PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 11 May 2017

(Extract from book 8)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

(from 10 November 2016)

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Minister for Industry and Employment, and Minister for Resources	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
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Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Training and Skills, and Minister for Corrections	The Hon. G. A. Tierney, MLC
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Thomas, MP

Legislative Council committees

Privileges Committee — Ms Hartland, Ms Mikakos, Mr O'Sullivan, 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 Barber, Mr Bourman, #Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Leane, #Mr Melhem, Mr Ondarchie, Mr O'Sullivan and #Mr Rich-Phillips.

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

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

participating members

Legislative Council select committees

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

Joint committees

Accountability and Oversight Committee — (*Council*): Mr O'Sullivan, 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, Ms Garrett 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 O'Sullivan, Mr Ramsay and Mr Young. (*Assembly*): Mr J. Bull, Ms Halfpenny, Mr Richardson and Mr Riordan.

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

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*): Ms Patten, 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*): Ms Bath and Mr Dalla-Riva. (*Assembly*): Ms Blandthorn, Mr J. Bull, Mr Dimopoulos, 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:
Mr K. EIDEH

Acting Presidents:
Ms Dunn, Mr Elasmar, Mr Finn, Mr Melhem, 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:
Mr L. B. O'SULLIVAN

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	SFFP	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	O'Sullivan, Luke Bartholomew [4]	Northern Victoria	Nats
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Patten, Ms Fiona	Northern Metropolitan	ASP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin [3]	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Pulford, Ms Jaala Lee	Western Victoria	ALP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Purcell, Mr James	Western Victoria	V1LJ
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Herbert, Mr Steven Ralph [5]	Northern Victoria	ALP	Springle, Ms Nina	South Eastern Metropolitan	Greens
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Melhem, Mr Cesar	Western Metropolitan	ALP	Young, Mr Daniel	Northern Victoria	SFFP

[2] Appointed 15 April 2015
[3] Resigned 27 May 2016
[5] Resigned 6 April 2017

[1] Resigned 25 February 2015
[4] Appointed 12 October 2016

PARTY ABBREVIATIONS

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

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Thursday, 11 May 2017

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.33 a.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent on 10 May to:

Consumer Acts Amendment Act 2017
Creative Victoria Act 2017
Lord Mayor's Charitable Foundation Act 2017
Small Business Commission Act 2017
Statute Law Repeals Act 2017.

ROAD SAFETY ROAD RULES 2009 (OVERTAKING BICYCLES) BILL 2015

Assembly's rejection

Returned from Assembly with message rejecting bill.

PETITIONS

Following petition presented to house:

Buckley Street, Essendon, level crossing

To the Legislative Council of Victoria:

This petition of the residents of the state of Victoria draws to the attention of the Legislative Council the fatally flawed proposed 'road under rail' design at the Buckley Street level crossing in Essendon.

The petitioners therefore request that the Legislative Council of Victoria and state government commit to:

not proceeding with the significantly flawed proposed 'road under rail' crossing at the Buckley Street level crossing in Essendon;

fully exploring Moonee Valley City Council's 'rail under road' proposal, noting this particular design does not include any acquisitions of private property, while meeting the long-term needs of all residents, businesses and users of the area;

providing as much financial investment in the Essendon level crossing removal as those in marginal electorates (such as the Frankston line);

not proceeding with any proposal without support of the immediate community and consideration of the long-term consequences.

By Mr FINN (Western Metropolitan) (1108 signatures).

Laid on table.

Ordered to be considered next day on motion of Mr FINN (Western Metropolitan).

RULINGS BY THE CHAIR

Constituency questions

The PRESIDENT — Order! Yesterday a matter was referred to me effectively by the Acting President in the context of a constituency question asked by Ms Shing, which was subject to a point of order by Mr Finn as to whether or not it constituted a constituency question. I have read the question, and it is my view that it does not meet the criteria for a constituency question. I therefore rule it out.

PAPERS

Laid on table by Clerk:

Auditor-General's Reports on —

Board Performance, May 2017 *(Ordered to be published)*.

Managing School Infrastructure, May 2017 *(Ordered to be published)*.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rule No. 16.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until 9.30 a.m. on Wednesday, 24 May 2017.

Motion agreed to.

MINISTERS STATEMENTS

Youth programs

Ms MIKAKOS (Minister for Youth Affairs) — I rise to update the house on the Andrews Labor government's new investments to support young Victorians. Last year we delivered our government's new whole-of-government youth policy *Building Stronger Youth Engagement in Victoria*. This year's budget delivers on our ongoing commitment to better support our youth.

We have invested to continue the Aboriginal youth mentoring program that we established last year. In the 2017–18 budget young Aboriginal people in Victoria will benefit from $1.8 million over two years to continue the program in its current locations and

expand the program into a number of other areas. This initiative is already being delivered by Rumbalara in Shepparton and by Wayapa Wuurrk in Wyndham. The program helps young Aboriginal people develop skills, relationships and networks that keep them connected to their culture, families and friends. Funding will be provided to Aboriginal community-controlled organisations to deliver the mentoring program in their communities. The Youth Affairs Council of Victoria and the Koorie Youth Council have also been funded to provide necessary expertise, resources and training to underpin the delivery of this initiative.

To support our young people in rural and regional areas we are investing $2 million over two years for the continuation of the Regional Presence Project. Four regional offices in Victoria will be supported: the Centre for Multicultural Youth's regional offices in Ballarat and Morwell; and the Youth Affairs Council of Victoria's regional offices in Warrnambool and Swan Hill. Importantly these offices also service their broader rural and regional areas. They advocate for young people and broker support between young people and local service providers and provide mechanisms for their voices to be heard in the community. Our investment will increase access to youth services, provide more opportunities to participate in youth forums and youth-led activities and grow greater connections to community.

Finally, $2 million over four years will be allocated equally between Scouts Victoria and Girl Guides Victoria to increase leadership development and community participation of young people from culturally diverse and socially and economically disadvantaged communities, especially those in rural and regional Victoria.

It is deeply disappointing that the federal government did not use its budget to announce a reversal of the savage cuts it made to National Youth Week, although it is not surprising given it also cut even having a federal minister for youth. After four years of a do-nothing state Liberal government, we are serious about getting on with the job of youth engagement and providing the support needed for Victoria's young people to go above and beyond, because we know that young Victorians are our future, and unlike the Liberals, we will support them.

Apprenticeships and traineeships

Ms TIERNEY (Minister for Training and Skills) — I rise to update the house on the Andrews government's support for apprentices in Victoria. As part of the 2017–18 budget, last Tuesday I announced an $8.2 million boost for apprentice support officers to ensure that Victoria's first-year apprentices aged under 25 have the support they need to learn their trade and get a good job. Twenty-five support officers will be based at TAFEs across Victoria so they can continue mentoring and helping young apprentices with family, work and training issues that could affect their apprenticeship.

With the Labor government's major projects skills guarantee, which ensures apprentices and trainees have at least 10 per cent of the work on Victoria's major projects, we are creating thousands of opportunities for apprentices. This support is needed now more than ever. The program has helped hundreds of new apprentices and has boosted our retention rate 3 per cent for apprentices at risk of dropping out. Despite these excellent results the federal government has cut funding for the program, meaning the Victorian government has had to step in. The support officers will help apprentices access literacy and numeracy support, drug and alcohol counselling or mental health practitioners if needed to keep them on track and safe through their trades training. Funding for these officers is on top of the government's record investment in TAFE in the last two budgets.

Along with this, last Wednesday I joined the Victorian skills commissioner, Neil Coulson, and apprentices and employers in Docklands to launch a new task force to drive apprenticeships and traineeships. The task force will include industry, employers, training organisations and unions and will look at barriers stopping people from taking up an apprenticeship or traineeship and at whether issues are specific to particular industries or if there are broader systemic issues. Apprentices are the backbone of our training system and the future of our workforce. Labor will always support them, and I do look forward to receiving the report of the task force.

Ms Wooldridge — On a point of order, President, I am wondering if you could provide the chamber with some guidance. My understanding is that it is not appropriate for a minister to read word for word entire ministers statements. They are meant to be recent ministerial outcomes, and we just had an experience where the minister for 1 minute 54 seconds did not actually raise her eyes from the word-by-word recitation of her ministers statement. You have made comments before to the chamber about your expectations, and I am wondering if you could provide some clarity in relation to that.

Mr Dalidakis — On the point of order, President, talk about frivolous! You have ruled on these matters before in relation to members statements and ministers

statements when you have said that because of the brevity of time provided you have no problem with members with that short time frame using the opportunity to read from our notes accordingly. This is just a straight-out abuse of a point of order by the member opposite, and certainly it should be dispatched accordingly.

The PRESIDENT — Order! With or without Mr Dalidakis's point of order I would have given exactly that same statement that in fact it is the view of the Chair that for members statements and ministers statements it is permissible to read them, as it is with adjournment items, on the basis that they are time sensitive in terms of the amount of time that is available for members to convey their position. I have a different view of those statements from what I would have in the course of normal debate, where I expect members to perhaps refer to notes but not to be slavishly reading from those notes. In the case of statements, as Mr Dalidakis says, I have consistently taken the position that members are allowed to read their statements, and that applies to both ministers and members. The minister actually did look up; she looked at me a couple of times.

One of the reasons that I am also concerned about members statements and the ability of members to complete them is indeed having interjections on those statements. In the case of ministers statements, they are to refer to new information. The minister was providing that new information and I think the house would be well advised to listen to new initiatives. It certainly has the opportunity to then debate those initiatives going forward, but I think that as a courtesy we ought to be listening very much to the statements that are made, particularly given that the ministers are conveying or supposed to be conveying new information to the house. I have no problem with that.

MEMBERS STATEMENTS

Cranbourne rail line duplication

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Last week's budget demonstrated once again that the Andrews government does not understand or respect the real infrastructure needs of people living in the outer suburbs. The government chose to wilfully ignore the significant transport needs of people in the south-east. In Cranbourne there are many examples of Daniel Andrews's disregard for local transport infrastructure needs, but none better than his continued refusal to duplicate and extend the Cranbourne railway line.

Daniel Andrews's latest budget provides zero dollars of funding towards this important project. The failure to fund important infrastructure in Cranbourne comes as no surprise following the Minister for Public Transport's recent comment that the project would not be a priority for the government for another 15 years.

Cranbourne residents will not lie down on this issue. A recent petition of Cranbourne residents requesting that the Andrews government commit to and fund the duplication of the Cranbourne rail line from Dandenong to Cranbourne and the extension of the Cranbourne rail line to Cranbourne East and Clyde has now received over 1350 signatures. The people of Cranbourne deserve strong support in their ongoing campaign for the improved transport infrastructure they desperately need. The Premier should lead in providing this support. However, the government's latest budget demonstrates that he clearly will not do this.

Western Victoria Region student sporting achievements

Mr PURCELL (Western Victoria) — It gives me great pleasure to rise today to congratulate several high-achieving primary school students from my electorate. Firstly, I would like to congratulate Jaylen and Louise Brown of Warrnambool, who took home bronze at the Basketball Australia national championships. At 12 years of age Jaylen was the youngest player in the wheelchair basketball squad of 10, while his mother, Warrnambool Mermaids mentor Louise Brown, was a first-time assistant coach.

I would also like to congratulate the mixed bowls team from Warrnambool's Our Lady Help of Christians Primary School, which took out the championship at the School Sport Victoria primary mixed state final. Led by teacher Dean Kilpatrick, the team consisted of Hannah El-Hage, Chelsea Aragon, Will Colla, Tom Powell, Ryan Noseda, Archie Lenehan, Wilson Grundy, Dan Irving, Eva Murphy, Emma Hannagan, Mia Casamento, Joe Holscher, Darcy Bourke and Maya Cumming. Well done to all the team.

Major transport project employment

Mr LEANE (Eastern Metropolitan) — Today I want to congratulate and compliment the Minister for Public Transport, Jacinta Allan, on her initiative that on major transport projects there be ratios of apprentices and also ratios of Indigenous workers. On the Caulfield–Dandenong line there are 40-odd Indigenous workers working on the project. I think it is a shame that a government has to be proactive in this way to ensure that this group of people gets these employment

opportunities, but the reality is it has to. I think it is fantastic that on this particular project there is this number of Indigenous workers. There is also — —

Mr Davis interjected.

Mr LEANE — I take up Mr Davis's interjection that this is a bad thing. Mr Davis is saying that it is a bad thing that Indigenous workers get employment on government projects, and I think that actually reflects on Mr Davis as far as — —

Mr Davis — On a point of order, President, the member may have misheard what I said, but he has imputed words to me which are quite false. I did not oppose the employment of Indigenous people on that project. I made the point that the cultural heritage management plan had been very much delayed on that project.

The PRESIDENT — Order! The point is that it was done by way of interjection, when the member is already concentrating on what he wants to say. If he misconstrues something that is said by way of interjection, it is not surprising. Members perhaps should think about whether they should be interjecting on members statements, which are the very words I said in regard to the point of order raised by Ms Wooldridge in respect of Ms Tierney's ministers statement.

I do not like interjections during members statements because of the short time that is available for members to convey the matters they want to bring to the attention of the house. It is not surprising if those interjections bring about a construction from the speaker that someone does not like.

Mr LEANE — Thank you, President. I know exactly what I heard.

I also want to compliment the minister on ensuring that social enterprises get a chance to tender for the subcontractor work on major projects, particularly in some successful instances such as Nadrasca, which has got the printing work for a number of the projects, and also Knoxbrooke, which has got the work to supply some plants and so forth for at least one of the projects and hopefully more.

Anzac Day

Mr ONDARCHIE (Northern Metropolitan) — I rise to congratulate Epping RSL sub-branch in my electorate of Northern Metropolitan Region on their Anzac Day dawn service of 2017, again a wonderful community event. With care and compassion we commemorated the spirit of our Anzacs through conflicts such as the Boer War, World War I, World War II, Malaya, Korea, Borneo, Vietnam, East Timor, Iraq, Afghanistan and other fields of conflict.

Despite the rain, the drizzle and the cold morning there was a wonderful turnout from my local community. Thousands of people turned out for that early morning dawn service, with many arriving at 5 o'clock in the morning, prior to the dawn service starting, for a video presentation of conflict. I congratulate Epping RSL president Herb Mason and the Anzac Day organising committee — Terry Power, Ken Jeffery, Frank Ciechomski, Glen Parker, Arthur Mutz, Tanya Gook, Ray Miles, Geoff Lance, Bob McLeod, Ross Harvey, Rex Griffin and the staff, Narelle and the team, who helped put this together. Lest we forget.

Basalt to Bay Landcare Network

Ms TIERNEY (Minister for Training and Skills) — On Saturday, 29 April, I had the opportunity to visit a really impressive example of revegetation and rehabilitation in my electorate of Western Victoria. The Basalt to Bay Landcare Network and the Green Line conservation and revegetation project from Koroit to Minhamite represents over five years of work under the guidance of facilitator Lisette Mill. The Andrews Labor government contributed $30 000 in 2016 towards funding for this trail, part of a three-year partnership with Landcare Australia that will deliver more than $250 000 to help manage and protect Victorian native vegetation and fauna.

In partnership with VicTrack and Landcare Australia the Basalt to Bay Landcare Network manages 37 kilometres of old railway track land that is home to 27 endangered flora and fauna species. It is an outstanding example of what can be achieved through collaboration with differing parties, including Landcare, the Department of Environment, Land, Water and Planning, local government, local organisations, educational and training institutions and landholders.

A key goal is to educate young people about what it takes to restore degraded land by providing engaging and practical opportunities for vocational education. I especially note the successful involvement of South West TAFE students, who have completed qualifications in conservation and land management. It also has practical benefits for landholders. The Australian Taxation Office has assisted by offering local farmers deductions if they plant green shelterbelts to prevent or fight land degradation for a clear primary production purpose.

The Green Line is a really good effort to restore native habitat, and I congratulate Lisette Mill on her work and on her ability to work with a diverse range of stakeholders. I commend everyone who has worked on this fantastic conservation project.

Mother's Day

Mr DAVIS (Southern Metropolitan) — The matter that I wish to bring to the chamber's attention today — and I know many members will have strong views on it — is the extraordinary story that came from a Moonee Ponds school in recent days, a school that had sought to scrap Mother's Day. It was an extraordinary decision, and whilst I am in favour of diversity and recognising the breadth of our community, I do think it is a sad, sad day when a great institution such as Mother's Day is not recognised by a school. I note that the school has reversed its position, but its original idea was that it would celebrate the UN International Day of Families instead. The principal initially said:

> I believe celebrating International Day of Families is a more inclusive way of celebrating the richness, diversity and complexity of living and loving as a family in the modern world …
>
> The day highlights the importance of all caregivers in families, be it parents, grandparents or siblings and the importance of parental education for the welfare of children.

Of course that misses the central point that the purpose of Mother's Day is to recognise the contribution of mothers. They do make a unique and special contribution, and I for one would not want in any way to diminish that. So I am glad the school has reversed its position, and I am glad that we are in a position where the broad community spoke very clearly and strongly to say, 'Actually, yes, our mothers are special, and we should recognise them' and 'This is something of great importance and social significance to the strength and foundation of our community'.

Liberal Party energy policy

Mr BARBER (Northern Metropolitan) — I spent a fair bit of the gap between sitting weeks overseas, but when I came back to Australia I learned that the Liberal Party had gone mad. By that I do not mean the normal nuttiness; I am talking Thelma and Louise holding hands — woo hoo! — over the cliff to their fiery ideological death below. The Liberal Party has determined that it is willing to subsidise coal-fired power stations in order to keep them open.

Honourable members interjecting.

Mr BARBER — Hear, hear, they say!

Honourable members interjecting.

Mr BARBER — In fact they are determined to both get power prices down and keep Yallourn power station open at the same time. Newsflash: the only thing keeping Yallourn open is the high power price. You can have one or the other. In something of an analogy to the Liberal Party, Yallourn is an aged, decrepit and slowly — or rapidly — declining institution that is being kept there only to milk for cash for a few remaining years. When you talk energy policy, the Liberal Party runs screaming in the other direction. We are yet to see anything vaguely coherent — in fact incoherence seems to be their entire political strategy. Unfortunately we do need a plan to move forward given the ageing nature of our energy infrastructure.

Honourable members interjecting.

Mr Dalidakis — On a point of order, President, I am only a matter of metres away from Mr Barber and I am struggling to hear his contribution because of the continued barrage from those opposite. I would ask for him to be able to make his statement — —

Honourable members interjecting.

Mr Dalidakis — They are just proving my point. The disrespect from those opposite is immense, and I would ask to be able to hear Mr Barber again, please.

The PRESIDENT — Order! I uphold the point of order. It was my intention to ignore the clock when Mr Barber was making this contribution, and I will do so. Mr Barber, to continue.

Mr BARBER — I have actually finished, and please do not make me do it again.

Morwell Neighbourhood House

Ms SHING (Eastern Victoria) — I rise today to congratulate the Morwell Neighbourhood House and Learning Centre for all of the excellent work that it does to provide assistance to families and communities throughout the Latrobe Valley. Along with so many other neighbourhood houses in the region, there is an excellent contribution made by volunteers, and in this instance I would like to congratulate Tracie, Cindy, Rhonda, Janet, Frank, Dave, Vicki and others for all of the work that they do.

Country Fire Authority Churchill brigade

Ms SHING — It was a profound honour and a privilege to attend the Country Fire Authority memorial service at Churchill last weekend to commemorate,

honour and pay tribute to the firefighters who have lost their lives in voluntary service. It was a beautiful ceremony attended by people from all over the state, and I congratulate the organisers and look forward to seeing further efforts to support our firefighters and volunteer firefighters into the future.

Dangerous Deeds

Ms SHING — It was a wonderful day to welcome the *Dangerous Deeds* exhibition to the Moe Life Skills Community Centre last week. This fantastic exhibition has been designed for and developed by people from within the disability community, whether they are advocates, carers or consumers of disability services. Again this accessible multimedia installation and exhibition has provided a great deal of delight, joy, provocation and conversation starters on an often neglected area of the community that deserves attention.

Gippsland employment

Ms SHING — I would like to note the 7600 new jobs that have been created in the Latrobe and Gippsland areas in the first quarter of 2017, jobs which are focused primarily on the manufacturing, trade and retail areas. I look forward to continued employment growth throughout this area as we continue to outstrip regional growth in all other parts of the state as the area grows.

Minister for Corrections

Mr O'DONOHUE (Eastern Victoria) — The incompetence of the Andrews government when it comes to the management of the corrections portfolio goes from bad to worse. Not only have we had three failed corrections ministers already, with the last forced to resign in disgrace, we have seen this week the level of incompetence of the current minister. She was forced to retract and then resubmit a statement of compatibility after introducing the wrong document. By her own admission she has confirmed that the number of high-risk offenders will exceed 3500 living in the community for the first time in Victoria's history. This week we have had an attack on a prison officer at the Melbourne Assessment Prison that required the officer's hospitalisation, and yesterday there was an attack on a prisoner that also required hospitalisation at the Karreenga prison. But perhaps this incompetence is best explained by her response to my question yesterday when she referred to the Boulton decision as the County Court 15 December decision as a guideline judgement. The County Court does not deliver guideline judgements, and that decision — a seminal case, the most important case affecting the corrections portfolio in years and years — has been debated in this place many times as a Court of Appeal decision of December 2014. The real tragedy about this is that the corrections portfolio is critical to community safety, and under Daniel Andrews the minister is failing.

South Eastern Metropolitan Region roads

Mr SOMYUREK (South Eastern Metropolitan) — One of the many areas in the South Eastern Metropolitan Region to benefit from the 2017–18 Victorian state budget is the region's roads. The biggest project by far is the Mordialloc bypass, a significant and desperately needed infrastructure project required by local communities to ease congestion. This $300 million investment will produce a 9-kilometre bypass between Springvale Road in Aspendale Gardens and Dingley bypass that will reduce congestion and improve safety in Melbourne's rapidly growing south-east.

Mrs Peulich — You promised it in 1999, and where is it?

Mr SOMYUREK — Tim Richardson was not around in 1999. This project has become a reality for residents throughout Mordialloc and surrounding bayside suburbs. I am pleased that many other road projects, including noise barrier projects, have also been funded around the electorate for either planning stages or construction. Many of these projects involve less dollars than the Mordialloc bypass but are just as significant to those communities who will now benefit from improved safety and the reduction in traffic congestion.

