for the attention of the Minister for Regional Development seeking her support to fund and support the development of a business case for an equine centre in the Macedon Ranges.

Mr Eideh raised a matter for the attention of the Minister for Training and Skills wanting advice for his community about the way young people in particular are provided with access to the TAFE system and become job ready.

Mrs Peulich raised a matter for the attention of the Minister for Multicultural Affairs seeking his support for funding of short-term programs in relation to social cohesion and resilience, which she had raised previously in question time during the course of the sitting week.

Mr Finn raised a matter on behalf of Aspergers Victoria in particular seeking a meeting between president Lyndel Kennedy and the Minister for Housing, Disability and Ageing to discuss the important work the organisation undertakes, which includes 30 peer support groups in five locations and 140 meetings that have been held in recent times, with more than 2000 people in attendance. There have been more than 40 000 visits to the website, 3500 face-to-face engagements with citizens of the community, and 40 members of the board — —

Mr Finn — Forty volunteers.

Mr JENNINGS — Forty volunteers support the board and are currently undertaking about 500 hours of voluntary activity during the course of a month. That is quite an onerous responsibility, and up until now the organisation has only received $2272 and $3000 in donations to support its important work. I join Mr Finn in saying that I think an organisation that provides that

degree of support for families who have children with Asperger's syndrome or for people in our community with Asperger's syndrome is a worthy issue to raise for the minister's attention, and I am sure the minister will be very respectful of that.

Mr Melhem raised a matter for the attention of the Minister for Ports seeking the minister's advice about the current development of the port capacity project, how it will unfold and what benefits may accrue, particularly to economic activity in the community of the western suburbs.

Ms Crozier raised a matter for the Minister for Families and Children reminding us of an issue that was raised previously during the course of the Parliament this week and seeking clarification about the modest contribution that parents will be providing in terms of financial support for the outcome of the enterprise bargaining agreement in early years education. She sought the minister's clarification that any funding arrangement that relates to the introduction of new ratios will not be bundled into that modest contribution and asked that the minister provide clarity and confidence to families going forward.

Beyond that, I have one written response to an adjournment debate matter raised by Mr Bourman on 3 September 2015.

The ACTING PRESIDENT (**Mr Morris**) — Order! The house stands adjourned.

House adjourned 7.44 p.m. until Tuesday, 20 October.

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

Responses are incorporated in the form provided to Hansard

Firearms

Question asked by: **Mr Bourman**
Directed to: **Minister for Training and Skills**
Asked on: **6 October 2015**

RESPONSE TO SUBSTANTIVE QUESTION:

I am advised as follows:

I thank the member for his question and continued interest in the subject.

The Andrews' Government is committed to cracking down on criminals using illegal firearms. That is why we recently introduced legislation, which passed with the full support of Mr Bourman and Mr Young, that cracked down on the theft, production and sale of firearms across Victoria. In addition, these changes introduced a new deeming provision, this shifts the focus away from a person's relationship with the firearm and places an evidentiary burden on the defendant to prove that the firearm was not theirs. This will assist police when they find a firearm in a car and premise with all in attendance denying the firearm was theirs. This change will in particular assist police when dealing with organisations such as outlaw motorcycle gangs.

This legislation gave police the further powers they needed to combat illegal firearms.

The government introduced these new laws to send a clear message to criminals who intend on using firearms to undertake crime. Our community will not stand for this behaviour.

These laws join already existing powers that police can use to tackle those using firearms for nefarious purposes. Such powers are contained in Section 31A of the Crimes Act.

Section 31A ensures that any person found guilty of an indictable offence who carried a firearm, or imitation firearm, when committing the crime is guilty of a further offence and liable to a maximum five year prison sentence.

In response to the question from Mr Bourman, I am advised by the Crime Statistics Agency that there were 82 offender incidents recorded with an arrest or summons for crimes against s31A of the Crimes Act 1958 between 1 July 2005 to 30 June 2015.

RESPONSE TO SUPPLEMENTARY QUESTION:

I am advised by the Sentencing Advisory Council that between September 2007 and March 2013, the Magistrates' Court imposed sentences for three offences against section 31A.

Between March 2003 and December 2006, the Sentencing Advisory Council has advised that the higher courts imposed sentences for four offences against section 31A. There are no records of any convictions in the higher courts after December 2006.

Public holidays

Question asked by: **Mr Ondarchie**
Directed to: **Minister for Small Business, Innovation and Trade**
Asked on: **7 October 2015**

RESPONSE:

I am advised by the Department of Economic Development, Jobs, Transport and Resources that the Regulatory Impact Statement on the introduction of two new public holidays in Victoria received several responses suggesting other events that could be observed by a public holiday rather than Grand Final Friday, including the Monday before Melbourne Cup Day and Remembrance Day.

I am advised by my office that they have not received any correspondence directly.