In addition to the many road initiatives funded, the 2017–18 budget also provides a significant injection of education funding into the electorate which will see many new and upgraded primary, secondary and special schools benefit from state-of-the-art facilities and from new schools built to keep pace with population growth. The budget also allocates an unprecedented investment into reducing family violence.

VicTrack culvert maintenance

Ms LOVELL (Northern Victoria) — Once again I am forced to call the Minister for Public Transport out over her mismanagement of the maintenance of the VicTrack culverts between Numurkah and Wunghnu. The culverts have been overgrown, which among other things presents a flood risk to the area. In March this year it appeared that her department had finally

resolved the issue with works undertaken. On the surface it looked really good; however, it became apparent that the problem cumbungi plants were just cut back instead of being dug out to stop regrowth, which has now occurred. Further, quite a bit of rail ballast has built up underneath the culverts, which is stopping water passing through, and quite a bit of flooding has been sitting there because of this.

I have been raising this issue with the minister since last year. It should have been properly resolved long ago. The minister's inaction has now gotten beyond a joke. I hope for the sake of the Numurkah community that the minister advises her department as a matter of priority to resolve this situation once and for all.

National Volunteer Week

Ms LOVELL — In National Volunteer Week I would like to acknowledge the volunteers in my community. It is easy to go through the big ones, including the Country Fire Authority, the Shepparton Search and Rescue Squad, the Echuca Moama Search and Rescue Squad, the State Emergency Service, the Red Cross and the Country Women's Association. But there are many people who make a contribution to our community, including people who do meals on wheels, who are members of service clubs, who are on hospital auxiliaries, who visit people who are in hospital or the elderly or the disabled. In my community we have a special organisation called The Lighthouse where volunteers go and read in schools or mentor children. We thank each and every volunteer for the contributions that they make to our communities.

ELECTRICITY SAFETY AMENDMENT (BUSHFIRE MITIGATION CIVIL PENALTIES SCHEME) BILL 2017

Second reading

Debate resumed from 23 February; motion of Ms TIERNEY (Minister for Training and Skills).

Mrs PEULICH (South Eastern Metropolitan) — I take this opportunity of congratulating you, President, on your recent victory. But on the subject of the bill, it is my pleasure to speak on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. In February the government announced the introduction of this bill and explained that it seeks to improve Victoria's powerline safety standards and better protect Victorians from bushfires caused by powerline faults. In doing so, it was using a civil penalties compliance regime to ensure that bushfire safety standards were met, and met in reasonable time frames. Unfortunately, as with everything with this government, the implementation falls far short of the promise. I will come to that a little later in the discussion on the provisions of the bill.

The government announcement also states that the bill proposes to change the Electricity Safety Act 1998 to ensure that distribution businesses deliver enhanced network safety technologies on time and to appropriate standards or face tough financial penalties. Again, the objective of the bill is laudable and certainly recommended by the royal commission; however, the implementation and the details of it have not been subject to consultation with those who will be responsible and as a consequence there are going to be some fairly significant impacts on electricity users which could have been averted through more effective consultation with them.

Obviously we are all aware of the origins of the bill, which is embedded in the devastating 2009 Black Saturday bushfires caused by electricity assets. Two fires alone resulted in the loss of 159 lives, with the total number of lives lost being 173, I think, from memory, and the loss of 2000 homes and property worth more than $4.4 billion. It was devastating and clearly the royal commission at the time undertook some very important work and the coalition did indeed accept all of those recommendations going forward.

Just to give a little bit of context, the government at the time had committed up to $200 million over 10 years towards the replacement of the most dangerous powerlines in the state that otherwise would not have been replaced, up to $40 million to mitigate power reliability impacts on customers critically reliant on power through the Local Infrastructure Assistance Fund and a contribution of up to $10 million over five years to continue research and development to identify cost-effective risk reduction technologies and procedures, as well as electricity businesses planning to invest an estimated $500 million on new-generation electrical asset protection and control equipment.

The bushfires royal commission implementation monitor, Neil Comrie, whom we had appointed, spoke about the way the previous coalition government was implementing those recommendations and noted in his final report in 2014:

> It is pleasing to record that Victoria is now, for a broad range of reasons, including the implementation of the VBRC recommendations, in a much better state of preparedness to deal with the threat of bushfire and other natural disasters than it was on Black Saturday.

He noted that there was positive progress on the powerline reform program under the direction of the powerline bushfire safety oversight committee. These matters are obviously important, and I think everyone in Victoria hopes Victoria is a safer place following the introduction of the legislation. The shadow minister responsible, David Southwick, the member for Caulfield in another place, has asked me to focus specifically on the lack of consultation that has become the hallmark of this government, creating difficulties and problems with the implementation of reforms that are otherwise both laudable and necessary.

We will not be opposing this legislation. It seeks to impose additional bushfire mitigation requirements on major electrical companies, to enable enforcement of those requirements through a civil penalty enforcement regime and to provide for information notices and other matters. As I mentioned before, the auspices of this was the 7 February 2009 Black Saturday bushfires powerline ignitions, which caused the significant loss of far too many lives. Of course the impacts of those losses are profound on the families who remain. Children have lost parents, grandparents and loved ones. A tragic 173 lives were lost in total, and 2000 homes were lost — $4.4 billion of assets — in this tragic event.

In July 2010 the 2009 Victorian Bushfires Royal Commission (VBRC) recommended — and I specifically refer to recommendation 27 — that the state amend the regulations under the Electricity Safety Act 1998 to progressively replace all single-wire earth return (SWER) and 22-kilovolt powerlines with new technologies to reduce bushfire risk. The VBRC also suggested that an expert task force be established to advise on the best means of achieving the intent of this recommendation.

The subsequent powerline bushfire safety task force (PBST) made its report to government in September 2011. This report indicated that the optimal means of reducing bushfire risk from SWER and 22-kilovolt powerlines was a mixture of powerline replacement, automatic circuit reclosers (ACRs) on SWER lines and rapid earth fault current limiters (REFCLs) on select 22-kilovolt powerlines, so it is a bit of a mixture obviously because undergrounding everything was something that was going to be a huge challenge financially.

The PBST also indicated the need for further research and development, noting that REFCLs had not previously been used for bushfire suppression. In December 2011 the government accepted the PBST's recommendations and established the powerline bushfire safety program. One of the program's principal tasks was to conduct a research program to determine the best way, the optimal way, to deploy REFCLs for bushfire prevention. By November 2015 the research program was complete and informed an initial draft of the Electricity Safety (Bushfire Mitigation) Amendment Regulations 2015.

The previous coalition government, as I mentioned before, had announced a $750 million powerline bushfire safety program in 2011, which included $200 million over 10 years towards the replacement of the most dangerous powerlines in Victoria that would otherwise not have been replaced.

I turn to the main provisions of the bill. Clause 4 inserts new part 10A into the act. It specifies that AusNet Services, Powercor and Jemena demonstrate compliance with enhanced fault detection and suppression standards on all 22-kilovolt powerlines emanating from their share of the 45 targeted zone substations in rural and regional Victoria. The bill requires the businesses to deliver these upgrades according to a points scheme. The businesses must achieve 30 points of zone substations by 1 May 2019, 55 points by 1 May 2021 and all residual points by 2023. This obligation does not specify a type of technology, but the distribution businesses may meet their prescribed fault detection and suppression capability by deploying REFCLs.

The bill specifies that the distribution businesses must construct or replace high-voltage bare-wire powerlines in 33 specified electric line construction areas either by undergrounding them or constructing covered conductors. These powerlines must be compliant with the standard upon inspection by Energy Safe Victoria, or ESV. The bill requires that the distribution businesses deliver all remaining single-wire earth return, or SWER, and powerline automatic circuit reclosers by 31 December 2020.

As mentioned earlier, a central focus of the bill is the application of civil penalties as opposed to using the court system for non-compliance with these obligations on both the initial and an accrued daily basis. The businesses will be penalised a maximum of $2 million for every point under the total required for each delivery milestone for the 45 zone substations and $5500 for every day of non-compliance following.

Distribution businesses will face a maximum initial civil penalty of $350 000 for every kilometre of installed powerline in the 33 specified electric line construction areas that is found to be non-compliant with the new standards, with $1000 for every kilometre

each day after and a maximum initial penalty of $50 000 for each SWER ACR not installed and a further $150 for each day following. The civil penalties cannot be passed on to customers.

In clauses 4 and 5 the bill includes specific reporting and audit powers in the principal act in relation to the bushfire mitigation obligations and broader distribution network and bushfire safety performance. The bill seeks to amend the act to require the electricity distribution businesses to demonstrate to the director of energy safety annually in dedicated bushfire mitigation obligation reports how they are complying with the new bushfire mitigation obligations. Failure by the electricity distribution businesses to submit these reports by 31 July each year from 2018 at the required standard will incur a maximum civil penalty of $10 000 in the first instance and $1000 for each day until rectified.

The bill contains new provisions to allow Energy Safe Victoria to require an electricity distribution business to obtain an independent audit with respect to its progress towards complying with the new direct bushfire mitigation requirements. The results of these reports need to be provided to ESV. This amendment will also allow ESV to conduct these audits itself. Failure to deliver these reports to a standard satisfactory to the ESV will attract a maximum initial civil penalty of $50 000 and a $5000 daily penalty until rectified.

As an additional compliance mechanism, the bill will give ESV new audit and information notice powers in relation to the new bushfire mitigation obligations. The bill allows distribution businesses to seek timeline variations for specific zone substations where the full standard can still be met. Under the bill ESV may set a new delivery date for full compliance in consultation with the Minister for Energy, Environment and Climate Change.

Clearly the amendments proposed in this bill will dramatically impact on the electricity distribution businesses, primarily Powercor and AusNet Services, and spokespersons for both distributors have advised the shadow minister concerned that there has been no consultation whatsoever. This was confirmed in the *Age* of 6 April 2017 in an article written by Josh Gordon, and I will refer to that in a moment because of its implications for Victorian energy consumers.

The advice is that there has been no consultation. The distributors were contacted the night before — that is, on 8 February — the bill was introduced into Parliament on 9 February. The distributors had previously worked constructively with governments on bushfire mitigation improvements, and they are certainly very perplexed over the secretive nature of these changes.

The primary objective of operating REFCLs in continuous compensation mode is to deliver reliability improvements, not bushfire safety. While REFCLs can provide benefits to bushfire mitigation, the technology is new and has not been tested thoroughly in the areas in which this will be implemented. That is certainly something that is emphasised in the article, and I will quote from that in a moment.

The timing to install REFCLs is aggressive and the fines for failure to meet deadlines are high. The REFCLs are made and distributed by a single Swedish company with 13 employees, which means that its capacity to meet demand is limited. Reliance on a small sole supplier obviously exacerbates the risk of cost overruns, delays and a potential lack of technical support. So yet again the implementation contains a hallmark of this government and its major failing — that is, it fails to talk to people who can better inform its decisions to ensure that its laudable objectives, necessary objectives, can actually be successfully implemented.

A further relevant aspect of the design of distribution networks in Victoria is that electrical plant design specifications are for network operating voltages of 12.7 kilovolt phase to ground, and a feature of the REFCL technology is that when it operates to clear or neutralise a faulted phase the voltage of the remaining healthy ones increases to approximately 22 kilovolts, breaching the current Victorian code. This is something that the distribution businesses have sought to have amended by the government, and the government has certainly not been willing to discuss or bring forward the date of such a review. This large increase in voltage introduces the risk of electrical plant and equipment failure due to operating voltages being above their design limits. Replacements of plant and equipment to meet increased operating voltages under REFCL control is referred to as 'line hardening'. The government has said it has no plans to change the code, although I note that in the *Age* article there is an indication that perhaps this might occur later this year.

The opposition is not opposing the bill, but clearly it would have preferred its implementation to have been much more effective to ensure that there are no unforeseen consequences and that further fires are minimised. The coalition has always been strongly committed to bushfire mitigation, and I am sure that my colleagues will be speaking to that, especially those

representing rural and regional Victoria, amongst both the National Party and the Liberal Party.

Community safety is paramount to us, which is why we have been such strong supporters of the Country Fire Authority volunteers, whom I would also like to thank and congratulate, in a week commemorating the importance of our volunteers to our community, for all the work they do at times when their assistance is most needed. They put their lives on the line because they are part of those communities, and that is why we believe that they need to be protected in every possible way. They have certainly provided great levels of safety to Victorian communities throughout history. As I said, in 2011 the former coalition government instigated many of these reforms, including changes to network operations to prevent bushfire starts at the times and locations of greatest risk whilst minimising disruptions to customer supply.

In the article entitled '$84 million power bill threat' by Josh Gordon and dated 6 April 2017, to which I referred earlier, there are concerns raised in relation to distribution businesses, in particular because this will impact upon energy consumers. I would like to quote from that article:

> Victorians could be forced to fork out an extra $84 million on their power bills because of a tense standoff between the Andrews government and the owner of the state's electricity poles and wires over new bushfire prevention technology.

Is this not just so typical of the Andrews Labor government, who love to flex their muscle, who love to beat their chest, who like to exercise brutish power but who fail to consult with either those who are impacted or those who are responsible for delivering changes that need to occur? As I said, it is foolish not to be prepared to sit down at the table to talk to those who are responsible for implementing these changes about their concerns and their challenges in implementing what needs to happen.

A further quotation from the article is:

> AusNet Services — the company that controls Victoria's electricity transmission network — is warning it will be forced to resort to an 'extremely expensive' option to minimise the risk of dangerous sparks from fallen powerlines because the government has failed to change 'impractical and contradictory' regulations.

Mr Barber — According to who?

Mrs PEULICH — You will have an opportunity to respond. We certainly want to see these changes occur, but we want to see them occur in ways that are not going to create unforeseen risks and unnecessary costs to consumers.

Mr Barber — Is someone quoted in that article, or is that the article commentating?

Mrs PEULICH — According to AusNet Services obviously, yes — they are putting their case. They are the ones who are responsible and will have to wear the implementation of the technology.

Mr Barber — They are the ones that caused the Black Saturday bushfires.

Mrs PEULICH — Well, I think we have had the royal commission.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Mrs Peulich, through the Chair. Mr Barber, it is not a conversation.

Mrs PEULICH — Mr Barber is a member of Parliament, not a royal commissioner, I understand. The article goes on:

> In 2014 AusNet Services, formerly SP AusNet, was forced to hand over a record $378.6 million — —

Mr Dalidakis — For somebody who is supporting the bill this sounds like an opposition speech.

Mrs PEULICH — No, we just want to avoid further risks to Victorians and rural and regional communities. You may think that is all right — I do not.

Mr Dalidakis — But you are supporting the bill.

Mrs PEULICH — I want an implementation of the royal commission recommendations, which my party, when in government, commissioned and also adopted and also progressed.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Through the Chair, Mrs Peulich.

Mrs PEULICH — If you are happy to go along — —

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Mrs Peulich, through the Chair, please.

Honourable members interjecting.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Mr Leane, do you want me to put you on the speakers list?

Mr Leane — Oh, hell no.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! All right. Thank you, Mrs Peulich.

Mrs PEULICH — Having met Mr Leane's brother the other night, could I say I am very impressed with the brother.

Mr Leane interjected.

Mrs PEULICH — I did not mention him by name.

The article continues:

> In 2014 AusNet Services, formerly SP AusNet, was forced to hand over a record $378.6 million to Black Saturday survivors as part of a historic class action. That came after the Black Saturday royal commission found the devastating Kilmore East-Kinglake bushfire was caused by a spark from one of SP AusNet's ageing transmission lines.

I am quite happy to place that on the record, as it is in this article.

> As a result, the company agreed to install technology known as rapid earth fault current limiters in some high-risk bushfire areas to minimise future risks — in addition to insulating or placing some lines underground in areas of extreme risk.

However:

> The highly specialised technology, produced by a single Scandinavian-based company with just 11 employees, works by transferring the current from fallen lines into other cables, increasing the voltage.

The article goes on to say:

> In a submission to the Australian Energy Market Regulator, the company complains it has undertaken a 'lengthy engagement' to convince the Andrews government and the state's Essential Services Commission to change the regulations that would allow it to install the technology without breaching maximum voltage levels.
>
> But it says it has been told there are no 'firm plans' to change the code to allow networks to operate the devices without breaching voltage limits. This means it will be forced to install … isolating transformers for high-voltage customers. The result, the company says, will be higher power bills across Victoria.

So when more Victorians, who are already paying rising power bills, receive even higher power bills that could have been avoided — the pressure for the increase could have been averted or reduced — they will have the Andrews Labor government to thank, supported by the Greens. The article continues:

> 'We have advised the government on numerous occasions that the hugely ambitious … time frame and performance standard are inconsistent with the technological, operational and commercial challenges that exist … and the likely outcome will be higher costs to customers', the submission says.
>
> … the company has formally applied to raise an extra $84 million from its customers to meet extra costs.

That means, of course, all Victorian customers will be paying for matters which could have been averted if the government had only sat down to discuss the challenges surrounding the implementation with the company concerned.

The article reported the Minister for Energy, Environment and Climate Change, Lily D'Ambrosio, as saying that electricity distribution businesses had had years to plan for new technology to save lives. However, the article goes on to report her as saying that the Essential Services Commission had told distribution businesses that voltage limits would be considered by a review later this year. Clearly that review should have already occurred. It should have occurred in a timely fashion, and it may have shed further light on how to better implement and roll out the reforms that are necessary in order to diminish the risk of bushfires. Electricity supplier Powercor, which controls supply in the western half of the state, made a similar submission.

So yet again the government does not quite get things right. It makes announcements, consults, cops a lot of flak and loses a lot of skin as a result of innumerable stuff-ups, causes angst and increased costs to stakeholders concerned and then prays to God that it will get some reasonable outcome. Yesterday saw the tabling of the Auditor-General's report on consultation. It identified that this government does not have a whole-of-government framework for consultation. Indeed we have seen that across a range of portfolios — sky rail was one issue that was identified, and a few departments were looked at. What this government needs to do is get its consultation right, because it is with effective consultation that you can have better implementation of programs and initiatives but also perhaps refine those initiatives or programs and inform them better by speaking to people who are experts, people who are going to be impacted and people who are going to be responsible for implementation. I would recommend the Auditor-General's report to members of Parliament, because I think the performance of any government and any agency can be far improved if they get the consultation right. Here yet again the government has not done so.

I certainly wish all of those involved in improving the safety of our rural and regional communities, indeed any community, great success, especially in mitigating against bushfires, which are devastating. Tragically that has been a hallmark of the history of our nation and our state, something that I hope will not be the case in the future. I am sure that many of those members of Parliament who have been directly involved with the clean-up and recovery of their own communities will be adding to this debate. Hopefully we will see a Victoria

that is better protected, but I also hope we can make sure that Victorian consumers do not pick up higher utility costs as a result of this government's bungling — that has been a hallmark of this government. With those few words, I look forward to listening to the further debate.

Mr BARBER (Northern Metropolitan) — I would like to say that I am glad that this Parliament is maintaining its vigilance and its program of action eight years after the horrific tragedy of Black Saturday. There are a number of potential options available to us to reduce the risk of bushfires being ignited from powerlines that spread out over some of the most fire-prone regions of Victoria. As you and I would both understand, Acting President Ramsay, there are many, many sources for the ignition of fires during extreme conditions. Powerlines and associated activities can be a frequent cause. But on Black Saturday I believe there were as many as 110 different ignitions through different causes, only a few of which got away — only a few of which brave Country Fire Authority and Metropolitan Fire Brigade firefighters were unable to control. But that small handful of ignitions that could not be controlled within a short period — the first half-hour or hour — got away, burnt a vast area of Victoria and took many, many lives.

I believe almost every member of this place had some personal connection to those who lost their lives, or they themselves lost loved ones. It is important that we approach this issue quite soberly, because there are real decisions that have to be made about the costs and the risks associated with, in this case, preventing ignitions from occurring in the first place. My greatest fear at the time of the release of the report of the 2009 Victorian Bushfires Royal Commission was that over time we would become complacent and that we would lose that vigour that we certainly all expressed as a chamber at the time; we were going to do everything we could to prevent that from happening. In the words of the royal commission itself, 'the protection of human life' was to be 'paramount' in all policy decisions. That is, not something to be balanced off against potential costs or inconvenience to people, or even financial loss to some groups who might have to spend money to prevent fires. The protection of human life was to be paramount in all policy decisions.

As I was saying, there are a number of different ways we could approach the problem of powerlines and bushfire risk. We can put those powerlines underground, which could be, depending upon the terrain and the soil geology, an expensive exercise. In other areas it is quite a simple exercise. I have inspected some of the areas where underground cabling has occurred. At other times when the cables have been bundled you can see them quite clearly — a sort of twist of rubber-covered cables less likely to clash or create sparks or touch vegetation. At the substation level you can bring in various types of technologies — the ones we are talking about here today — so that if there is a heightened risk of bushfire at a particular time or on a particular day, we can actually reduce that risk or even, as is still being debated today, switch power off to certain areas. That is a real dilemma because the heatwaves that occur at the time of bushfires are also quite life threatening. To switch off electricity to a group of people who are relying on it for air conditioning and to keep themselves cool and survive the event is slightly problematic.

There is a fourth option though which was considered by the powerline bushfire task force that came out of the bushfires royal commission but which has not really been implemented to a great extent, and that is to take remote homes off the power grid completely and provide them with a distributed energy system — a so-called standalone power system. In the past when people had to pay a lot of money to string private powerlines from the road to the house, which may be out in the middle of their large property, people often chose to stay separate from the grid and have their own battery and solar system, because it was simply a cheaper proposition for them than building their own powerlines for some hundreds of metres. So it is that we should be looking more broadly at the power grid and opportunities for people who voluntarily would like to be moved off onto standalone power systems, with perhaps a recompense to do so. In the process it would save the public purse quite a bit of money.

In the past the policies, particularly in relation to those single-wire earth return (SWER) lines, were simply to find the cheapest way possible to get electricity out to as many remote areas as we could. That was to allow the establishment of farms. A lot of dairy farms, as you would be aware, Acting President Ramsay, are on SWER lines, and here we are considering a bill that is supposed to reduce the risk coming from those SWER lines, which were really part of a State Electricity Commission-led rural electrification program in what now seems like a bygone era. With the technology we have, and particularly with the plunging price of the technology of solar battery combinations, we should be looking again at that as a fourth option when it comes to reducing bushfire risk.

I have had some dialogue with the affected companies and also with the government on this issue. I have read the same material as Mrs Peulich had, and I understand that there has been some back and forth between those

two bodies, but if the Liberal Party had been bringing forward a different technical solution to what is being proposed here, then I would have certainly been happy to sit down with them and hear what it was they had to say. But I have not. No amendments have been brought forward by the Liberal Party. Nobody has suggested that the bill should be deferred for further consideration. No-one has referred the bill off to a parliamentary inquiry for examination.

The figure of $80 million has been quoted. Yes, that may very well be added to our power bills, but if we cast our minds back to the time in this chamber when we were dealing with the horrific aftermath of Black Saturday, I do not think there would have been a member who would have stood up in 2009 or 2010 and quibbled about $80 million.

Mrs Peulich — It's not quibbling; it is about getting the outcome right.

Mr BARBER — Yes, I certainly agree with Mrs Peulich that we should be doing our job here. As members of the Legislative Council we should be considering all the implications of every piece of legislation that comes before the house. However, as I said, I have had interaction with the government, I have had interaction with the power companies, but I am not yet hearing from any third party that there is an alternative technical solution. That would only mean, I think, further delay to the measures that are being rolled out here.

Some people could argue that we have waited too long to implement these measures. I am not sure if anybody is proposing that we actually delay and do a further round of — —

Mrs Peulich — Just get it right. They have been in government for two and a half years.

Mr BARBER — That certainly can be your view, Mrs Peulich. I am happy to have that on the record, but the view of the Greens is that we should pass this legislation here today. That is because we have not heard from any other party who is offering an alternative solution. I have put forward today another solution that I think needs to be looked at, because the rollout of safety works in relation to rural powerlines is by no means complete. There has been some considerable amount of work done over hundreds of kilometres, but there is still a lot more work to do. There are still plenty of opportunities to implement this alternative solution of standalone power systems, but I believe it is appropriate that we pass the legislation we have before us today in a timely fashion. For that reason, the Greens will be supporting the bill.

Mr MELHEM (Western Metropolitan) — I also rise to speak on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. I want to join the other speakers in relation to why this bill is before this house. This February marked the eighth anniversary of the Black Saturday bushfires, in which 173 people tragically lost their lives. One of the main reasons that we are here and why this bill has been introduced is to make sure that that does not happen again. As we all know, the powerlines that started these fires were responsible for 159 of those 173 lives lost and they contributed to the loss of 2000 homes and $4.4 billion in property damage suffered by Victorians. That is the prime reason why this bill has been introduced.

We can argue about whether the government got it right or got it wrong and whether it is 100 per cent right. We believe we have got it right. We have heard the opposition say that they are supporting the bill but then they are saying that the government have not got it right, even though they cannot tell us where we have not got it right, and that we are basically just worried about the implementation.

A lot of work has gone into this to get the implementation right, to make sure that Victorians are safe and that we do not have a repeat of Black Saturday, when a single powerline incident caused so much devastation. As I said, there has been a lot of work done and a fair bit of consultation with the industry has taken place. It is not like some bureaucrat decided, 'Okay. We'll draft this and get on with it'. A lot of work has gone into it and a lot of new technology has been put together.

I get it that any businesses, including electricity companies, do not want to spend money. If they do not have to spend money, why would they spend money? They will not if they do not have to. The fact is that they have to. They even have to do it as a business decision. They have just paid a multimillion-dollar settlement — I think it was close to half a billion dollars — to settle the bushfire litigation for the survivors. It is just a business decision; it is my understanding that half a billion dollars has been paid in settlement. I am pleased that the money has now been dispersed and given to the survivors, because it has made a lot of difference to their lives. I know many of those who went through the tragedy of Black Saturday, and I think it was part of closure for a lot of them.

My understanding is that the distributors should not be crying poor, because they are actually making good money, thank you very much. I think the return on investment for AusNet and some of the other distributors is actually pretty good and they can invest. My understanding is that they are not complaining; they are comfortable with the arrangements. They have raised some issues in relation to the implementation and some issues in relation to whether or not a compliance regime should be put in place. Like any other corporation, they would like to have voluntary compliance. No-one likes having regulation in the law if you want to give a chance to most businesses. But in this case we do need to have a strict compliance regime put in place to make sure that the distributors actually do comply with the safety regulations being put in place, because we need to be certain that we do not have a repeat of Black Saturday.

The bill specifies that AusNet Services, Powercor and Jemena must demonstrate compliance with the enhanced fault detection and suppression standards at each of their owned and operated zone substations within the 45 zone substations covering the highest bushfire risk and loss consequence areas across the state currently listed in the Electricity Safety (Bushfire Mitigation) Amendment Regulations. It sets a higher value for each of the zone substations established by the regulations in zones of higher bushfire risk and sets a mandatory achievement of 30 points of zone substations by 1 May 2019, 55 points by 1 May 2021 and all residual points by 2023.

The bill also specifies that new or replacement powerlines in the 33 electric line construction areas should be compliant with the new standards — either undergrounded or constructed of covered conductor — upon inspection by Energy Safe Victoria.

That is another area which we should learn about from the tragedy of Black Saturday. We need to start exploring new methods. Some of the powerlines will reach the end of their natural life expectancy. They will need to be replaced, and so we need to start looking at other options, such as whether we have insulated cable or undergrounded cable. Mr Barber talked about other options as well, such as solar and batteries. They are other options that need to be explored. This is all about providing energy security to Victorians but also about protecting lives. The bill is designed to do both. We have to protect lives, and we have to learn from the tragedy of Black Saturday and make sure that we are not faced with the same situation. It is a hazard and we ought to eliminate it.

As far as I am concerned, costs should not come into it, because you cannot put a price on human life. That is why the government is determined to implement all the recommendations coming out of the 2009 Victorian Bushfires Royal Commission — to make sure that we have learned from events in the past and provided the safety which Victorians deserve.

In relation to civil penalties, as part of this bill there will be a civil penalty imposed for non-compliance with these obligations. The bill provides powers to the director of Energy Safe Victoria and the Minister for Energy, Environment and Climate Change to prosecute non-compliance in court. There has been a fair bit of debate about whether there will be voluntary compliance and whether we need to have regulation, and I covered that earlier. I again want to stress the point that I think it is important that an actual penalty is set in the act. Companies need to take into account that if there are any breaches, there will be consequences arising from those.

The bill sets a maximum penalty of a scale sufficient to overcome electricity distribution businesses incentives for non-compliance as follows. One is a penalty of $2 million for every point under the total required for each delivery milestone for the 45 zone substations and $5500 for every day of non-compliance following. There will be an initial penalty of $350 000 for every kilometre of installed powerline in the 33 electric line construction areas that is found to be non-compliant with the new standards, with a $1000 penalty for every kilometre each day after, and a $50 000 penalty for each single-wire earth return powerline automatic circuit recloser not installed and $150 for each day following. So basically there are a fair few civil penalties enshrined in the bill to make sure there is incentive for these businesses to actually comply with the requirements and the safety standards.

I say this: these companies have got that incentive. If they do not follow that, obviously there will be a price they will have to pay. Hopefully we will not have to prosecute any of these companies for any breaches, because the ultimate aim is to make sure we do not have a repeat of Black Saturday, where a powerline caused a lot of devastation in the state. So as I said, I think a fair bit of work has been done in relation to this bill. Some may argue that it is long overdue, but I think it is important that we get it right, and I believe we have got it right. I am looking forward to giving passage to this bill.

I will just finish off by saying why this bill has been introduced. I am pleased that it has been supported by all the parties, because no-one can realistically argue

against the intention of this bill. I think it is important that we provide Victorians with a sense of security and safety by demonstrating that we have learned our lessons from Black Saturday and that we are taking action to make sure we do not have a repeat of the Black Saturday tragedy. With these words, I commend the bill to the house.

Ms BATH (Eastern Victoria) — I rise to make my contribution to the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. I would like to start my contribution by saying that the Liberal-Nationals coalition has always been strongly committed to bushfire mitigation and ensuring that there is increased safety within the community from electrical network provision. In 2011 the former Liberal-Nationals coalition government provided $750 million for a powerline bushfire safety program, and this included a $200 million contribution over 10 years to replace the most dangerous powerlines in Victoria. These powerlines would otherwise not have been replaced during that time period. The aim of the program was to reduce bushfires caused by electrical assets without causing significant impact on the electrical supply system and its reliability.

During the 2009 bushfires it was a tragedy to see that 173 lives were lost and 2000 homes were destroyed, many of them in Eastern Victoria Region, causing heartbreak and long-term damage to both infrastructure and also families and communities. But people across Victoria are resilient and they have bounced back in the best way that they can. It was later determined that a large number of these lives lost on Black Saturday could be attributed to powerline ignitions. The 2009 Victorian Bushfires Royal Commission was established to investigate the causes of and also responses to these bushfires, and the report came out in the middle of 2010.

The final report determined that one of the fires, the Kilmore East fire, originated after a conductor between certain poles failed and the live conductor came into contact with the cable supporting a pole. This resulted in it crashing to the ground and igniting dry vegetation surrounding that area. It was also determined that the line was probably 43 years old and still in operation and a line inspection in 2008 had failed to detect that ageing and antiquated infrastructure. We need to make sure, through this bill, that this situation will not happen again.

Looking at the bill specifically, the bill amends the Electrical Safety Act 1998 to enable the director of Energy Safe Victoria and the Minister for Energy, Environment and Climate Change to pursue civil penalties against the main electrical distribution businesses — I will mention three of them in a minute — to ensure that these businesses deliver specified bushfire safety measures on time and to the correct required standards. The key purpose of the bill we are looking at today is to ensure that electrical distribution companies meet enhanced power fault detection and suppression obligations and replace bare wires with covered conductors or underground powerlines where applicable, particularly in areas of highest bushfire risk where this can be achieved.

I note from my reading and from listening to Mrs Peulich and reading newspaper articles that the Andrews government failed to undertake any serious industry consultation through the process of reviewing and putting this legislation together. Phone-calling the night before is not necessarily seen as community consultation or stakeholder consultation, and I also note this seems to be a similar theme that we are seeing across this Andrews Labor government, where they say they are consulting for the press release but it does not happen in great detail.

I will give you an example of that. In relation to the fire services task force — the new secretive task force that the government is looking at to review the Country Fire Authority (CFA) and how it is rolled out and operated in Victoria — the chair of the CFA, Greg Smith, and the board have notified the government that they wish to be consulted and that they hope the best possible outcomes will happen, because they have not been consulted. This is a major structural organisation of the CFA that has not been consulted in any particular depth about the effects of a long-term change of any structure within the CFA and the Metropolitan Fire Brigade.

The bill provides obligations for distribution businesses, essentially establishing stronger compliance, and these are quite specific. AusNet Services, Powercor and Jemena must demonstrate compliance with enhanced fault detection and suppressant standards on all 22-kilovolt powerlines coming from their share of 45 targeted zone substations in rural and regional Victoria. The upgrades must be performed in accordance with a points scheme, and that points scheme travels over a number of years. The distribution businesses must construct or replace high voltage, bare-wire powerlines in 33 specific lines across various areas, either underground or by constructing overhead powerlines.

There are some concerns about the rollout of this bill in terms of the costs of compliance and whether or not they will be substantially passed on to our energy customers, our communities and our businesses across

the state. With the recent loss of the Hazelwood power station my concern is that there will be added pressure on our local communities, particularly in my patch in Eastern Victoria Region, and that our households will be asked to bear that burden — and it will be difficult to bear in light of upward-spiralling household costs.

In terms of fire and fire prevention, in Eastern Victoria Region fire during the summer season is constantly in the back of rural people's minds. We have beautiful vast tracts of wooded areas and native forests. We have timber plantations as well, and on hot fire danger days many people have their ears tuned to the radio checking their CFA updates. They should have their fire ready plan in operation and have decided whether they will stay and defend with all the mechanisms that they have put in place prior to that date or whether they should leave and leave early. It is always advisable that people contact their local CFA brigade to discuss their options and even have an audit of their place done, and of course councils will be supportive of that as well. Government agencies such as the Department of Environment, Land, Water and Planning, CFA and Parks Victoria need to work together.

Fire can occur in a number of ways across the state. Certainly it needs an ignition point, it needs a fuel load and it needs oxygen, of which we have a plentiful supply, but the key with this is there can be lightning strikes, and we cannot mitigate against lightning strikes. We can only mitigate against the barrage of undergrowth and fuel load that can occur right across the countryside. In terms of the upper house inquiry into fire season preparedness we heard from GAPP, and they are the Gippsland arson prevention program. They are a group of people that come from council and from government agencies, and they are working really strongly to prevent arson across our state and particularly in the area of Gippsland. They have come up with some really interesting and important ideas, and they have fed those through into the Standing Committee on the Environment and Planning hearing. I hope that the hearing will really look at those when our report comes out.

This bill is certainly a step in the right direction. Going back to fuel loads, it is just so important that we take a fresh look at how fuel reduction occurs across this state. Again, the environment and planning committee went to Bairnsdale and to Morwell in Eastern Victoria Region to listen to environmental groups, community members, councils and CFA members to hear what they had to say, and there were some most interesting concepts there. We also had submissions from the Gippsland Apiarist Association about what fuel burning can do or not do for biodiversity.

I would like to speak for a moment on the ancient practice of Aboriginal cool burns, and it is often called fire-stick farming. This practice has been around for millennia, but when our country was first inhabited in 1788 the new inhabitants were gobsmacked generally by the beautiful state in which our country existed. The Aborigines had long cultivated and maintained the countryside through traditional cool burns as a management tool. Through those cool burns they were able to control native grass for wallabies and kangaroos to feed and therefore provide an adequate food source for the Indigenous people, and they also encouraged growth of healthy eating plants.

In his book *The Biggest Estate on Earth* Bill Gammage writes about how Aboriginals made Australia. He wrote:

> The chief ally was fire. Today almost everyone accepts that in 1788 people burnt random patches to hunt or lure game. In fact this was no haphazard mosaic making, but a planned, precise, fine-grained local caring.

We also have heard from Victor Steffensen. He is an Indigenous firestick practitioner from the National Indigenous Fire Network in Queensland. He spoke to our committee and said:

> In traditional burning practices it is really about looking after country, as well as stopping the fuel loads. In the old times they did not want the country to burn like hot fires, like the ones that you are meaning, because to them, they would be burnt out of home and food, and also the environment suffers.

I think there are good lessons to be learned from these comments, and I think it is important that as a Parliament we look into cool burning, assess it on merit and see how we can avoid totally damaging the canopy within a forest system. We need to make sure that there is diversity for flora and fauna across the country.

This bill is important not only as a form of bushfire mitigation and for the protection of communities within Victoria but also to protect the long-term sustainability of our forests. With those words I will conclude my comments. I encourage the government to look into the philosophy of cool burning as a mechanism for maintaining a healthy ecology and protecting our communities. The Nationals will take a non-opposed position on this bill.

Ms SHING (Eastern Victoria) — I rise to speak in relation to the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. I note from the outset the various contributions that have been made by those around the chamber in the context of this particular bill that will provide powers for Energy Safe Victoria and the minister to pursue civil penalties as a

measure of last resort against electricity distribution businesses to ensure that those businesses reduce the level of bushfire threat to Victorian communities posed by powerlines by deploying enhanced bushfire mitigation technology, installing new protection devices known as ACRs, or automatic circuit reclosers, and retiring barbed wire powerlines as they reach the end of their lifespans in 33 selected areas of the state. Specified service providers — AusNet Services, Powercor and Jemena — will be required to demonstrate compliance with the enhanced fault detection framework that will operate alongside suppression standards as a consequence of the passage of this particular bill.

What this does do is enhance a consolidated approach to improving infrastructure across the board in areas that have traditionally not received the attention over time that has been warranted whether through private sector investment or through awareness and understanding of the need to minimise risk in bushfire-prone areas and areas where fuel build-up is high.

I note that this bill has been developed following extensive consultation with Energy Safe Victoria, obviously with the relevant departments and also with the Australian Energy Regulator and the Office of the Commissioner for Better Regulation. In that sense I note that it does come as a consequence of consultation that has guided the way in which penalties have been set to a scale sufficient to overcome electricity distribution business incentives for non-compliance — those increased penalties are set out in the bill itself — and I note that there are time line delivery variations and compliance exemptions that require a consideration of electricity network infrastructure capital works to deliver bushfire reduction across the board and powerline bushfire reduction as it may contribute to a greater vulnerability for regional and rural areas when the threat of bushfire strikes.

As other speakers have noted, bushfires arise in a number of circumstances, whether through human intervention or through natural occurrences such as lightning strikes. The subject of bushfires has been a proactively pursued area of policy setting and regulation as well as a reactive one.

In the proactive space, we have seen governments look to better resourcing energy regulators and distribution companies to take steps to increase the safety and to minimise the risks associated with the creation of bushfire risk, whether it is through fallen powerlines or through changing the way in which distribution occurs.

In the reactive space, following major events, including but not limited to Black Saturday, we do see that an investigation, inquiry or royal commission as a consequence of what has occurred in a major bushfire event, a firestorm event or another emergency event involving fires and burns that are out of control will show us that we have a lot to learn about the way in which fire behaves, we have a lot to learn around the better use of technology to minimise fire-related risks in our communities and we have a lot to learn about the way in which a risk management approach can better protect our communities as well as life and livestock and property.

To that end, it has been a crucial part of discussions and consultation that this government has undertaken to make sure that we can safeguard the recommendations of the 2009 Victorian Bushfires Royal Commission. In that regard I note that the bill will ensure that we are able to safeguard recommendation 27 of the Victorian bushfires royal commission.

What we will see is that there will be a greater level of consolidation of civil penalties for non-compliance with these obligations as they are set out. It will in fact enable enforcement of requirements that will apply to major electricity companies through the civil penalty enforcement regime, and it will provide additional and better information to consumers and to communities about the steps being taken by companies and also the way in which Energy Safe Victoria can become and stay involved in the work that is undertaken as a consequence of the passage of this bill. Making sure that major energy companies are required to maintain information and make that information available for audit by Energy Safe Victoria is also an important part of this bill. Again, we have not had a level of consistency with major electricity providers around the way in which information has been gathered, the way in which data has been gathered and stored and made available and this bill will address a number of those concerns around inconsistencies.

We will also have a greater capacity under new section 120R of new part 10A for the minister or Energy Safe Victoria to bring civil proceedings where there has been a civil penalty provision, and enforcement proceedings will enable the minister or Energy Safe Victoria to take action or to seek court orders for penalties to be paid if the minister is satisfied that the relevant requirements of the act, as amended, have not been met by that particular company.

What we do also see as a consequence of this bill is that we are making sure that we are giving Victorians — particularly those of us who on the consumption end of

things rely upon continuity of supply but also people who live in bushfire-prone communities — a better sense of certainty around the way in which regulation occurs in the space of energy generation and transmission, as well as holding companies to account for reducing risk wherever possible. That risk, as we have seen from previous large-scale emergency fire-related events, can have an enormous and ongoing impact on communities, whether in the immediate aftermath of an event as part of firefighting relief and efforts or as part of the way in which communities must regroup to survive and must stick together, often over very long periods of time.

In this regard I note that the firefighting efforts that are undertaken in our regional and rural communities come at an enormous cost. We have so many volunteer brigades and integrated brigades throughout regional Victoria and throughout Gippsland where people make tireless efforts summer season after summer season. They work alongside Parks Victoria and Department of Environment, Land, Water and Planning (DELWP) officers to minimise risk and to participate in safety measures around planned burning activities. They respond to call-outs and provide assistance to people who are not in a position to defend their own homes, properties or livestock, often at the cost of their own assets and the security of their own homes.

We see and we hear so many stories of firefighters who give everything and who lose everything in the course of service to their community. To that end, this bill should not be underestimated as something which simply ticks boxes and creates a penalty scheme. What it does is improve the fundamental recognition that is required around the work that is undertaken to enhance and provide safety to our communities in remote and regional areas, and it actually provides greater security and certainty through the penalty scheme.

What we have in this bill is a set of measures that will deliver safer Victorian community responses to bushfires through the provision of powers for the director of energy safety and the minister to seek civil penalties. We have a measure of accountability. That, alongside the implementation of other recommendations from the bushfires royal commission and along with the efforts of the Parliament, the efforts of departments and the efforts of stakeholder groups to further the work around the way that we deploy technology, the way that we manage public land and the blind tenure issue around land and fuel build-up and reduction and the way that we implement a risk management approach to bushfire mitigation, will contribute in the longer term to outcomes that will keep people safer.

We see that there have been population explosions in various parts of the community in various parts of regional Victoria. We are increasingly seeing new estates and new builds in regional areas where population mass hits a critical point and then there is not an incursion into agricultural and bushland but a growth into it, and the borders of regional centres are expanded over time as the population grows. With that comes a corresponding need to address and mitigate risk, and that is one of the things that was noted by the bushfires royal commission. It is one of the things which the Country Fire Authority, whether through standalone volunteer brigades, through integrated brigades or through Emergency Management Victoria, are intensely aware of in terms of the maintenance of proper safety measures and making sure that firefighters and communities are as equipped as they can possibly be to understand and to respond properly to risk when and as it arises.

Making sure that we have a framework in place which reflects the seriousness of bushfires as a threat to Victorian safety is part of this particular bill. To that end, the eight recommendations made by the royal commission around electricity assets will enable us to deliver through this bill the final recommendation around electricity assets and ensure it is fully met. It will also enable us to have and maintain a proper legacy of enhanced powerline safety secured for all Victorians. This is something which I would welcome as part of future thinking on population growth to make sure that communities not just now but into the future are safeguarded by measures that stand alongside education and community engagement and alongside the fundamental grassroots work that occurs to such good effect in our remote and rural areas — for example, in areas right to the edge of the border at Mallacoota, where we had the Double Creek emergency bushfire extravaganza which brought together people from Parks Victoria, from DELWP, from firefighting agencies, from animal welfare and farming agencies and from environmental groups and bushfire prevention groups to talk about these things.

These are measures that, on the ground, enable us to really capture local knowledge and wisdom around bushfire prevention and risk management. Measures such as those set out in this particular bill, which now delivers the eighth recommendation for electricity asset management, will complement the work that happens on the ground. It will hopefully make sure that we can continue our responsibilities as a government to make and to keep our communities safe in the face of the very significant and enduring threat of bushfire in our communities. To that end, I commend the bill to the house.

Mr RAMSAY (Western Victoria) — I will be fairly brief, so Mr Elasmar, who is next on the speakers list, can make his contribution, but I want to make some comments on the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. As is clear from many contributions, and I have actually read most of those made in the other house, many of us can remember what we were doing exactly eight years ago on Black Saturday, 7 February 2009. In fact I remember I was at the time working with the Victorian Farmers Federation, and we got a call that a fire had started out near Kilmore and had extended into the Kinglake area. A lot of the staff went out to provide support to many of the farmers who were affected by the fire.

As we have heard, 173 people died, sadly, on Black Saturday and about 159 people lost their lives mainly due to ignition from powerlines. I have to say it was pleasing to see that the Brumby government acted quickly to initiate a royal commission. As John Brumby, himself as a Country Fire Authority volunteer, understood there needed to be a quick response to Black Saturday. There was the 2009 Victorian Bushfires Royal Commission, and 67 recommendations came out of that. The Brumby government did the best it could to respond to 65 of those, but unfortunately it could not muster the will to deal with recommendations 27 and 32 of the commission's report. The reason given at the time was that it was too expensive and too hard, and consequently the bill we are now dealing with is pretty much what those recommendations 27 and 32 were trying to achieve in making the electricity businesses responsible for introducing new technologies to safeguard their infrastructure from causing potential ignition.

It is pleasing to see today, and we are not opposed to this bill, that finally — and it has taken a long time — the electricity businesses will be responsible. They will have to be compliant, and if not there are civil penalties that will apply, quite substantial ones — over $2 million for each point under their total requirement for each delivery milestone and/or $5500 per day in penalties. So the penalties are very substantial, and I am quite sure the electricity businesses will comply with a little more fervour, given the penalties that will apply if this bill is successful in the chamber this afternoon.

I would like to make mention of Ted Baillieu, a former Premier, who with a lot of courage said that the coalition would support all recommendations of the royal commission. To his credit, and also to the credit of the minister for energy at the time, Michael O'Brien, they enlarged the task force that was to have remit for the implementation of the recommendations. It was the coalition government that fully committed to all the recommendations, which included 27 and 32, which the Brumby government found too difficult, and it was also the coalition government that actually put $750 million aside for the rollout of basically the detail of this bill and the requirements under those two recommendations.

As I said, the bill seeks to have the electricity distribution businesses roll out the use of safer technology in bushfire-prone areas, and they must demonstrate compliance with enhanced fault detection and suppression standards on all the single-wire earth return (SWER) lines and the 22-kilovolt powerlines that emanate from the 45 targeted zone substations in rural and regional Victoria. The bill also provides for the rollout of the technologies on SWER lines I mentioned, which many properties have, over three tranches. The bill also provides for civil penalties, as I said, that will be applied to the businesses.

I thought it was interesting to talk about the roles and responsibilities of the electricity businesses, and I note that in the other place Danielle Green was very quick to criticise all and sundry in relation to who did what and when, but at this very time, aside from the electricity businesses taking responsibility for compliance and using better technology to safeguard their infrastructure from ignition, we have an Andrews government that is hell-bent on wrecking our volunteer fire service in Victoria. It is almost ironic that we have the Andrews government leading the charge on a bill that responds to recommendations out of the bushfires royal commission in relation to the responsibility of electricity distributors, yet the Andrews government in the same breath, on the same day, in national volunteer week, is hell-bent on splitting up our volunteer fire service and reducing surge capacity in rural and regional Victoria.

I know on Black Saturday — and I was out in the field — how important was the role of not only CFA volunteers but also the Metropolitan Fire Brigade, Parks Victoria and other firefighting services. They were all mobilised on Black Saturday to help and support communities affected by fire. But this very day, in this very week, National Volunteer Week, the Andrews government is seeing fit through its spokesperson, Peter Marshall, United Firefighters Union secretary, to split the CFA volunteer firefighting force and to move volunteers out of what we know are at least 34 integrated stations, which in my own Western Victoria Region include Warrnambool, Ocean Grove, Ballarat, Geelong city and Lara. It just beggars belief that the government is taking credit for a bill that is dealing with the responsibility of electricity

businesses to introduce new technologies to reduce the potential fire risk from their infrastructure yet at the same time is reducing our firefighting service capacity to respond to bushfires. It is almost oxymoronic.

Nevertheless, we will continue the good fight to make sure that CFA volunteers have a place in our regional areas as a surge capacity firefighting force protecting their local communities, but at the same time we will allow this bill to go forward on the basis that it was part of the recommendations of the royal commission. We fully supported it when we were in government, and we expect that as of today this bill will be successful and that compliance penalties will apply to those electricity businesses that are responsible for providing electricity and the infrastructure powerlines through some of those high fire-prone areas.

It was interesting at the time, and I remember it well, that there was almost disbelief by the electricity businesses associated with those fires that their infrastructure was actually the cause. I remember many farmers, through the Victorian Farmers Federation, had to fight. It is interesting that they, — and when I say 'they' I mean we, farmers — put together a class action against an electricity business. I will not name the business itself, but only recently, eight years on, has there been success in that class action and receipt of costs associated with it.

I am quite sure that it is not nearly enough to compensate for the loss of property, not to mention the loss of life obviously, that those farmers suffered. It almost took the royal commission to have the electricity businesses take full responsibility for their part in the Black Saturday bushfires, but at the time they were looking around and trying to blame everyone else. It was that small group of farmers that took legal action through a class action that I think spurred on the bushfires royal commission into looking at the causes of the fire itself. Ironically, eight years on, we now have this bill, and the people who took that class action are able to be recompensed.

Mr ELASMAR (Northern Metropolitan) — I also rise to speak to the Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Bill 2017. The bill amends the Electricity Safety Act 1998 to provide a mechanism to allow punitive measures to be taken against power companies and their distributors in Victoria that fail to reduce the level of bushfire threat posed by unsafe powerlines. One would assume that after the terrible Black Saturday bushfires electricity companies would have moved heaven and earth to ensure that those sorts of tragedies never occur again. The bill contains detailed requirements that incorporate in some instances basic commonsense measures such as retiring bare-wire powerlines as they reach the end of their life spans. Most Victorians would not continue to use clapped-out, ancient electrical appliances in their own homes, so we expect electricity companies to replace and/or maintain their existing stock of electrical wiring.

We in the Andrews Labor government make no apologies for this legislation. We are literally putting people first before profits. The electricity distribution business has a duty of care to its customers, and this bill encapsulates the serious obligations that we believe it has to vulnerable Victorians who reside within the bushfire-prone regions.

Importantly, the bill contains a mandatory annual reporting requirement to the director of Energy Safe Victoria. The reports must contain planned progress towards bushfire mitigation for the next 12 months and must be signed off by the board of directors. This bill will give the electricity companies the incentive to be responsible and reasonable in light of our recent bushfire history. It is not fair or equitable to put the onus of reparation for bushfire losses in the hands of insurance companies. Efforts must be made to prevent recurrences by imposing a mandatory higher safety standard.

I am proud to say we are also delivering on recommendation 27 of the 2009 Victorian Bushfires Royal Commission. Without further ado, I commend the bill to the house.

Mr JENNINGS (Special Minister of State) — The government is very grateful for the wisdom that has been shown in the Parliament this morning to rise up to what is a risk exposure that the Victorian community has continued to endure for a number of years, far too long in the government's view, in relation to the distribution network being made safe to protect the interests of our citizens.

From the most adverse and disastrous circumstances, it seems that the Parliament has been mindful of lessons that were learned at the time and has committed to the investments that are appropriate to be made to keep our community safe. The government is very determined to ensure that through a regulatory environment and one that provides clear targets and a trajectory for levels of investment in the electricity distribution network throughout Victoria that we achieve that outcome. There can be no greater legacy of the great tragedy of the Black Saturday fires than that our community does

support the appropriate degree of investment and safety measures that this bill will provide.

I know on the way through in this discussion a number of members of Parliament have been somewhat confused about the sequence and the framing of the way in which some of these policy matters have been considered. In fact we may have actually gone on a circuitous loop and a tangent in relation to appreciating the fundamental principle and the effect of this regulatory environment. So whilst some political commentary may have actually got a bit lost in that, ultimately at the end of the day, if this bill passes, the reforms will be implemented and hopefully Victoria can start implementing and be seen to be driving best practice in relation to the safety of the electricity distribution network and in keeping communities safe, and we can all take some collective pride in that.

I am very thankful to my ministerial colleague, her team and her agencies for bringing this work forward and creating a platform for us to achieve that outcome in the future. I would hope, and the community would hope, that the industry itself will recognise its obligations and what is incumbent upon it to invest in a timely and appropriate fashion to lead to that international best practice, in terms of achieving those outcomes. With those words, I thank members for their contributions, on balance, even though some of them may have actually got a little bit lost in the commentary. At the end of the day if this Parliament unites to achieve this outcome, then we will be a safer and better community as a consequence.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

DRUGS, POISONS AND CONTROLLED SUBSTANCES MISCELLANEOUS AMENDMENT BILL 2017

Second reading

Debate resumed from 2 May; motion of Mr JENNINGS (Special Minister of State).

Mr O'DONOHUE (Eastern Victoria) — I am pleased to be the first speaker for the opposition in relation to the Drugs, Poisons and Controlled Substances Miscellaneous Amendment Bill 2017, and I am pleased to advise the house that the Liberal and Nationals coalition will be supporting the bill. Before I get into the details and substance of the bill, let me make some general remarks about the current climate.

Clearly we have a significant issue with community safety and law and order in Victoria at the moment. Since the election of the Andrews government crime is up over 20 per cent. We have seen a cut in the number of police per capita, and we have seen a number of police stations either close or have their opening hours reduced under the Andrews government. In fact just this week I received a response from the Minister for Police intimating that the closure of the Endeavour Hills police station at certain hours on the weekend is likely to continue. Without verballing her, the statement says that the full evaluation is currently being conducted, but what started as a three-month trial is now into its fifth or sixth month, I believe, with no indication that the previous hours will be reinstated. We have a serious issue with community safety. More than 90 000 extra offences were committed in 2016 compared to 2014. There has been a cut to the number of police per capita, and there is significant community angst. Indeed using the minister's own words, she said at the release of the December quarter crime statistics several weeks ago that Victorians do not feel safe in their own homes.

Mr Morris — She was right for once.

Mr O'DONOHUE — She is absolutely right. Indeed, Mr Morris, for once the minister is correct. Victorians do not feel safe in their own homes, and is that not an indictment, from the words of the Minister for Police herself, of the failures of this government — its weakening of the justice system, its watering down of the juvenile bail laws and its failure to act when it comes to court decisions? Was that not evidenced yesterday too with the Minister for Corrections failing to identify the correct date or court of the highly important Boulton decision. She referred to a guideline judgement of the County Court. Of course the County Court does not issue guideline judgements. She referred to the decision of December 2015 when indeed it was December 2014. Concerning an issue that has been of significant interest in this chamber, the Boulton decision expanded enormously the scope of community correction orders, so for her not to understand the court or the date of that judgement or indeed what it says is extraordinary. I would bring to her attention paragraph 131 of the decision where Their Honours outline basically a significant expansion of the scope of the category of potential offenders who may be eligible for a community correction order rather than jail. I

think Their Honours refer to some offences that have previously attracted a medium-term length of imprisonment, which may now be eligible for a community correction order.

While the government has subsequently introduced some legislation in that space, for the Minister for Corrections not to be across the court or the date, let alone the detail of that decision, frankly is alarming and does not bode well for the management of the corrections system in Victoria.

As I said earlier today in my 90-second statement, just this week we have seen a vicious attack on a corrections officer at the Melbourne Assessment Prison, just at the other end of the CBD, and we have had ambulances called to the Karreenga annex to the Marngoneet Correctional Centre — and of course Daniel Andrews changed the security classification for the annex. It was commissioned and constructed as a restricted minimum security facility. Daniel Andrews and a previous corrections minister reclassified that to medium security. The minister has questions to answer about whether there is any connection between the reclassification of that facility and the violence we have seen at that facility. She needs to make a very clear statement that the risks associated with putting higher risk offenders into that facility — which was designed to be a restricted minimum security facility, a prerelease prison, not a medium security prison like the prison next to it, Marngoneet — are being appropriately managed.

So we have got lots of issues in the community safety space, and unfortunately in the words of the Minister for Police herself, people do not 'feel safe in their homes'. With the incompetence of the corrections minister we have seen this week — tabling the wrong statement of compatibility, not understanding the seminal case brought before the Court of Appeal and not rebutting the fact that there will be in excess of 3500 high-risk offenders on community corrections orders — we have got some major challenges and major issues.

After those introductory remarks, let me now turn to the bill. The purposes of the bill are threefold, including to overcome many of the practical difficulties in enforcing the existing prohibitions on synthetic drugs and on their overt sale in Victorian retail outlets. As I am sure you will appreciate, Acting President Patten, this has been a challenge for successive governments. With the change in the composition of synthetic drugs over time, it has left Parliament, regulators, police and others with the challenge of constantly trying to catch up with those new synthetic drugs that are entering the illegal marketplace. This bill in effect attempts to overcome that challenge, as I have described it, of constantly trying to chase your tail, so to speak.

The bill will better enable sentencing judges to take into account the particularly dangerous qualities of ice when sentencing persons caught trafficking ice. I flag to the house that while the Liberal-Nationals coalition welcomes the changes, I will be moving amendments to the bill that will further reduce the threshold quantities in certain circumstances, and perhaps I will talk more about that in due course.

Opposition amendments circulated by Mr O'DONOHUE (Eastern Victoria) pursuant to standing orders.

Mr O'DONOHUE — There will be time to explore my amendments in the committee of the whole, but in very short summary the amended quantities that I will be proposing reflect by and large the commitments put by the coalition through the then Attorney-General, Robert Clark, in late 2014 before the change of government. While we welcome the reduction in trafficable quantities for methamphetamines, we believe that they should go further. As I said, I look forward to discussing that in detail in the committee of the whole.

The third purpose of the bill is to facilitate the efficient and effective treatment of people in police cells who are withdrawing from long-term opioid dependence, such as from the use of heroin or prescription opioids. Again that is a change that we welcome, but let me just talk about the issue of police jails or police cells for a moment.

With the Metropolitan Remand Centre riot taking around 150 maximum-security beds out of the prison system and with the use of Barwon Prison's Grevillea unit as a youth justice centre — held today to be illegal — taking 40 maximum-security beds out of the maximum-security prison estate, we actually have fewer maximum-security beds operating in the prison system today than we did at the change of government in November 2014. The extra capacity at Barwon Prison's new unit has in effect been lost because of the Grevillea disaster. The coalition funded that unit in its 2014–15 budget. The new annex of Marngoneet Correctional Centre, Karreenga, was funded by the coalition in the 2014–15 budget. As I described before, it was designed to be restricted minimum security, and it is now medium security.

So we have had precious little added to the maximum-security estate since the change of

government, and indeed as a result of the MRC prison riot — the worst in Victoria's history according to the corrections commissioner — the number of maximum-security beds is actually fewer now than at the change of government. That has put enormous pressure on the police cells, and we have seen the number of prisoners in police cells consistently above 200 for days or weeks on end, often at or approaching 300 prisoners, which obviously creates a lot of pressure for Victoria Police.

I think one of the issues for the custody officers is that while they have been able to undertake some of the work previously done by Victoria Police, the simple fact is they have not freed up police on a one-for-one basis, as Daniel Andrews promised. Daniel Andrews promised that 400 custody officers would free up 400 police, but I am advised when I visit police stations that that is not the case. As we see around lots of metropolitan court and police complexes, the custody officers cannot drive divvy vans, so to transport prisoners from the police station to the courthouse they need two constables or two sworn members to drive the divvy van transporting the offenders. Those sworn members need to be rostered on for custody duty to do that. There remains a requirement to have a custody sergeant in the police cells to manage the overall operation of the custody arrangements. So while the custody officers have freed up some police, I think it is nowhere near what was touted before the election and indeed what has been touted by Minister Noonan and the current Minister for Police when it comes to the freeing up of police resources.

We have seen overcrowding in our police cells for weeks and weeks, in fact for much of the time since the MRC prison riot, when the MRC was trashed resulting in $95 million worth of repair work and goodness knows how many other millions of dollars from taxpayers for the prosecution, holding and other costs associated with bringing those who undertook that damage to justice. We welcome those changes that facilitate the efficient and effective treatment of persons in police jails who are withdrawing from long-term opioid dependence, but this bill will do nothing to address the other macro issues I have described.

Talking in a bit more detail about some of the provisions in the bill, the bill inserts new synthetic drug offences into the Drugs, Poisons and Controlled Substances Act 1981 to prohibit the production, sale and promotion of psychoactive substances that either have a psychoactive effect when consumed or are represented as having such an effect. These offences are based on similar provisions in other jurisdictions, including New South Wales and Western Australia. Consistent with that approach interstate, the bill does not make simple possession of a psychoactive substance an offence. The bill will also ensure that existing police search, seizure and forfeiture powers under both the Drugs, Poisons and Controlled Substances Act and the Confiscation Act 1997 apply in relation to psychoactive substances.

It is important to note that these new provisions do not replace the current approach of prohibiting specific synthetic drugs based on their chemical structure. This is an add-on to that current framework. This bill, as well as creating those new offences and that new way of trying to deal with the changing composition of synthetic drugs, also adds several further synthetic drugs and classes of drugs to the list of illicit drugs in the Drugs, Poisons and Controlled Substances Act. I think just about all of them are already subject to temporary prohibition under the regulations.

Just talking about the facilitating of opioid substitution therapy in police jails, the bill exempts medical practitioners and nurse practitioners in Victoria Police's custodial health service from requiring a permit to administer opioid substitution therapy to persons withdrawing from opioid drugs in police jails. That is something which I think is sensible. Custodial health service practitioners will continue to be required to complete specialised training before they can administer such drugs.

I just wanted to read into *Hansard* some feedback I have had from the Police Association Victoria in relation to these changes. Whilst I think they are supportive of these changes, I think it is worth just noting their feedback that I received as part of consultation with stakeholders on this legislation. The feedback I received from the association says:

> … the proposed reforms for new synthetic drug offences have the potential to result in an increased workload for Victoria Police members. The proposal suggests that synthetic substances should be prohibited based on their psychoactive effect or their representation as having a psychoactive effect. The association recognises that our members will be required to interpret and prove the 'representative' psychoactive effect of new synthetic drugs. The bill also suggests that a safeguard is in place to ensure that lawful products will not be captured under the scheme. This safeguard determines that substances are covered under the scheme when a 'significant' change is caused as a result to the individual's nervous system. The term 'significant' will necessarily need to be interpreted by our members.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Youth justice system

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Families and Children. On 25 January 15 offenders escaped from the Malmsbury Youth Justice Centre following a riot involving 30 inmates. It took 24 hours for all escapees to be captured after they went on a crime wave across Victoria and were involved in robberies using bats and knives and attempted carjackings, putting the lives and safety of dozens of Victorians at risk. Minister, why were Victoria's largest ever youth justice escape and the subsequent violent crimes not reflected in the quarterly category 1 incidents statistics recently released?

Ms MIKAKOS (Minister for Families and Children) — We have started with the really big-picture questions here today, have we not? I have spoken in this house on a number of occasions about this particular incident as I did at the time. I did say at the time that this particular incident was completely unacceptable, and in fact I commended both our staff and Victoria Police in terms of the response that they did make at that time in relation to this particular matter.

I have also spoken in the past about the substandard facilities that we have had at the Malmsbury facility — new secure units that were in fact commissioned by the now Leader of the Opposition, who is sitting next to Ms Crozier, that we have had to bring up to scratch. I am very proud of the fact that this state budget, just handed down last week, provides a record budget for youth justice, including further strengthening and fortification works — —

The PRESIDENT — Order! Minister, on this occasion I am of the view that the question was very narrow and referred to why particular incidents were not reported in a category where they might have been expected to be reported. I think that is a fairly narrow question to answer, rather than talking about all this other material. I accept a little bit of context, but I think that question is pretty narrow.

Ms MIKAKOS — In fact the member's assertion is incorrect. She comes in here time and time again and just makes things up, because what we see from Ms Crozier is fake news time and time again. In fact that particular incident is reflected in the incident data — data that is now published on a quarterly basis, something that Ms Wooldridge never did — and in fact it is reflected in accordance with an incident reporting system implemented by Ms Wooldridge. So if Ms Crozier wants to come in here and complain about the incident reporting system and the reporting of the data, then she should just turn around and face Ms Wooldridge and complain to her — because it is in fact your system, Ms Wooldridge. As I have explained in the house before, we are overhauling this system, and I have made that very clear to the house as well.

Honourable members interjecting.

The PRESIDENT — Order! Ms Wooldridge, too much. The minister to continue without assistance.

Ms MIKAKOS — So what we see is time and time again Ms Crozier coming in here, putting out fake information, fake news, and not understanding that it is in fact Ms Wooldridge's system that she is complaining about. So if you have a problem with it, have a chat to Mary about this particular matter, but what we are doing — —

The PRESIDENT — Order! 'Ms Wooldridge', not 'Mary'.

Ms MIKAKOS — Ms Wooldridge is in fact the former minister who left this reporting system in place. But she also left us another legacy — and that is substandard facilities at Malmsbury. We have put in a record budget for our youth justice system, $360 million, including funding to pay in full for a brand-new high-security youth justice facility for Victoria as well as fortification and strengthening work at both the Malmsbury and the Parkville youth justice facilities. So we are going in and finishing the job, getting it right and making sure that the Malmsbury youth justice facility is up to standard and fit for purpose — something that should have happened when Ms Wooldridge commissioned this project in the past. So we are getting on with the job of overhauling our youth justice system and making sure that we can keep the Victorian community safe.

Supplementary question

Ms CROZIER (Southern Metropolitan) — Minister, if you have serious incidents like these escapes at Malmsbury or the February riot at Barwon or the self-harm case of a young offender swallowing a knife or the female worker who regularly gets told she will be raped, how are these category 1 incidents actually reflected in your data? How are these incidents reflected in your category 1 data reporting?

Ms MIKAKOS (Minister for Families and Children) — As I have explained to the member on numerous occasions now, the incident reporting system

was in fact a system implemented by Ms Wooldridge. When she became minister in 2011 one of the first things she did was change the reporting system. We know Ms Wooldridge has form in this matter. She was found out by the Ombudsman. We know that they were closing child protection cases just before the end of the financial year to manage the data in terms of child protection reports and she changed the reporting system in relation to the incident reporting system. We are reforming the system. We have also legislated to ensure that youth justice incident reports are sent to the Commission for Children and Young People for independent oversight — and that is a system that started under our government. So we are overhauling our youth justice system, and that includes the incident reporting system.

Youth justice system

Ms CROZIER (Southern Metropolitan) — My question is again to the Minister for Families and Children. Minister, today's Supreme Court decision on the Barwon youth justice facility now means you have managed to get this issue wrong three times. Last time you said it was an administration bungle. What is your excuse today?

Ms MIKAKOS (Minister for Families and Children) — The member opposite clearly cannot contain her glee, given that the Liberal Party on not one occasion indicated its support for the measures that we needed to take in relation to Grevillea to keep the community safe. On not one occasion did Ms Crozier, Mr O'Donohue or Matthew Guy indicate their support for the steps that we took in relation to the Grevillea youth justice facility. Clearly I am — —

Honourable members interjecting.

The PRESIDENT — Order! This is a very serious judgement. It has some serious implications. This is the first opportunity the minister has had to advise the house of this judgement and its implications, and she has been invited to do so by a pertinent question. I expect the minister on this one in particular to be heard in silence so that we actually do get an apposite response to the question and come to understand the implications of this judgement. The minister without assistance.

Ms MIKAKOS — Effectively the member's question was editorialising. But what I can say in response is that obviously I am disappointed in the decision that has been handed down. Let us not forget the circumstances in which these matters arose. Let us not forget that the government was faced with extraordinary circumstances in having young offenders trash 60 beds at the Parkville youth justice facility. We took the steps necessary to ensure that the community was kept safe, that our staff were kept safe and that the young offenders themselves were kept safe. For all the commentary that we have seen from those opposite, from human rights lawyers and from others, never did a credible alternative get put forward in relation to these issues. We took the steps necessary to ensure the safety of the community and of everyone involved in relation to these particular matters. We have always acted with the safety of the community in mind, and our response to this particular decision will be no different.

We have just had a judgement handed down that runs for a few hundred pages. The government of course will consider that judgement and will consider its options in relation to this matter. But I do not walk away from the fact that we took the steps necessary to keep the community safe, to keep our staff safe and to keep the young offenders themselves safe. We will obviously consider the judgement and consider our options.

Supplementary question

Ms CROZIER (Southern Metropolitan) — Minister, given you have had three cracks in the courts and lost all three times, will you finally accept the decision of the Supreme Court or will you subject Victorians to another appeal?

Ms MIKAKOS (Minister for Families and Children) — If Ms Crozier had been listening to the answer I just gave, I did indicate to the house that we have just had a very lengthy judgement handed down. I have not as yet had an opportunity to consider this judgement, nor to receive detailed advice on it. The government will consider the judgement and will consider its options. What we have seen from those opposite is just a washing of their hands of the legacy that they left this state. We would not have been in the position that we are in if Ms Wooldridge had not shelved the master plan and had actually rebuilt Parkville as she had intended to.

Honourable members interjecting.

The PRESIDENT — Order! Ms Mikakos, through the Chair, please. You know I do not like pointing. It is provocative. It actually just raises the tempo. Please, through the Chair. And do not point at me.

Ms MIKAKOS — President, Ms Wooldridge ignored an Ombudsman's report. She shelved a master plan. We have put a record youth justice budget in the budget this year.

Mr Finn interjected.

Ms MIKAKOS — We are building a brand-new facility, Mr Finn — a high-security youth justice facility — and we are fortifying and strengthening Parkville and Malmsbury.

Youth justice facilities

Ms CROZIER (Southern Metropolitan) — My question is again to the Minister for Families and Children. Minister, this morning the detention of young offenders at Victoria's maximum-security adult prison at Barwon has been ruled unlawful for a third time. Do you have a plan D? If so, how many young offenders are currently at the Grevillea unit and where will they be transferred to now?

Ms Mikakos — On a point of order, President, Ms Crozier has a habit of coming in here with multiple questions. She has asked three questions in her substantive question. Unless she is directed to ask one question, then I will feel free to decide which of the three I would like to respond to.

The PRESIDENT — Order! I have been shown the courtesy of being given the question, and I am of a view that the matters that have been referred to by Ms Crozier in the substantive question are directly related and do not constitute two bites of the cherry. What has actually been asked here is: how many young offenders are currently at the Grevillea unit and where will they be transferred to? I think that is one question. I do not think that it has two parts.

Ms MIKAKOS (Minister for Families and Children) — I can indicate to the house that there are currently 16 young offenders at the Grevillea youth justice facility, and the numbers have fluctuated over time because they have been young offenders who are on remand. As they have been sentenced and other circumstances have changed, of course the numbers have varied over time. But what I can say is, as I indicated in response to Ms Crozier's earlier questions and as I have indicated to the house, the government is currently considering this judgement and we are considering our options in relation to this matter.

Supplementary question

Ms CROZIER (Southern Metropolitan) — Thank you, Minister, for that answer. Minister, given that the previous plan was to move young offenders to suburban jail cells, such as Mill Park, will you rule out the bandaid solution of using any suburban or regional police station as a temporary youth justice centre?

Ms MIKAKOS (Minister for Families and Children) — Actually again the premise of the member's question is incorrect, because there was no plan to use police cells. That was a very short-term measure that was engaged upon before Grevillea became available. It was used for a number of days before Grevillea became available, and I have indicated previously in relation to media inquiries about these matters that we have no intention of using police cells in relation to these issues. Ms Crozier is a bit slow to catch on to these issues. But the thing is: as I have indicated, we are considering the judgement and we are considering our options.

Youth justice system

Ms CROZIER (Southern Metropolitan) — Again my question is to the Minister for Families and Children. Minister, at the time of the gazettal of the Grevillea unit, you said, and I quote:

> The orders were made by the Governor in Council and mean that the facility can operate as a youth justice facility and remand centre.
>
> The issues raised by the courts have been addressed in this gazettal.

Clearly the decision handed down today in the Supreme Court found that the issues were not addressed by you and the department. Minister, given the uncertainty that now surrounds the entire youth justice system, will you now finally take full responsibility for your ministerial mismanagement and these monumental bungles?

Ms MIKAKOS (Minister for Families and Children) — Ms Crozier has prefaced her question by making an assessment of a judgement that — I would put money on — she has not read, because — —

Ms Crozier interjected.

Ms MIKAKOS — You have read it? You have got it? You have got the judgement handed down today? You have read the judgement that was handed down today less than 45 minutes ago that has not yet come — —

Ms Crozier interjected.

Ms MIKAKOS — You have read it already — today's judgement? President, the member has made assertions about the content of this judgement in prefacing this question and her previous questions, when the Supreme Court today has not even handed down its orders. In fact the court has reserved its final judgement and has said it is going to hand down its orders tomorrow morning.

Ms Wooldridge interjected.

Ms MIKAKOS — The court has said it is going to hand down its orders tomorrow morning, but Ms Crozier has jumped the gun as she is wont to do, and she has drawn the conclusions that she would like to make. Yet again we are seeing from those opposite a complete failure to accept any responsibility for the circumstances that this state found itself in, for the substandard facilities at Parkville that we inherited from Ms Wooldridge — —

Mrs Peulich — On a point of order, President, the minister repeatedly uses, as a way of evading the answering of questions, the opportunity to sledge the opposition and to debate the issues. It does prompt a response, there is no doubt about it, but that is because this is a tactic that has been used by the minister day in, day out to avoid questioning. I ask you to in actual fact rule her responses out of order and bring her back to the question.

An honourable member — That is not a point of order.

The PRESIDENT — Order! It is actually a point of order because indeed we do have expectations in regard to answers to questions, and one of those expectations is that there will not be reflection on the opposition and on their policies. In almost every instance I would agree and would concur with that point of order that was raised by Mrs Peulich and would be indicating to the minister that there is a transgression of our expectation. However, on this occasion when in fact the question directly questions the responsibility that the minister accepts, which is an issue that is raised directly as to her personal competence, I actually think she has leeway to push back. I think that she does have leeway to context her personal position against the circumstances in which she believes she operates.

I think on this occasion it is a little different to what happens with many other questions, and I do agree that very often this minister does enter into a lot of debate and does reflect very often on the opposition. I am mindful of that. I know the minister and I have discussed that on previous occasions. Today I cannot take up that point of order because of the context in which the question has been raised. Minister, to continue.

Ms MIKAKOS — I take my responsibilities in this portfolio extremely seriously. I have inherited substandard infrastructure. We have put in place a record budget in relation to building a new facility and in relation to fortifying our existing youth justice facilities. We have inherited a 16-year-old youth justice framework, and I have commissioned a review to improve rehabilitation prospects for young offenders. I have ensured that we have funded extra youth justice staff and that we are changing the laws to make sure that young offenders receive a very strong message around assaulting our staff.

So we are putting in place, and I am putting in place as the minister responsible, a significant overhaul of our youth justice system, but we are working in a situation, in a context, where this system has been left neglected for a very, very long time, and so we have been needing to play catch-up in a situation where we have had Ombudsman's reports handed down to the previous government that they ignored.

We are taking the action necessary to make sure that the community can be safe, that our staff can be safe and that young offenders themselves are also safe when they are incarcerated. I take my obligations very seriously, Ms Crozier. We are taking all the steps necessary to reform this system, to overhaul the system and to put a broom through this system to make sure that the community can be safe, because our government prioritises the safety of the Victorian community.

Supplementary question

Ms CROZIER (Southern Metropolitan) — Minister, riots, mass and multiple escapes, millions of dollars of taxpayers money wasted and now three losses in the Supreme Court and Court of Appeal — will you now take responsibility for all of that, for putting the lives of Victorians at greater risk, and just resign?

Mr Jennings — On a point of order, President, in relation to the direction that you made recently in terms of the question of responsibility, from my vantage point I just want to make it very clear to the chamber that the minister has acted always in accordance with her responsibility to the chamber by answering the questions in terms of outlining to the chamber the way in which she has exercised that responsibility. The opposition's questions relate to the safety of our community and the way in which safety should be provided for the residents, the staff and the community in relation to the safe housing of residents in our youth justice facilities.

The minister took responsibility to keep our community safe. The minister acted in accordance with her responsibility in relation to the legal advice that she obtained in relation to this matter. Today's determination in the Supreme Court may actually, as a point of law, be at odds with the minister's acting in

accordance with her legal advice in exercising her responsibility. This is a minister that acts with a responsibility to make sure that we have the investment and the capability to keep our community safe. She is acting in every spirit of accordance with her responsibility. The opposition may choose to deny her opportunities to exercise her responsibility, but she is acting in accordance with it.

The PRESIDENT — Order! Leader of the Government, I note the remarks you have made, but they do not constitute a point of order to this point. Is there a point of order, or do you feel that you have concluded?

Mr Jennings — Yes, I will conclude it. The allegation that the minister has not acted in accordance with her responsibility, I believe, stands the test that I have outlined to the chamber, and I believe she should be protected in the chamber when demonstrating her responsibility to the chamber and to the people and to the statutes that she is responsible for.

Honourable members interjecting.

The PRESIDENT — Order!

Mr Leane interjected.

The PRESIDENT — Order! Mr Leane, do not, please. I do not need a new player.

Ms Wooldridge — On the point of order, President — —

The PRESIDENT — Order! There is no point of order, so that is pointless. I do indicate that the Leader of the Government did test the Chair's patience with those remarks in the sense that they did not constitute a point of order. They were not at issue with the processes of the Parliament. I understand why he came to his feet to make those remarks in the context of that judgement today and the serious issues that it presents to the minister, to the government and to the Parliament, but nonetheless to the extent that it was put before me today it was a vexatious point of order because clearly the Leader of the Government and I both know that it was not a matter of process.

In regard to the attempted point of order by the Leader of the Government, I am also not sure that it was necessarily showing any concern about the validity of the question. The fact that the question tested the minister and was — —

Mr Davis interjected.

Questions interrupted.

SUSPENSION OF MEMBER

Mr Davis

The PRESIDENT — Order! Thank you, 5 minutes, and 5 minutes is extraordinarily lenient.

Mr Davis withdrew from chamber.

QUESTIONS WITHOUT NOTICE

Youth justice system

Questions resumed.

The PRESIDENT — Order! The fact is that the question, I believe, is valid. The minister has an opportunity to dispatch this very quickly.

Ms MIKAKOS (Minister for Families and Children) — I always act in accordance with my responsibilities. That is why I am overhauling our youth justice system, and so the answer is no.

Youth justice system

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Special Minister of State, who is responsible for public sector integrity. Minister, Brendan Murray, the principal of Parkville College, says he was pressured by departmental officials to tell the Supreme Court hearing into Barwon Prison's Grevillea unit that education could be adequately delivered despite his belief to the contrary. Mr Murray said, and I quote:

> I was told what the department would like the Supreme Court to hear and what the department wouldn't like the Supreme Court to hear.

Minister, has the government or the departmental secretary investigated Mr Murray's claims of collusion, and if so, what was the outcome of that investigation?

Mr JENNINGS (Special Minister of State) — President, in terms of what you have described as my vexatious point of order, the point that I was trying to make was that there are many ways in which a minister demonstrates responsibility to the chamber, and I think the chamber should be respectful of the opportunity and that the minister should be able to outline to the chamber, without being subject to a barrage, that in fact she is acting in accordance with her responsibilities.

Part of the material that was presented before the court was based upon the legal advice that had been obtained by the government — not only the minister, but the government obtained legal advice — in relation to the

appropriate administrative arrangements and the way in which care could be provided in a safe way — —

Ms Wooldridge — On a point of order, President — —

Honourable members interjecting.

The PRESIDENT — Order! I do not know what the point of order is yet; I am not going to assume.

Ms Wooldridge — On a point of order, President, the Special Minister of State prefaced his comments relating to his point of order rather than the question that was asked. I ask you to bring him back to the question, because it is actually in relation to claims from Mr Murray in relation to collusion in the court case, not the basis of answering former questions asked of Minister Mikakos.

The PRESIDENT — Order! With regard to the point of order, the one concern I actually had about the question was that it did not cite a reference for where those remarks were made by the gentleman and whether or not they were in some sort of public forum. From the Chair's point of view I had a bit of difficulty understanding where those remarks were made, and therefore the minister might well also have had a similar concern in terms of being across those remarks. Are you able to actually tell me that?

Ms Wooldridge — Yes. They were made on the ABC's *7.30* program and also extensively reported in the *Age* at the same time and rereported by many other media outlets, so they are very well identified.

The PRESIDENT — Order! Thank you. I appreciate that, because I think it is important for us to understand where these remarks are sourced from. With regard to the matters, the minister actually does have a period to provide some context to his answer to that question. I agree that he did tail off on the ruling I had made — that is okay; fair game — but indeed the minister then has some ability to provide context, and I am sure that he will get to a response that is apposite to the question.

Mr JENNINGS — Thank you. When I was interrupted — because in fact when Ms Wooldridge is not happy about the direction of anything she will actually jump to her feet or she will scream at ministers on this side of the chamber. She will do one or the other. Of recent times it is mostly screaming, but in this instance I was making the point that the government and this minister acted in accordance with legal advice that was provided in relation to the appropriate administrative actions to keep our community safe. It in fact has been subject to the scrutiny of the Supreme Court, and evidence has been brought in the Supreme Court that in fact also people acting in accordance with what they believe is the interests of young people runs counter to the view that was actually offered by the government in those proceedings.

The government's legal advice, the government's welfare advice and the government's advice on the way in which educational services could be provided was consistently applied for within the proceedings in the Supreme Court. The Supreme Court did not have to exercise a determination about what was the appropriate alternative that was available to the minister. At no time did the court choose to be mindful of what options were available at that point in time. At no point in time has the court been mindful of what options were available and what alternative care and educational services could have been provided at that time, apart from the assertion that in fact options were available.

In relation to the evidence that Ms Wooldridge relies on, not the evidence that was given in court, I understand that in fact the departmental secretary involved in this matter — the secretary of the department of education is responsible for education services — has refuted in the public domain the allegations that have been made in relation to this matter.

So in fact we have evidence that was not provided in court, that was not tested by the court, that Ms Wooldridge asserts has been challenged in terms of its veracity. What is at the heart of this consideration of Ms Wooldridge's question, which she asserts as fact, has not been tested by the court and in fact has been disputed by the relevant departmental officer in the department of education, which is responsible for providing those services on a contracted basis within a youth justice facility. So in fact we are not actually operating with a fact and we are not operating with evidence within a court. It is an allegation that Ms Wooldridge has built on beyond what has been commentary that has been made in media circles.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I appreciate the answer from the Special Minister of State. I think it is fair to ask whether the minister who is responsible for integrity in the public sector has actually satisfied himself in relation to this rather than just taking the word of another colleague. Clearly he has not. My supplementary question relates to that as well, because these are of course exceptionally serious

claims, and I ask: has the minister or the government satisfied themselves that at all times in this youth justice crisis there has been no interference from any ministers of the government and that public servants have not been politically pressured to offer less than frank or forthright advice before the courts, before the Parliament and before the Ombudsman? Has the minister with responsibility for integrity satisfied himself that at all times these ministers have acted with integrity?

Mr JENNINGS (Special Minister of State) — Earlier in this question time, President, you actually indicated that despite the fact that there might be a multi-barrelled question, there is one question that is being asked. I would actually say that there is one question being asked: do I actually have confidence that my ministerial colleagues have acted appropriately in relation to this? Whether it be the Minister for Families and Children or whether it be the Minister for Education in relation to this, I am absolutely confident in both of them in relation to the way in which they could acquit their responsibilities in accordance with acting with advice and acting within the spirit of what their responsibilities and their obligations are to keep our community safe and to provide within the best of their ability, within the resources, an outcome that keeps young people safe, keeps the workers in youth justice facilities safe and ultimately keeps the community safe. In the way in which we can acquit our obligations under various acts, I am certain that this minister exercises her responsibility each and every day in accordance with all those obligations.

Youth justice system

Ms SPRINGLE (South Eastern Metropolitan) — My question is for the Minister for Families and Children. You mentioned earlier that the government is considering options based on the analysis of the verdict in the court case. Through the series of court cases since late last year you have been left with limited options and some very strict requirements to be met according to those judgements. What options remain to house these children that are currently in Grevillea?

Ms MIKAKOS (Minister for Families and Children) — Thank you, Ms Springle, for your question. As I indicated earlier, we have just received this judgement. I indicate to the house it is a considerably lengthy judgement that runs for 200 pages. At this point in time, given that I am here in the house, I have not had an opportunity to review the judgement myself nor to be briefed on it in any considerable detail. I will be receiving some advice on these matters, and I will be considering all the options available to us and will have more to say about these matters in due course.

Supplementary question

Ms SPRINGLE (South Eastern Metropolitan) — I thank the minister for her answer, although I would have thought that there had been some thought put into this prior to this judgement. I suppose I would also ask in that case how long it will take you to come to some sort of conclusion given that the housing of these children in Grevillea has been shown to be illegal and there are human rights abuses happening.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her supplementary question. The member would be well aware that the government has put in place work going on around the clock at the Parkville youth justice facility since November last year. So if the member is seeking to suggest that somehow the government has sat on its hands during this period of time, then she is wrong. An incredible amount of work has been undertaken to strengthen and fortify the Parkville youth justice facility. An incredible amount of work has been undertaken to make that facility far safer. I refer the member to the answer I gave in relation to these matters, both to Ms Crozier and in response to the member's own substantive question. We are obviously looking at all of these issues. Clearly there has been thought given to a range of possible outcomes that could have eventuated in the court proceedings today. But I make the point to the member, as I said to Ms Crozier earlier, that we are yet to even receive court orders. That is going to happen tomorrow.

Timber industry

Ms DUNN (Eastern Metropolitan) — My question is for the Special Minister of State representing the Premier. The Victorian Environmental Assessment Council's (VEAC) *Fibre and Wood Supply: Assessment Report* was released yesterday. It was part of the work requested by the Forest Industry Taskforce. The report details current resource availability and describes in it a reduction in ash sawlog of 43 000 cubic metres per year due to the expected future impact of measures in place to protect the Leadbeater's possum. Can you advise the house if the 43 000 cubic metre per year figure is correct?

Mr JENNINGS (Special Minister of State) — There will be a lot of people around the state of Victoria who are actually looking at this and probably scratching their heads about the method by which you calculate timber volumes now or into the future. So thank you for

instantly providing me with an opportunity to become Eddie the Expert on that subject. Can I say to you that the information that has been provided by VEAC is consistent with other assessments that have been made by other people who have expertise in this area and consistent — —

Ms Dunn interjected.

Mr JENNINGS — Why not? If they are of that view, why would that not be something that you would be happy to hear if VicForests were of that view? The issue is that there is a consistent assessment of timber availability by most people in fields with expertise in this area, with the exception of what is purported by the National Party to be the volumes that may be available — and that is based upon their licking their finger and holding it to the wind. Other assessments on the base of the timber availability say that there is a restraint on that resource and there is a consistent restraint on that resource.

What I think Ms Dunn has done is look at what has been a bundling of issues in relation to the fragmentation of the availability of timber supply going beyond the prescriptions of the buffers that have been provided due to the Leadbeater's possum numbers and other issues in relation to timber access. The cumulative effect of those measures may actually see that number being ascribed to what the constraint might be anticipated to be in the future.

Ms Dunn — On a point of order, President, my question is very narrow and relates to a specific dot point.

Mr JENNINGS — I am just telling you it is wrong. That is what I am telling you: the question is wrong.

Ms Dunn — The 43 000 cubic metre figure is wrong or the question is wrong?

Mr JENNINGS — Your assertion now is wrong. It is not as narrow as you believe.

Ms Dunn — My point of order is — —

Honourable members interjecting.

The PRESIDENT — Order! Ms Dunn is raising a point of order with me, and I cannot hear her. Ms Dunn, without assistance.

Ms Dunn — My question is very narrow; it relates to the 43 000-cubic-metre figure described in this report. It is a very straightforward question in that it asks: is that figure correct?

Ms Shing — On the point of order, President, in the course of a number of interjections Ms Dunn has in fact broadened the scope of the initial question and the minister has been responding to that. In addition to that I note that the minister still has 2 minutes and 5 seconds on the clock, and to provide a context is not unreasonable in accordance with the standing orders and your earlier rulings in this regard.

The PRESIDENT — Order! I do not uphold the point of order as such. In fact I think in some ways the minister has addressed the very specific matter that Ms Dunn raised in his remarks thus far, and he may return to perhaps be more explicit in that regard. I think that the minister was showing that the expertise of the particular agency suggested that he was not in a position to dispute that figure. That was what I took up from his remarks. I am paraphrasing obviously, but that is what I took up from the remarks, and I thought the minister had already addressed that matter in that way. Perhaps he will return to provide something that will satisfy the member a little more.

Mr JENNINGS — Thank you, President. The bizarre thing is that I was actually thinking that the more information I was giving and the more responses I was giving to Ms Dunn would have made her happy. I cannot quite understand what her need is in this question. The 43 000 number was published, so to that extent the 43 000 number is correct. I was actually telling her how in fact that 43 000 is made up and who actually accepts it and who does not accept it. If she does not want that information, then maybe she might in her supplementary question ask me additional things that she may be interested in to what I was volunteering to her.

Supplementary question

Ms DUNN (Eastern Metropolitan) — It is my understanding that VicForests and the Department of Environment, Land, Water and Planning have reworked the calculation to properly reflect the reduction of ash sawlog per annum and that it is far lower than that included in the report. Will the government insist that the report be reissued with accurate figures?

Mr JENNINGS (Special Minister of State) — In fact now Ms Dunn is making things up. I think she might have been better off to stick to how she started. What I can say to Ms Dunn — —

Mr Finn interjected.

Mr JENNINGS — I am not quite sure now; does Mr Finn want that number increased or reduced? What is his interest in this endeavour? What we are talking

about is that people actually do an estimate, they come up with an outcome and everybody wants something different.

Honourable members interjecting.

Mr JENNINGS — I do not think so. In fact, funnily enough, we do understand that you actually deal with the cards you are dealt. You are dealt with your responsibility; you act in accordance with it. That is the hallmark for this side of the chamber. Other people may just want to take an oppositional position on everything and say that it is all too hard — in fact 'The world's hard; isn't it complex?' — and deny any opportunities to act in it. We are trying to take responsibility for this matter.

Drug driving

Ms PATTEN (Northern Metropolitan) — My question is for the minister representing the Minister for Roads and Road Safety, Ms Pulford. The Transport Accident Commission's (TAC's) latest drug-driving campaign features a young man, completely in control of his vehicle, driving his grandmother home after Sunday lunch when he is subjected to a drug-driving test. His grandmother looks on as the saliva test returns a positive result. The press release announcing the ad says that the new campaign aims to educate the community that drugs can remain detectable long after the impairment effects have passed, sometimes even weeks after the substance was consumed. Minister, if the driver is not impaired, why are the drivers being charged?

Ms PULFORD (Minister for Agriculture) — I thank Ms Patten for her interest in the issue of road safety, in particular the most recent TAC campaign, which I imagine many members are familiar with. I will seek a written response from the responsible minister, Minister Donnellan. The TAC has a world-renowned reputation for its road safety campaigns. This is certainly a matter that our government takes very seriously, particularly the consequences for individuals and families. Any kind of irresponsible conduct on the roads can be catastrophic.

Supplementary question

Ms PATTEN (Northern Metropolitan) — Thank you, Minister, and I look forward to that response. Of course we all take this issue very seriously. The campaign website went on to say that in the last year 18 per cent of drivers and motorcyclists killed on the roads tested positive to tetrahydrocannabinol (THC). Given that the TAC admits drug testing does not measure impairment, does the government have any evidence that the THC detected in those drivers in any way contributed to the fatal accident?

Ms PULFORD (Minister for Agriculture) — I thank Ms Patten for her further question on this matter. Ms Patten is seeking a level of detail that I am personally not familiar with; I will seek a response from the relevant minister. I did say earlier that I would seek a response from the Minister for Roads and Road Safety, but I might check if it is not in fact the Minister for Police instead. I will endeavour to get a response from the relevant minister within the usual prescribed time.

Electricity supply

Mr BOURMAN (Eastern Victoria) — My question today is for the Special Minister of State, Eddie Expert, in his capacity representing the Minister for Energy, Environment and Climate Change in the other place — —

The PRESIDENT — Order! It might be acceptable to the minister, but it is not acceptable to me. We have forms in this place, and the reason we do is to make sure that we actually do not have a breakdown, because if I allow a comment like that — the minister might be quite happy with the title — then in fact how do I stop the next one that is far more disparaging to a member of the house? It is not on. I seek a retraction of that term.

Mr BOURMAN — I retract that.

My question today is for the Special Minister of State representing the Minister for Energy, Environment and Climate Change in the other place. It is logical that energy requirements fluctuate and that there is only a finite capacity to deliver. I have been shown a flier that was put in the letterbox of one of my constituents late last year detailing things they can do in the event of a power blackout. I have also checked on the government's website, and I noted a press release from Minister D'Ambrosio on 12 January 2015 detailing the same things that people can do in the event of a power blackout. It is noted that the Hazelwood power station closed in March of this year, and I acknowledge that it was the decision of the owners, but I also note that the current state of affairs is that there is not a replacement power station. We also supply energy to South Australia.

My question is: could the minister let me know whether the government was responsible for the delivery of the pamphlet in late 2016?

Mr JENNINGS (Special Minister of State) — Thank you, Mr Bourman; you are not the only person in the chamber who is a bit unlucky today in relation to things not quite going the way that you might have thought they would go. But nonetheless, in terms of what actually happened in the letterbox in question, I know that is how we started but I thought we went on a different trajectory, so you surprised me with your conclusion. It was the pike at the end that actually surprised me. I will see if I can actually, from my ministerial colleague, determine who put that item in the letterbox, because she is a very assiduous minister who takes her responsibilities very seriously — in this instance not perhaps as seriously as my colleague.

Nonetheless, in terms of the distribution of material about how to deal with blackout situations in domestic circumstances, I think that is always useful for households to know. I think beyond the ongoing supply of candles in our various dwellings probably there might be one or two more practical things people can actually do in case of adverse outcomes of electricity supply.

On the upside, in terms of your question, in terms of the policy matter and in terms of the capacity question of the electricity system, the government has been not comforted but reassured to a certain extent by the assessment of the independent electricity market mechanism that actually provides us with advice about the availability of electricity supply into the future. They are confident that in fact there is sufficient headroom within the Victorian generating capacity to make sure that we do have enough electricity. But that does not mean that the government will be complacent in relation to the alternative sources of energy that we try to generate, whether that be through renewable or other sources, whether we have a look at the way we can increase the storage capacity across the electricity system to ensure a greater degree of reliability in the system or whether that is about looking at the way we can reduce demand.

That goes back to the question Mr Purcell asked me earlier in the week about the various programs that we have to try to reduce demand on a domestic scale through the Victorian energy efficiency target scheme or on a commercial scale by incentivising our businesses to actually use energy more efficiently or to embark upon load-sharing arrangements. That actually goes back to a question that Mr Barber asked me a couple of weeks ago in relation to undertakings that may be made by large industries such as Alcoa. There are a whole variety of ways in which households and businesses can play a role in trying to reduce the demand pressures of electricity in times of acuity in terms of supply.

The government actually understands that we need to grow the energy sector. We will grow it through renewable energy. We will grow it through storage capacity. We will be open to additional investments in energy supply. So we take the big picture very responsibly and we will act in accordance with that, but in terms of who put what in the letterbox, I will take that up with my colleague.

Supplementary question

Mr BOURMAN (Eastern Victoria) — I am getting to the point in my supplementary question: given there is finite energy capacity and we share power with South Australia, who will get priority on high-demand days when the requirements for Victoria and South Australia are exceeding our output? Whose lights go out?

The PRESIDENT — Order! I will allow the minister to answer, but I have got to say that is a very big, gigantic leap from who put something in the letterbox.

Mr JENNINGS (Special Minister of State) — Let us take this leap together, because the Australian Energy Market Operator are the people who make those decisions, so the people who I referred to before — —

Mr Barber — Until your energy minister gets on the phone — it depends how loudly she can yell down the phone, doesn't it?

Mr JENNINGS — In fact a lot of energy ministers and a lot of governments would be very mindful of the protection of the safe reliability of the distribution networks within their states and their regions, so Mr Barber is right that there is a sensitivity, because energy ministers and their agencies would like to make sure that we do not have blackouts. How they are managed appropriately — the mechanism — is through the Australian Energy Market Operator, who will make the decisions about the best way in which the majority of the distribution network can actually be safely delivered energy at the time of acute demand pressures. They make those decisions.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have written responses to 1022 questions on notice: 9730–10 180, 10 192–475 and 10 622–908.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In regard to today's questions, on Ms Crozier's first question, I seek a response to the supplementary question; that is one day. On Ms Wooldridge's question to Mr Jennings, I seek a response to the substantive question; that is one day. On Ms Springle's question to Ms Mikakos, I seek a response to the supplementary question; that is one day. On Ms Patten's question to Ms Pulford, I seek responses to both the substantive and supplementary questions; that is two days.

On Mr Bourman's question to Mr Jennings, I seek a response to the substantive question, and I will also include the supplementary question. Notwithstanding that the agency that is to make the decision was clarified by Mr Jennings, what Mr Bourman was seeking, I think, was whether there is some sort of a priority case that they will take into account. So to the extent that they may be able to inform us on that, I will include that. That is two days.

Can I also indicate that Mr O'Sullivan sought to have a question reinstated. It was a question to Ms Tierney, the Minister for Training and Skills. I have looked at the question and considered the response, and I do not believe that I need to request that that question be reinstated.

Ms Crozier — On a point of order, President, I refer to a fairly specific question that I asked of the Minister for Families and Children yesterday regarding the cost of a young person in residential care and the supervision that that person might require. The minister has failed to answer the question in her response, which I have received today, and I request that the question be reinstated.

Ms Mikakos — On the point of order, President, I know the member has a habit of sourcing all of her questions from the *Herald Sun*, but the question that the member asked yesterday was very general in nature. It did not reference a specific individual, nor specific circumstances. Accordingly, the response that I have given the member is that her question did not reference any specific individual circumstances, and therefore the advice that I have received from my department is that it is not possible to estimate the costs of arrangements for any particular individual without reference to the details of their specific circumstances.

Yesterday I gave a commitment to provide the member with a written answer. I did not give a commitment to provide written costs. I sought advice on this matter, and I have provided the member with a response that directly responds to the question the member asked. If she wants me to get into mind-reading what she intended to ask, that is a different matter. But if the member botches her questions, it is not my job as minister to fix them.

The PRESIDENT — Order! The questions that were provided and the answers that were provided have been perused by the staff of the Council as well, and it was the view that in fact the minister's answer was apposite to the question. I mean, if I reinstate it, basically the same answer is going to come back, especially given what the minister has now indicated to the house, and I have got no further opportunity to address the matter.

What might have been helpful would have been the minister providing perhaps a range of costs.

An honourable member interjected.

The PRESIDENT — Well, no, I actually accept what the minister says: that individual circumstances are going to run out to different cost levels according to an individual's needs. If the minister had perhaps spoken in terms of a range of costs, that might have been more helpful and covered the situation, but in the context of the question that was asked and the responses given, I think it is apposite.

Sitting suspended 1.06 p.m. until 2.13 p.m.

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Reference

The DEPUTY PRESIDENT — Order! I have a letter from Mr Bernie Finn, MLC, directed to the President. It says:

> I am writing to advise the Legislative Council that, pursuant to sessional order 6, at its meeting on 10 May 2017 the economy and infrastructure standing committee adopted the following terms of reference as a self-referenced inquiry:
>
> That pursuant to sessional order 6 —
>
> 1) the economy and infrastructure committee inquire into VicForests operations, and that the committee reports its findings and recommendations to the Legislative Council by 31 July 2017, and that the inquiry in particular examine:
>
> a) compliance with VicForests utilisation standards, with specific reference to log grading procedures, sawlog preparation and coupe utilisation standards;

b) economic and environmental loss that is attributable to poor compliance;

c) alternatives to the current utilisation standards that could deliver improved economic, social and environmental outcomes;

d) VicForests modelling scenarios around past, present and future supply levels of commercial timber; and

e) VicForests business practices with specific reference to its approach to customers and any disputes, complaints or investigations.

CONSTITUENCY QUESTIONS

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Roads and Road Safety, and it is regarding further funding for the Shepparton bypass. While I am certainly relieved that the government has finally acknowledged the need for the Shepparton bypass by promising some funding in this year's budget, I am disappointed that it really only amounts to a commitment for paperwork at this stage. The $10 million announced is only half of the $20 million in funding the Shepparton bypass committee, the Committee for Greater Shepparton and the Greater Shepparton City Council have been advocating for to properly initiate this project.

The budget papers reveal planning of the bypass will not commence until the 2018–19 financial year, delaying the project for at least another 12 months. Further, no money has been included for land acquisition, which as well as delaying the start of the project will leave landholders in the proposed route area in ongoing doubt about their future. I do not know how this government expects the federal government to fund a project when the state has not acquired the land and therefore is not ready to proceed with the project. My question to the minister is: when will he commit to land acquisition for the bypass project?

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — I have recently been contacted by constituents regarding the significant concerns amongst traders and patrons of the historic Queen Victoria Market because of the lack of transparency surrounding the project. It appears the City of Melbourne wants to repurpose the market as a supermarket-style food precinct rather than support its current model as a fresh food working market for all of Melbourne. Traders and the public support renovating and refreshing the market but do not want it to lose its character, and they feel that message is not being heard, particularly as they feel shut out of the planning process. Given the government has a transparency agenda, what is the Minister for Planning doing to consult with traders and the public on the redevelopment of the Queen Vic Market?

Southern Metropolitan Region

Ms PENNICUIK (Southern Metropolitan) — My constituency question is for the Minister for Water. In 2015 Bayside City Council announced a proposal to develop sporting facilities at Elsternwick Park. A coalition of community groups convinced the council to undertake a broader consultation, which resulted in the deliberative panel overwhelmingly endorsing an option known as option 1A, which proposes an expanded wetland, flood mitigation, an urban forest and an upgraded oval 2 in its current location. Bayside council officers also recommended option 1A to the Bayside council. Despite this, the council has adopted what is called revised option 5.

Flood mitigation is urgently needed in Elwood, and Elster Creek is the most polluted waterway in Melbourne. My question for the minister is: when are the government and Melbourne Water going to provide advice and financial support for the proposal of a wetland and urban forest in Elsternwick Park?

Northern Metropolitan Region

Mr ELASMAR (Northern Metropolitan) — My question is for the Minister for Multicultural Affairs. Minister Scott recently announced new funding for community infrastructure and cultural precincts. I understand that $4.22 million of funding was announced for various groups under this program. Many culturally diverse groups have received funding to build or restore existing community facilities. So my question to the minister is: how many groups in my area were funded, and what was the total value of the funds received by the various community groups in my electorate of Northern Metropolitan Region?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Emergency Services. Despite the Premier's claim that the Country Fire Authority (CFA) dispute is over, it is very clear his war on volunteer firefighters continues unabated. Serious concerns have been expressed to me about the future of volunteers at fire stations on the fringes of the

west of Melbourne. There is a very genuine fear about what the government will do next. Will the minister guarantee the future of volunteer firefighters at CFA stations in Sunbury, Bulla, Diggers Rest, Truganina and Hoppers Crossing?

Western Victoria Region

Mr PURCELL (Western Victoria) — My constituency question is to the Minister for Water. In my region drinking water in some towns comes from groundwater bores and the taste of this water is unacceptable. Portland, Port Fairy, Macarthur and Heywood are all towns that have bore water with an unacceptable taste. I understand that in one of these towns the local medical service actually adds cordial to the water they serve to their customers to make the taste acceptable. Therefore my question is: will the minister work with Wannon Water to enable them to provide decent-tasting drinking water to these towns?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is to the Treasurer. I have to say I am totally confused in relation to the regional rail package in the budget. In the budget there is a line item of 'Surf Coast rail', to which $110 million has been allocated, but in the federal budget there is an allocation of $100 million to the Geelong rail line duplication between Waurn Ponds and South Geelong. The Treasurer yesterday said of course we are going to have to pare back some of these regional rail projects if the federal government does not commit to funding them, so I am unclear: is the Surf Coast rail project that is in budget paper 3 with an $110 million allocation part of the Geelong duplication between South Geelong and Waurn Ponds, and is the Victorian state budget going to commit to this project of duplication? I ask because it is very unclear in the budget papers and equally unclear given the Treasurer's statement yesterday that he is actually not going to commit to anything at this stage until they have talked to the federal government about specific projects.

Northern Metropolitan Region

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Roads and Road Safety, Luke Donnellan. It is about the fact that there is no state government money for the Craigieburn Road duplication in my electorate of Northern Metropolitan Region. The Hume council and community groups are appalled that the government have ignored the congestion and safety issues on the very overloaded Craigieburn Road. In another slap in the face for Hume residents, the duplications of Mickleham and Somerton roads were also ignored. Hume mayor Drew Jessop said one of Australia's fastest growing communities 'has been left hanging' and that there was 'significant community disappointment' in the state government's decision not to fund Craigieburn Road.

Local Craigieburn resident and road campaigner Jim Overend said that Craigieburn Road was never designed to carry 30 000 cars a day and it had created a dangerous situation for both motorists and pedestrians, who were forced to play chicken crossing the road. Craigieburn Residents Association president Debra Phippen was horrified and annoyed that, despite the fact that they had met with the roads minister and that he had met with 400 residents last year, funding was not provided. Even the member for Yuroke in the Legislative Assembly, state Labor MP Ros Spence, said she was 'disappointed that funding to duplicate Craigieburn Road was not included in the budget'. So my question to the minister, as I have asked many times before, is: can he advise me when funding will be available for roads in the Craigieburn area?

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — My constituency question is for the Minister for Public Transport, and it is in relation to the state government's proposal for a sky rail option for Eel Race Road, Carrum, and Overton Road. I have recently received a comprehensive report written by Mr Lindsay Sharpe, who has put together a very compelling case arguing that:

> The arguments that that a rail-under-road design is not possible in Carrum are either wrong, misleading or simply have not been researched fully.

He goes on to say that:

> An elevated rail positioned at the highest section of the land within at least 10 kilometres —

of the coast —

> is a visual disaster in a seascape environment. Metal particles from track and wheel wear and tear and other pollutants will travel further, noise has no acoustic absorption and will travel further, platform speakers will be placed at 11 metres from the ground with all announcements carried to local homes and businesses. Privacy will be impacted.

I call on the minister to review all of those concerns and make sure they are fully answered before she proceeds with the current plans.

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — My constituency question today relates to the heritage permit that has been granted under section 74 of the Heritage Act 1995 with respect to St Kilda Road and the preliminary works of the Metro Tunnel. This permit sees the removal of the first 18 trees, bluestone kerbs and a series of matters around tram alignment and associated infrastructure. The problem is that the minister on 5 January indicated that there should be a proper consideration of alternative locations for the stations and for the train route itself. There has not been proper consideration. Engineers have put forward alternatives, but these have been rejected by the Level Crossing Removal Authority but without proper analysis. The risk is they will do this preliminary work in the wrong place. What I am asking here is: will the minister intervene and insist that a full and proper analysis is carried out of the proposal and insist that this planning arrangement not go forward until it has been properly considered?

DRUGS, POISONS AND CONTROLLED SUBSTANCES MISCELLANEOUS AMENDMENT BILL 2017

Second reading

Debate resumed.

Mr O'DONOHUE (Eastern Victoria) — Before question time and the break in proceedings I was putting on the record the position of the Police Association Victoria, which had responded to a call for feedback from stakeholders. While they are supportive of the bill, they are concerned that the proposed reforms have the potential to result in an increased workload for Victoria Police.

I would like to just move to the issue of the amendments I circulated previously. I will quote from a media release from the Honourable Robert Clark of 11 November 2014. He said in his media release at the time:

> As well, the amounts of ice deemed to be commercial and large commercial quantities will also be halved. In future, 500 grams of ice will be deemed a large commercial quantity, rendering any one trafficking that amount of ice liable to forfeit almost everything they own upon conviction, whether lawfully acquired or not, and liable to an average jail term of 14 years under the coalition's baseline sentencing reforms …

He went on to say:

> The quantity of ice deemed a commercial quantity will also be reduced from 500 grams to 250 grams, rendering a trafficker liable to up to 25 years in jail.

He went on further to say:

> Given the ability of traffickers to manufacture ice locally and in smaller quantities, the current quantities make it too easy for traffickers to dodge the jail terms and asset forfeiture they deserve.

He continued:

> These changes will mean that more serious charges will apply to more offenders who manufacture or traffic in ice, rendering them liable for tougher penalties and asset confiscation.

That was the position of the coalition at the last election. The purpose of my amendments is to reflect that position again. The government has reduced the trafficable quantities of methamphetamine for large commercial quantities from 750 grams to 500 grams and when mixed from 1 kilogram to 750 grams. I propose, rather than reducing from 750 grams to 500 grams, to reduce it by a half, and the same for the mixed 1 kilogram, to reduce that to a half, consistent with those statements I have just read out from the then Attorney-General.

My understanding, just for clarity, is that those quantities were arrived at after consultation with Victoria Police at the time. Whilst I am sure that Victoria Police are supportive of the reduction that is proposed today, my understanding is they were also supportive of that further reduction at that time and that consultation took place at the time.

The other change I am proposing in my amendments is that the quantity amount for automatic forfeiture of assets should be lowered to 15 grams from the existing 30 grams. Again, ice is causing such concern in the community. We see horrific crimes being committed and we see families being torn apart by ice. Those who traffic, manufacture and make money from this misery need to be held to account.

I think we also need to really get an understanding of the true impact on the community. One of the reasons the road toll increased last year and is up this year on comparable times in 2013 and 2014, if my figures are correct, is in part the number of people dying on the roads who are drug drivers. This is a serious issue. More of the deaths on our roads now — more of those fatalities — are of people who have drugs in their system as opposed to alcohol. The issue of drug driving is a major issue. In a slightly tangential way, I am very disappointed that this budget does not increase the number of drug driver tests from the current 100 000, which was increased in May 2014 by the previous government from 42 000 to the current 100 000. I think we need to increase that again up towards 200 000, and beyond in time, to give that same deterrence effect and

the same impact on drivers that the installation of the drink-driver tests have had over many years now.

That is a real issue, and to deal with the issue of ice we need a multifaceted response — safety on our roads, tougher penalties for those who manufacture and deal et cetera, better treatment services for those who have the addiction and indeed better rehabilitation services through the community and through the justice system to give people the best opportunity to free themselves of this addiction.

With those words, the coalition will support this legislation, but I look forward to having further discussion about the amendments I propose during the committee of the whole.

Ms HARTLAND (Western Metropolitan) — Whenever I speak about drug policy I always like to start off whatever I am saying by talking about alcohol and point out that every day 15 people die from alcohol-related disease and that every day 430 people are hospitalised because of alcohol. I also point out that in terms of prescription drugs 82 per cent of all overdose deaths — that is, of the 384 investigated by the coroner in 2014 — were from legal prescribed drugs. When we are dealing with illicit drugs I think we also have to remember the incredible damage done by what we refer to as legal drugs, such alcohol and prescription drugs.

For more than 50 years we have been responding to the drug problems with tough legislation, tough policing and prison sentences. It simply has not worked. When we crack down on drugs, people find other drugs and other ways of getting them. We have had half a century of battling drugs with law and order and the drug problem has simply got worse. I think it is time to start doing things differently. This should not be a debate about whether drug use is good or bad or whether drug users are good or bad people. We need to acknowledge that people use drugs whether we like it or not. And if people are going to use drugs, it makes sense to minimise the impact this has on themselves, their families and society in general.

Decriminalising drug use is not supported by just the Greens. It was called for in Australia21's recent report and has been supported by former police commissioners, officers in law enforcement and Jeff Kennett. This is one of the few times that I would say that I agree with Jeff Kennett.

Ms Shing — Let the record reflect that.

Ms HARTLAND — Absolutely. Thank you. It is also called for by the Global Commission on Drug Policy, which represents about 40 former presidents and prime ministers around the world.

This bill is a good example of what does not work. Let us imagine that it passes and synthetic drugs are no longer available in tobacconists and sex shops. Will the people who are now buying these substances decide it is time to stop taking drugs, get on the straight and narrow and get jobs as accountants — as long as the accountants are not also buying synthetic cannabinoids? Probably not, because this bill attempts to limit supply without limiting demand. I can see the *Herald Sun* tomorrow with the headline that someone in this chamber will supply: 'Greens soft on drugs — want to give our children drugs'. It is quite the opposite. We know the damage done by drugs, but we also know that law and order does not work and that we need to be looking at harm minimisation. People will just buy their drugs elsewhere, or on the internet.

We can get an idea of what might happen if this bill is passed by looking at what happened in Blackburn in England when 'head shops' which sold synthetic cannabinoids were shut. At first people went to shops in neighbouring areas and within days a street trade was started up. As is explained in an editorial in the *International Journal of Drug Policy*:

> The same users bought the same synthetic cannabinoids from an existing street dealer of class A drugs. He had bought up the head shop stock and split labelled commercial packages into smaller, unlabelled 'deals' … Some head shops appeared to have operated some safer practices, such as not serving customers aged under 18, selling labelled products with listed ingredients and not offering promotions. The street dealer, in contrast, employed a team of 'runners' who delivered synthetic cannabinoids to customers of any age across the town … The users he served were amongst the most vulnerable people in the area …

We know that banning drugs does not stop drug use. So what does work? Some 40 countries around the world have at least partially decriminalised drug use. This has not led to widespread drug use. In fact studies have found that the law makes very little difference to the rates of illicit drug use. What decriminalisation does is reduce the rates of drug users dying, catching HIV and filling our hospitals and our courts. In Portugal drug use was decriminalised in 2001 and drug-related HIV rates dropped by 90 per cent. Their overdose rate is now a fraction of the European Union average. In Switzerland people with a heroin addiction can go to a doctor who prescribes heroin, not to give them a good time but to treat their heroin addiction and minimise its impact on them and others.

All these countries treat drugs not as a criminal justice issue but as a health issue. Many of them also minimise

the impact of drug use through sensible measures like supervised injecting rooms. I still find it beyond my understanding why this government is not considering a trial of a supervised injecting room in Richmond. I presume government members have read the coroner's report. The coroner is quite clear about what needs to happen, and I do not understand why the government is not taking that advice. Why do we not have pill testing and more money for frontline services? In the budget there is provision for 30 new treatment beds, yet the Victorian Alcohol and Drug Association, one of the leading drug advocacy organisations in the state, says that we actually need 300 beds. When someone says at 8 o'clock in the morning, 'I need drug treatment', goes along to a service and is told that they will have to wait eight weeks for an appointment let alone actually get into a treatment bed, that is not the way we should deal with it.

The Greens support decriminalisation of drug use, but it does not mean, as I have already said, that we think drugs should be freely available. Far from it. We think that access to drugs should be carefully monitored and should depend on how harmful the drug is. We will be voting on this bill clause by clause because there are some clauses we can support. We support the reduction in the quantity of ice considered a commercial quantity because ice is such a shockingly dangerous drug. We also support opioid substitution therapy in police cells. We were actually quite surprised that that was not available already. This is currently allowed in prisons and is simply a pragmatic and sensible way of dealing with people with substance abuse issues. Police cells are not a place to detox.

The Greens believe that in controlling the drug supply we need to look at how harmful each drug is. In the past Victoria has tried to ban drugs on a substance-by-substance basis, and it does not work. Today's bill attempts to deal with this by banning everything. We suggest that a better approach would be to allow the manufacturers or importers to prove that a drug is safe. This puts the onus on the industry, not the government, and allows the government to control sales instead of the black market. Again, this is not just the Greens suggesting this. This is exactly what happens in New Zealand, just on the other side of the Tasman. It is early days for New Zealand's new approach to drugs, and it is not a system without teething problems, but it is an approach based on a world of evidence. And when what you are doing now is not working, why not try something new?

Whenever we deal with these kinds of bills there is always that difficulty that we know that the Greens will be slapped around and will be told that we just support all kinds of drugs. We do not. I live in Footscray. I have seen the heroin street trade and I have seen the damage done, and I would do anything to encourage someone not to use drugs. But let us be realistic: it is happening. We need treatment beds and we need harm minimisation. We do not need a law and order approach to drug problems.

Mr SOMYUREK (South Eastern Metropolitan) — I rise in support of the Drugs, Poisons and Controlled Substances Miscellaneous Amendment Bill 2017. The purpose of this bill is to insert three new offences in the Drugs, Poisons and Controlled Substances Act 1981 to prohibit the production, sale, commercial supply and promotion of synthetic drugs. A maximum sentence of two years in prison would apply with this amendment. The other purpose of this bill is to lower the trafficable quantity of methylamphetamine — from here referred to as meth — including in its three most common forms: speed, in other words its powder form; ice, its crystal form; and base, its paste form. Another purpose of the bill is to allow doctors and nurses looking after the medical needs of people in police jails to be exempt from requiring a permit to administer opioid substitutes such as methadone to those who are withdrawing from opiates.

This bill provides significant reform in the fight against illegal drug manufacture, distribution and sale in our state. Synthetic drugs have become an increasing problem in the community in relation to not only the risk they pose to customers but also the ease with which they can be acquired due to existing loopholes in our current laws. Despite synthetic drugs being illegal in Victoria, synthetic ecstasy or cannabis, for example, are being sold over the counter in retail outlets such as sex shops and tobacconists, marketed as legal highs and packaged up like incense and bath salts.

Currently the way we ban synthetic drugs is to categorise each specific compound or class of compound as an illicit drug. The number of synthetic drugs listed as drugs of dependence under schedule 11 of the Drugs, Poisons and Controlled Substances Act continues to grow exponentially. This does not solve the problem of preventing the sale and distribution of synthetic drugs because manufacturers just continually change the chemical signature to get around the schedule itself. The diversity of substances available and the speed with which new drugs are developed have frustrated the operation of Victoria's schemes, thus creating ambiguity around what substances are prohibited and therefore making enforcement costly and time consuming.

Synthetic drugs are manufactured to mimic the effects of illicit drugs and often contain untested toxic chemicals that can produce harmful and potentially fatal reactions. According to the World Health Organization just some of these harmful effects includes seizures, heart problems, high blood pressure, withdrawal symptoms and dependence-producing properties. Several people have in fact died, and we have seen several hospital admissions as a result of the use of synthetic drugs.

These amendments will move away from banning specific substances to outlawing the sale, production and promotion of synthetic substances that have a psychoactive effect. For the purpose of this scheme a 'psychoactive effect' is defined to mean the:

(a) stimulation or depression of the person's nervous system, resulting in hallucinations or in a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood; or

(b) causing a state of dependence …

such as addiction.

There are safeguards that will ensure that any lawful products that create the same or similar effects are not included. Under the new laws anyone caught producing, selling or indeed promoting synthetic drugs will face up to two years in prison and/or a fine of up to $37 000, which is pretty steep. These changes, which have been welcomed by Victoria Police — and welcomed as a 'game changer' — will bring Victoria into line with New South Wales and Western Australia. The changes around synthetic drugs are also a sensible way of tackling what is a constantly changing illegal practice designed to generate revenue not for the state but for dealers and manufacturers at the expense and indeed to the harm of people who are initially innocent as users and of curious individuals who perhaps then go on to become victims of harmful addiction.

In another amendment this bill will reduce the large commercial and commercial trafficable quantities for meth, both when measured in its pure form and when mixed or cut with other substances. The new large commercial trafficable quantities for meth will be reduced from 750 grams to 500 grams of pure meth and from 1 kilogram to 750 grams when mixed. The commercial trafficable quantities will be reduced from 100 grams to 50 grams of pure meth and from 500 grams to 250 grams when mixed. Reducing these quantities will provide an increased deterrent as more trafficking will fall into commercial and large commercial offence categories. The penalty for large commercial-level drug trafficking is pretty strong — life imprisonment and a fine of up to $777 000 — and for commercial trafficking it is 25 years imprisonment and a fine of up to, I think, $466 000.

This measure of reduction of the trafficable quantities was recommended by the Court of Appeal in the case of *Ziad Haddara v. The Queen*. It was considered that the prevalence of trafficking ice was so great that general deterrence must be given more focus in the case of ice than other drugs, and therefore it was recommended that the trafficable quantities of meth be revisited and that parliaments legislate for lesser quantities to constitute both a commercial quantity and a large commercial quantity of this very, very dangerous drug.

A Sentencing Advisory Council report released in March 2015 found that ice was the most common drug trafficked in commercial quantities in Victoria over the preceding five years. According to the Australian Criminal Intelligence Commission the market for ice in Australia is entrenched, and not only is it entrenched, it is actually expanding. Therefore it is right and reasonable that we as a government do all that we can to stop the distribution before it begins, and it is measures like these, that are encouraged and welcomed by Victoria Police, that will result in decreased drug trafficking.

The third reform in this bill is to exempt practitioners within custodial health services from requiring a permit to treat opioid-dependent persons in police jails. Opioid substitution therapy is an effective treatment for opioid dependence resulting from long-term heroin use or some other drug addictions. When opioid-dependent people outside of custody are on opioid substitution therapy their treating medical practitioner must have a permit from the Department of Health and Human Services before treatment occurs. The exemption will ensure that a detained person's treatment can continue throughout the person's detention and until such time as they are able to see another practitioner in the community when they are released. Of course safeguards will continue to apply to the administration of opioid substitution therapy in police jails.

In conclusion, this bill contains practical and responsive solutions to assist in law enforcement, reduce public risk of harm from illicit drugs and increase deterrents to reduce drug trafficking. For these reasons I commend the bill to the house.

Mr RAMSAY (Western Victoria) — I am pleased to make a contribution to this bill, the Drugs, Poisons and Controlled Substances Miscellaneous Amendment Bill 2017. As has been indicated by my colleague

Edward O'Donohue, there are three main purposes to this bill. One is to overcome many of the practical difficulties in enforcing existing prohibitions on synthetic drugs and end their overt sale in Victorian retail outlets. The second purpose is to better enable sentencing judges to take account of the particularly dangerous qualities of ice when sentencing persons caught trafficking ice, and the third is to facilitate the efficient and effective treatment of persons in police jails who are withdrawing from long-term opioid dependence such as the use of heroin and prescription opioids.

Ms Hartland's comments, 'Well, if you can't control use, then you should make it more readily available', were interesting. That seemed to be the sort of ideology that the Greens proposed, and I suspect Ms Patten is probably in favour of that also, and no doubt her contribution will rattle on about the fact that we should have more free use of illicit drugs in our society and then make a sort of a rambling defence about how it is going to be good for us. Well, I can tell you from personal experience, and this is having done a significant inquiry into supply and use of methamphetamines in Victoria, that the ugly truth is that drugs, and particularly illicit drugs, and not always good for you. In fact on most occasions illicit drugs are bad for your health, and it is unusual to see the Greens advocating for wider use of illicit drugs in Ms Hartland's contribution.

Ms Hartland — On a point of order, Deputy President, at least four or five times during my contribution I talked about the dangers of drugs and how we needed harm minimisation. I did not say that we should freely distribute them.

The DEPUTY PRESIDENT — Order! There is no point of order, Ms Hartland, but I ask Mr Ramsay to contain his comments to the bill.

Mr RAMSAY — Yes, thank you, Acting President. Having said that, I do acknowledge the work that Ms Hartland has done as an MP in relation to the drug space, so I do apologise if she sees that I verballed her in providing incorrect advice. Nevertheless, her pitch as I understood it in her contribution was that given the large Australian appetite for illicit drugs it would be difficult to enforce through legislation less use of the drug, therefore we should look at other options. Harm minimisation was one, and it was certainly a large part of the recommendations from the inquiry we did into supply.

Ms Patten — What about demand reduction?

Mr RAMSAY — Firstly, it is up to the person, so prevention might be a good start, Ms Patten, and maybe education in schools. Then comes harm reduction or harm minimisation, and then comes rehabilitation. It is disappointing that this government has not seen fit to allocate significant funds to long-term rehabilitation, particularly for drug users. They do it for short-term rehabilitation, and a lot of money in this budget went into short-term rehabilitation but not long term, and as we know, for ice users it is long-term incubation or rehabilitation that will get people off the drugs.

Certainly my preference is that people not get on drugs in the first place, and hopefully this bill's inclusion of synthetic drugs within the Drugs, Poisons and Controlled Substances Act 1981 will help stop particularly our young from starting to experiment with some of these drugs. The bill inserts new synthetic drug offences into the Drugs, Poisons and Controlled Substances Act 1981, as I said, prohibiting the production, sale and promotion of substances, particularly psychoactive substances that either have a psychoactive effect when consumed or are represented as having such an effect.

This bill and the offences detailed in it are no different to what is already happening in other states — for example, New South Wales and Western Australia. As I said, it is very consistent with the approach other states have taken. The bill does not make simple possession of a psychoactive substance an offence. You have to either consume or have large quantities to actually offend as such. The bill will ensure that existing police search, seizure and forfeiture powers under both the Drugs, Poisons and Controlled Substances Act and the Confiscation Act 1997 will also apply in relation to psychoactive substances.

The provisions in the bill will complement, not replace, the current approach of prohibiting specific synthetic drugs based on their chemical structure. Consequently, the bill also adds further synthetic drugs and classes of drugs to the list of illicit drugs in the Drugs, Poisons and Controlled Substances Act. These substances are already subject to temporary prohibitions under regulations.

The bill reduces the large commercial and commercial trafficking quantities for methamphetamine. This will give effect to a recommendation made by the Victorian Court of Appeal in its July 2016 judgement in *Ziad Haddara v. The Queen*. Persons dealing in ice will face tougher penalties. That was actually one of the recommendations that the ice inquiry made back in 2014. It is interesting to note that although the government did not see fit to support those

recommendations, they are now actually included in this amendment bill. The new trafficable quantities of methamphetamine being proposed in this bill are large commercial when pure, reduced from 750 grams to 500 grams; large commercial when mixed, reduced from 1 kilogram to 750 grams; commercial when pure, reduced from 100 grams to 50 grams; and commercial when mixed, reduced from 500 grams to 250 grams.

The bill also exempts medical practitioners and nurse practitioners in Victoria Police's custodial health service from requiring a permit to administer opioid substitution therapy to persons withdrawing from opioid drugs in police jails. Opioid substitution therapy is an effective treatment for opioid dependence. Such treatment generally requires a practitioner to firstly obtain a permit to enable the tracking of each patient's treatment and avoid the risk of inadvertent multiple dosing and poisoning where the patient seeks opioid substitution therapy from multiple practitioners. However, these risks obviously do not arise when the person is in custody.

The issue of dealing with psychoactive substances and new synthetic drugs has been a continuing problem for law enforcement agencies and successive governments. Relevant legislative provisions, including the banning of new substances, were implemented under the previous coalition government. The crux of the problem has always remained — that each new substance has to be tested for human impairment by law enforcement agencies then specifically banned by a regulation or legislation.

Advancements in technology have also meant an explosion in the development of new synthetic substances and drugs by those seeking to profit from their manufacture and supply. I saw quite a bit of this on a trip to Thailand, where I followed the supply chain of methamphetamine from West Africa to Bangkok, the Philippines and then to Australia. Interestingly, our inquiry found that Australia has a large appetite for illicit drugs. Per capita we are the second-biggest user in the world. Strangely enough, New Zealand was the biggest user per capita in relation to methamphetamine. Obviously the supply lines coming from typically Laos, West Africa or Vietnam through the Philippines and Australia are quite successful on the basis that there is strong demand for these drugs. The Australian police and the Thai police were telling me at the time that there is actually a lot of supply in relation to synthetic drugs coming through those traditional poppy, opium and heroin supply lines and methamphetamine supply lines back into Australia.

It is important we try to protect our young by extending or expanding the drugs, poisons and controlled substances list to include some of these newer synthetic drugs that are obviously having a significant impact on the mental health of our young, who are traditionally the heavier users of illicit drugs.

It should also be noted that the bill's proposed lowered threshold provisions for the new trafficable commercial quantities of methamphetamine are very similar, as I said, to those proposed by not only the joint parliamentary committee that was given the task of providing recommendations to try to stem the flow particularly of methamphetamine, although other drugs were looked at, but also by the coalition government which actually introduced legislation in the previous Parliament to try to curb not only the use and access to illicit drugs but also apply heavier penalties for the trafficable use of these drugs.

Ms Patten — How did that go?

Mr RAMSAY — As Ms Patten has just said, it was very successful. In November 2014 the coalition had committed to 500 grams of ice being deemed a large commercial quantity, rendering anyone trafficking that amount of ice liable to forfeit almost everything they own upon conviction, whether lawfully acquired or not, and liable to an average jail term of 14 years under the coalition's baseline sentencing reforms and a maximum of life. The quantity of ice deemed to be a commercial quantity would have also been reduced from 500 grams to 250 grams, rendering a trafficker liable to up to 25 years jail. Here we are 2½ years later introducing legislation by the now Andrews government that provides similar trafficking penalties.

This is not an overly onerous bill in that it just expands the drugs list in relation to illicit drugs, and it includes and takes into account some of the new synthetic drugs that are coming on the market. Obviously it deals with the issues around appropriate penalties and offences for those that are trafficking into the methamphetamine market. That is the reason why we are supporting the bill. We are doing it on the basis that we want limited access to some of these new drugs. We want heavier penalties for those that are trafficking methamphetamine, particularly around schools where they are quite active at the moment. Hopefully some of the offences that are to be applied through this legislation will be a deterrent for those who see fit to profit from drugs that are having a significant mental health problem not only for our youth particularly but also for our larger drug users.

Ms PATTEN (Northern Metropolitan) — I am not sure I am pleased to be making a contribution to this bill, because I do not think this bill makes a contribution to reducing harm in our society, sadly. I look at the first preliminary purpose of this bill, which is:

> to prohibit the production, sale and advertising of psychoactive substances …

I do not think I have seen a drug bill that does not start off with the notion that we are going to prohibit something. Even in my short time in this Parliament I have seen numerous drugs bills that start off with, 'We're going to prohibit'. They do not start off with, 'We're going to try to help people'. They do not start off with, 'We're going to try to assist people with drug dependency'. They do not start off with, 'We're going to try to reduce drug-related deaths in our society'. They start off with, 'We're going to prohibit'. We have been prohibiting for many years, as Ms Hartland said. I think it is 50 years we have been going down this prohibition path, and I can tell you that we have not reduced drug deaths one bit. We have not reduced drug use one bit and we certainly have not reduced the profits that organised crime receives from supplying drugs in Australia.

In thinking about my contribution today this is all the more disappointing when yesterday a 37-year-old man died from an overdose in a stairwell in North Richmond, 40 metres away from the North Richmond Health Centre — 40 metres away from where we could have had somewhere that could have prevented him from dying. I know that for many in this chamber there is not a lot of sympathy for that man. But please, let us consider the family he has left behind. Let us consider his parents, his brothers, his sisters and possibly his children — I do not know whether he had children — and his friends. If we had saved his life, we could have possibly brought him back on track. In fact if we can keep addicts alive, they usually age out of drug addiction. We can actually help them to move on and contribute to society. Sadly, this bill does not do that. Last year 477 people died in Victoria of a drug overdose. Yesterday that became 478, with 38 in North Richmond alone.

The *National Drug Strategy*, to which Victoria is a signatory, operates on the notion of the three pillars of supply reduction, demand reduction and harm reduction. They are the three pillars of harm minimisation. Sadly, this bill goes to the first pillar: the supply reduction. In fact most of our drug legislation goes to that first pillar of supply reduction. And let us face it, it does not actually reduce supply; that has not been effective. But that is where it goes. All our effort and attention is paid to that one pillar, so how are we expecting to hold a policy of harm minimisation when one pillar receives three-quarters of the funding and the government's attention. In fact harm reduction receives 2 per cent of our budget. We spend 2 per cent on harm reduction, yet we know that as far as saving lives is concerned that is the most effective and cost-effective tool. We only have to look at the success of our needle exchange program to understand that for every dollar we spend on a needle exchange program we save about $45.

We spend $300 million on treatment. I do acknowledge that this government is putting money into treatment, and I hope it rolls out quickly. I feel that it possibly is not enough soon enough, but I do congratulate them on taking that approach and understanding, sort of, the statement that we heard from former Chief Commissioner of Police Ken Lay:

> We can't arrest our way out of our problems.

We are putting money into treatment, but I never see legislation that is about anything except supply reduction. Out of the $1.7 billion we spend on our *National Drug Strategy* $1 billion goes on police and enforcement, and it has not worked. Mick Palmer was recently quoted in the *Age* as having said:

> The reality is that, contrary to frequent assertions, drug law enforcement has had little impact on the Australian drug market. This is true in most countries of the world.

That is absolutely true.

We can look at the recent *National Drug Strategy* household survey conducted by the Australian Institute of Health and Welfare in 2013. It found that 8 million Australians over the age of 14 had used an illicit drug. Nearly 42 per cent of Australians have used an illicit drug and 15 per cent of Australians have used one in the last 12 months. In fact, despite the never-ending attention being paid to supply reduction, law and order and going hard on drugs, Australia actually has some of the highest rates of illicit drug use in the world. Go us! We are continuing down this path of ineffective drug laws, and this bill, in my opinion, is no different.

I too have no great issue with clause 11 of the bill, which will reduce the amount of methamphetamine you need to have in your possession for it to be considered a trafficable amount. But again, by focusing on enforcement do you know what happens? Ten years ago the methamphetamine that was available in Victoria was about 15 to 20 per cent pure. It is around 80 per cent now because this enables the drug dealers

and the criminals to bring it in in much smaller packets. If you reduce those commercial trafficking amounts — —

Mr Ramsay interjected.

Ms PATTEN — I would be surprised by that, Mr Ramsay. That is certainly not what the police are telling us at the moment. However, it will mean that we will continue to increase the purity and increase the danger of the product so we have smaller packets. The tougher we get on drugs, the more likely we are to have increased potency in small packages. This increased potency is what is available to consumers, generally unknowing consumers, and this causes far more harm. In some ways these law enforcement efforts are a symptom of the problem; they are not a cure.

I am very fortunate at the moment to be on an inquiry that is looking into drug law reform, and I was very privileged to hear from the Penington Institute, which I do not think anyone would disagree, has been at the forefront of drug research in Victoria and in Australia. They noted to us that in 2015 the National Ice Taskforce, and all Australian governments through the national ice action strategy, acknowledged that the low price, high purity and wide availability of crystal methamphetamine in this country appears to have been unmoved by Australia's large investment in supply reduction measures. These findings hold true across all major drug types. So it is not just me saying that this is not working. Between October 2011 and September 2016, recorded Victorian state drug offences increased by 54 per cent to 34 368 offences. These were driven primarily by increases in use, possession and trafficking arrests. However, the percentage of Victorians who use drugs has not reduced, so we keep on arresting, but that is not reducing demand and not reducing the number of people actually using drugs.

So who will this law affect? According to the New South Wales Crime Commission, this law will affect organised crime. Organised crime is increasing, and it is at levels not previously seen — this is in New South Wales, but there is no reason to think that this would not be the same in Victoria. The growth of organised crime is almost entirely driven by the prohibited drugs market, and the indicators relied upon for this conclusion include the following: availability of drugs — methamphetamine and cocaine supplies are still high; prices for both drugs are considerably lower than they were five years ago; and the detection and seizures are increasing, both in number and volume. We are catching more drugs, but the demand for them is still increasing, and amazingly the price is going down, so obviously the availability is still increasing. It was estimated by the Australian Bureau of Statistics back in 2010 — their next report on this will be out later this year — that we spend about $7.1 billion a year on cannabis, heroin, cocaine, ecstasy and amphetamines. It is estimated that for the organised criminals that brings in $5.8 billion a year. That is not a bad earn. In fact you would probably risk a fair bit to earn that sort of money. Even when we look at the increases in penalties and when we look at the reductions in trafficable amounts, $5.8 billion is a pretty tempting amount of money to keep you in business.

What I want to keep pushing on this — and what Mr Ramsay seemed to fail to get — is that when you have demand for a drug, someone will supply it. If you want to reduce supply, how about reducing demand? I think that is a fairly basic economic rationale for anything, yet we focus on supply reduction, not demand reduction. I do just want to note again that this government has promised money for demand reduction through better treatment options, through some early intervention and through, I hope, some good, honest education.

If we all spoke like our Prime Minister, Malcolm Turnbull, did yesterday when he was talking about welfare recipients being banned from welfare if they tested positive for drugs, we would not get far. He said, 'Just don't do drugs' — excellent. 'Just say no' — I like that. 'Just don't do drugs — that's the answer'. Now, if that was the answer, we would not be standing here having this conversation. If only it was that easy, but it is not.

People use drugs for a lot of reasons, but when you look at problematic drug users, you have to look at their history, and the vast majority of them are coming out of childhoods that we would all shudder at — childhoods of neglect, childhoods of abuse, childhoods of violence. In fact of people who overdose, and sadly that is only one area where we can look at the background of drug users and drug addicts, 50 per cent of them had reported mental illnesses. So we are talking about a very sad and vulnerable part of our community, and we need to be helping them. If we can help that top end of our drug users, that will go a long way towards reducing the demand. It will go a long way, and it will also go a long way, I hope, towards reducing the harm that drugs and our drug laws place upon our society.

And it is not just the users. You only have to look at North Richmond, where residents are scared of letting their children out to play or letting their grandchildren come over for fear that they will get a needlestick injury. A woman I was speaking to the other day is scared every time she drives into her driveway that

someone is going to be slumped over, dead from an overdose, in her carport. Ms Hartland has had that experience in her own front yard.

This is the effect that it has on our society — the break and enter offences, the crime, the number of people in jail. Let us face it: 65 per cent of people in our jails are there for drug-related offences, and most of them are drug users. So if we could take a different approach to our drug policies, we could have far better outcomes. Every study shows that our current approaches do not work. Increasing stigma is just the way to stop someone from getting treatment.

Someone actually — in fact I think it may have been the Penington Institute — used the analogy of cancer. I do not recall this, but they were telling me that 40 or even 50 years ago people were too embarrassed to say they might have breast cancer. They were too embarrassed. There was this stigma around cancer. You did not want to talk about having cancer. You did not seek treatment. We are doing the same to drug users, and we are killing them. Drug overdoses account for more deaths in Victoria than our road toll.

These laws might make it easier to bust people for trafficking, but what about helping them get back on track? It does not do any of that. With only 2 per cent of our budget spent on harm reduction, the most effective harm minimisation strategy, why are we not urgently doing something to prevent overdoses in our society?

When I look at the statistics from the Coroners Court, I am sorry, I understand the great harms and the increasing dangers of methamphetamines, but do you know what kills people? Benzodiazepines. Ninety-eight per cent of overdose deaths in Victoria involve a benzodiazepine. I can tell you they are getting onto the market in a whole bunch of different ways. Are we increasing the penalties for illicitly selling benzodiazepines, which lead to more deaths? What gets my goat even further is that we do not test for them in drug-driving tests. We will arrest someone because they had a joint four weeks ago and are in no way impaired on the road, but we do not even test for whether they are out of it on benzodiazepine. We have got the wrong focus.

The World Health Organization (WHO) met, and as we all know, it is the United Nations leading health agency. It has called on countries around the world to end the criminalisation of drugs. This call was made in a report published in 2014. The World Health Organization's unambiguous recommendation is clearly grounded in concerns for public health and human rights.

In the report WHO said:

> Countries should work toward developing policies and laws that decriminalise injection and other use of drugs and, thereby, reduce incarceration.

I do not know what experts this government is listening to, but I actually would listen to the World Health Organization. I actually think they have got some fairly clever people up there. To reduce supply we need to reduce demand. The government says these measures will save lives. The reality is they will not.

I would like just quickly to touch on opioid replacement therapy being allowed in police cells. I am very pleased with that. We know opioid replacement therapy is a very effective form of harm reduction and demand reduction. It works; we know it works. Unfortunately in Victoria we have an ageing population of prescribers. We are starting to see prescribers retire. We are starting to see chemists who have been supplying methadone to Victorians for 20 years retire and close down. We are about to find ourselves with a real problem with our opioid replacement therapy programs in Victoria. But I am pleased that the government is making those much-needed and very effective therapies available to prisoners while they are in the police cells.

I would just like to turn to the psychoactive substances. The intention of the bill is to prohibit the production, sale and advertising of psychoactive substances. I have seen this bill before. I have seen it many times before. I have seen it fail before. I have seen it fail many times. In fact in 2014, 40 new laws on new psychoactive substances were introduced around Australia. There have been a number more since then. There have been 76 cannabinoids or classes of cannabinoids scheduled. I note there are another 30 or 40 being scheduled in this bill we are debating today. At last count in 2014 there were over 600. I think there are probably close to 900 such substances available on the market in the world today.

This bill, which as the government proudly states follows the model used in Western Australia, New South Wales and Queensland, has been completely ineffective in all of those states. In fact it has not led to one conviction where a defence has been mounted. That is because it is really difficult to use a reactive, prohibitionist model on an emerging drug market, where the drug is changing all the time and where you do not know what that drug does, and that is the danger of these drugs. I grant you that these drugs can be very dangerous.

But let us just briefly turn our minds to the New Zealand model. New Zealand had a real issue with new psychoactive substances. They were seeing a lot of adverse effects from them. They went down this other path. They went down this path where they said, 'You know what? We're going to regulate these drugs. We're going to regulate and we're going to control them'. In the early days they were still receiving people in hospitals. In fact the number of people presenting to hospital increased, and that was seen as a good thing because New Zealanders felt that they could go to hospital if they had a problem. Until then they were scared to do so, because they thought they might be arrested. But since then the number presenting has reduced entirely.

What New Zealand also saw was a reduction, which I think is what we would all aim for, from about 4000 outlets to 150 licensed retailers, and every product that was sold was listed and reported. Any adverse reaction was listed, and those drugs were taken off the market very simply and very easily. In fact in Victoria a few years ago there was an unofficial position like that, so that in some of the adult stores that were selling some of these substances if an adverse effect was reported by a customer, and they did not hold back in doing that, that report was relayed to the police and vice versa — if the police found an adverse effect of a new psychoactive substance, they reported it to the industry and the industry had that product taken off the shelves. We were able to track these products. It worked. It made sense.

I look forward to discussing this bill in the committee stage, because what we are banning is substances that have a psychoactive effect — a significant psychoactive effect. So what does that mean? A 'psychoactive effect' means:

> stimulation or depression of the person's central nervous system, resulting in hallucinations or in a significant disturbance in, or significant change to, motor function, thinking, behaviour, perception, awareness or mood …

Now, in gauging what that psychoactive effect means — 'a significant change in perception, awareness or mood' — is the effect of two glasses of wine a significant effect in mood? Is that a significant effect? Or is it that I cannot see straight, I am dizzy and I cannot walk straight? Is that significant? I think this will be worth exploring. Then, on top of that, how will the police officer who is undertaking this seizure, arrest and prosecution be able to prove that that product has a significant psychoactive effect?

These products are brand new. They have not been tested on humans. They have not been tested on rats. No-one knows the effect of these substances, so how are they going to prove that these substances have a significant psychoactive effect? I find it interesting that we talk about them having these significant effects, because it means that maybe if they do not have a significant effect they are okay. Maybe some of the new psychoactive substances on the market will be fine because their effects will not be considered significant.

I hate to be so negative, but unfortunately when it comes to drug policy, there is nothing good about it. Although I will point out, and I think this is probably one of the most remarkable parts of this bill, that the use and possession of new psychoactive substances will not be illegal. The sale of the substance may be illegal, but the use and possession of that substance will not be illegal. This is a decriminalisation model. Why can we not do this for all substances? Why can we not decriminalise the use and possession of all substances and treat drug use as it should be? It is a health issue; it should not be a criminal one.

While I welcome further exploring this bill in the committee process, I honestly cannot support this bill. I would like to finish my contribution with a quote from the director-general of the World Health Organization, Dr Margaret Chan, who for the first time ever was invited to address the opening plenary session of the World Health Organization, and she said:

> We must not forget that the ultimate objective of drug control policies is to save lives.

Thank you.

Motion agreed to.

Read second time.

Ordered to be committed next day.

BUILDING AMENDMENT (ENFORCEMENT AND OTHER MEASURES) BILL 2016

Second reading

Debate resumed from 9 March; motion of Ms TIERNEY (Minister for Training and Skills).

Mr DAVIS (Southern Metropolitan) — I am pleased to rise and make a contribution to the Building Amendment (Enforcement and Other Measures) Bill 2016. This is a bill that does many things, and I will step through those in a second. In particular this bill is one that is being driven by strong concerns that have emerged since the illegal demolition of the Corkman

hotel, which I and many others across the community were outraged by, and correctly so. The broad concern about heritage is a very significant one, and I will say more about that as we work our way through it.

One of the key purposes of the bill is to provide for the registration of body corporate building practitioners, and the opposition has no quibble with this objective and supports it. Another key purpose is the new personal and financial probity test for registration and renewal, and there are matters there that are extremely reasonable. Information on building practitioner registration and disciplinary history is to be made more accessible to consumers. We agree that that information ought to be more accessible and that this is a reasonable objective.

Another purpose of the bill is to make improvements to the building levy process and collection. There are some matters there that require close monitoring, but we certainly do not oppose those objectives. Other purposes of the bill include improvements to the operation of building notices and orders; increased rigour around inspection of building work; and providing for transfer of work between building surveyors and other measures to improve the regulation of building surveyors that reflect the establishment of body corporate registration. The bill establishes a system of designated building surveyors to ensure an individual building surveyor is responsible for the building work carried out by the body corporate, but it will enable greater movement of individuals within a firm to ensure that there is continuity and no significant hiatus in parts of the work.

Another purpose of the bill is stronger entry and information-gathering powers for the Victorian Building Authority and other regulators. Whilst some may regard this as heavy-handed, the opposition certainly does not oppose it. The bill contains other amendments to improve the operation of the regulatory framework. The bill introduces a strong, wideranging injunction power to prevent illegal building work and ensure that it can be carried out effectively where it does occur.

The bill will establish a clear framework to provide that the person who is named on the building permit as the builder must ensure that the building work that is carried out under the building permit is compliant with the actual permit that is issued. We have no objection to that objective. We see that that is entirely reasonable. We do, however, have a number of objections. I am not going to over-labour this point here, but I want to make my points quite clearly. I indicate directly that there are matters which the opposition is deeply concerned about.

The Master Builders Association of Victoria (MBAV) has certainly put its concerns on the record. I am going to quote some aspects here as I think it is quite important to extensively put these matters on the record for the community to understand. They have concerns about new section 16B in particular but also clauses 20 and 21 of the bill. I will quote from a letter received from the master builders on 6 February this year. The letter states:

> A major concern that we hold is with the operation of sections 16(3), 16(4) and 16(4A) of the Building Act.
>
> All three of these provisions require a party to 'ensure' certain actions, which is a very onerous requirement. This effectively introduces a strict/absolute liability for these provisions, in that all that the prosecutor needs to show is that an outcome occurred and the building practitioner, architect or owner did not stop it.

The Master Builders Association went on to say:

> This is not practicable and very unreasonable in the building and construction industry. This means that where the building practitioner, architect or owner may not even be aware that there was no permit, or that the work done did not comply with a permit, they would be convicted of an offence.

They give some examples:

> … builders who had instructed subcontractors to use a certain type of brick compliant with the building permit would be convicted of an offence if their subcontractors did not use that type of brick. If a builder has taken steps and developed appropriate processes, then it is not appropriate for them —

according to the Master Builders Association —

> to be found guilty of an offence for the action of others.

They believe it is problematic. Indeed some work, such as plumbing and electrical work, must be carried out by licensed practitioners, as they point out.

> We note that this is a criminal offence provision and requires such a low burden of proof that it is likely to apply to very many minor incidences of work. If convicted, this could have damaging effects on a builder's ability to operate their business, maintain their registration and work in other industries.

They express concerns about the evidentiary threshold and they recommend that we insert into section 16(3) the expression 'ensure as far as is reasonably practicable'. In my view that is a legitimate point that they have made. They point out in section 16(5):

> defence only provides limited protection … and is not sufficient in a strict liability provision of this nature. At the very least a reasonable defence should be provided for this

> provision; however, this would then require an unreasonable reverse onus of proof and is not our preferred option.

They refer to clause 20 and say that section 16(3):

> … as inserted only recently through the building legislation changes in late 2015, requires that the owner not permit building work to be carried out unless (a) there was a building permit or (b) the works accord with the permit. This provision required the prosecutor to prove that the owner permitted the work 'knowing' that there was no permit before the owner could be found guilty of the offence.
>
> The bill proposes to replace 'permit' with 'ensure' …

This highlights the concerns that the Master Builders Association of Victoria have with that section.

Clause 20 also inserts section 16(4). They point to similar concerns and they indicate that that is also a significant problem. They point to clause 21, which inserts section 16B:

> As mentioned in our previous letter, section 16B of the bill appears excessive, particularly considering that this introduces an indictable offence which carries a maximum penalty of five years in jail. The section as drafted is very wide and does not go to the scale of the wrongdoing or the actual damage or consequence. Although it is acknowledged that the offence (at 16(1) and 16(3)) requires knowledge to be shown that a permit was required and that there was no permit in force, we maintain an additional element that should be included is that of a significant financial gain.
>
> Accordingly we recommend … the following expression, 'with the intention of obtaining significant financial advantage' be inserted in section 16B immediately after the term 'must not'. A similar expression is used in section 82 of the Crimes Act 1958.

They reiterate their concerns about the introduction of indictable offences in section 16B and they indicate that they:

> … remain troubled that such an offence could potentially cover many minor works such as back garden gazebos and pergolas.
>
> Further any such offence brings about a criminal conviction which would have far-reaching consequences for an individual's livelihood for many years —

to come.

I want to be quite clear in this context. The opposition supports stronger penalties. We supported penalty increases in the heritage legislation recently. In this context we support stronger penalties, but we do have concerns about how this will impact on many smaller builders. There is a genuine fear that small builders seeking to do the right thing with goodwill and reasonable processes will be caught up in this noose and that they may well be convicted and that that conviction will have serious consequences — not just a massive fine, and a fine for a body corporate too, but also the indictable offence and the serious consequences of a five-year jail sentence potentially. Even if courts show leniency, convictions in this case will be serious and will have, as was pointed out, long-term consequences.

I thank the government for its comments in the lower house in response to the very important contribution of my colleague Robert Clark, the member for Box Hill. Government members sought to assuage those concerns and put on record that there would be various protocols and mechanisms in place to ensure that the law is applied in a thoughtful and considerate manner. I accept that the government's intention is to focus in that way. I accept that the government does not wish to lock up and ruin the careers of builders, smaller builders in particular, who have made a mistake and have thereby fallen foul of the law. I accept that the government's fundamental target is some of those outfits that seek to do this in a flagrant way and operate in a way that is very much against the community's interest.

My concern is that whatever the goodwill of the government and even the current minister, this is a matter for the Victorian Building Authority and indeed broader prosecutorial bodies. Whatever the protocols, whatever the prosecution guidelines that are put in place, all of those can be swept aside; they have no fundamental standing. The black-letter law that applies is something that does concern me — that it will be applied in this way either now or at a future point by one prosecutor or another. I noticed that the government has provided the opposition with further correspondence from the MBAV and that they and Radley de Silva are less concerned in later correspondence, following some of the assurances in the lower house.

However, I think it is important to state that backbench comment in the lower house — even well-intentioned backbench comment — is one thing, but fundamentally it carries little legal significance. I understand that the minister may be prepared to make some comments in this chamber, and that is of assistance, but I still do not think it will be enough to assuage the opposition's concerns in full. Certainly we are not imputing any ill intent, but we are conscious that aspects of this bill leave people significantly exposed, particularly smaller builders. Many of us know those builders. They are our friends and our colleagues, and many of us would be very concerned to see the day they are not treated fairly and suffer an outcome that would ruin their careers and make it very difficult for them where there has been no malice and often perhaps even no financial advantage at all. In that context we will suggest some ways forward.

I also want to thank in particular the Housing Industry Association (HIA) for the contribution they have made to this matter. They have certainly provided us with very significant correspondence and advice about their understanding of how this will impact. I have a letter addressed to Minister Wynne and dated 20 December 2016 from the HIA on this bill raising concerns over the provisions in new section 16B. It states:

> We have been generally supportive of the consultative approach adopted by the Victorian government in regard to the introduction of a raft of amendments … It will come as no surprise that we are not convinced that many of the changes needed to be made, and that some changes already introduced and proposed to be introduced were unnecessary and will have a negative impact on the home building industry in particular.
>
> Our generally supportive approach and our lack of broad and public criticism … has been 'rewarded' with the insertion of an outrageous and furtive 'new' proposed amendment that we have neither been informed about nor invited to comment on.

So this was sprung on the sector, perhaps unhealthily and not in the way we think it ought to have.

The HIA says in its letter:

> The introduction of an indictable offence into the act seems to be a kneejerk response to the demolition of the Corkman Irish Pub.

I have made comment that that demolition has already received the opposition's strong condemnation and our support for the minister. Indeed I put out a public statement saying that we would support planning changes under section 20(4) of the Planning and Environment Act 1987 to ensure that the owners of that property did not benefit in any way. The minister did finally get to actions there, and we were not unsupportive of those actions.

The HIA letter goes on to say:

> No-one supports the actions of this well-publicised demolition, least of all the HIA. As you would well know, the previous maximum penalty for offences of this nature was 100 penalty units (500 for body corporates). A sixfold increase in the penalty is excessive as best, but to bolt on a term of five years imprisonment demonstrates a lack of understanding of how the building industry operates.
>
> Section 16 offences vary enormously in their scope, and to link a minor infraction to a criminal record with an indictable offence is misguided. For example, a builder could be prosecuted for a breach of the proposed section 16B(3) through some minor variance with the issued building permit and be at risk of being convicted as a criminal with a history including an indictable offence.

This is a question of proportionality and a question of finding a way through here that is fairer.

The HIA letter continues:

> We have seen governments of late respond to isolated incidents with excessive responses. This is in part reflective of a lack of industry expertise in the building regulator and the relevant government department. The impact is that, apart from misguided posturing, unnecessary resources are expended in one or two areas rather than focusing on broader issues …

And they go on. But the point is clear: both organisations are very uncomfortable with this. The HIA is in particular, the MBA in its later letter is providing some indication that it believes the government's assurances. Again in no way do I reflect on the government's intentions here. It is a question of how the black-letter law will actually be applied at the end of the day, not just now but further into the future as well. Prosecutorial guidelines and the intentions of the VBA, the current board and the director of the VBA are all well and good and welcome assurances, but they are not fundamentally dealing with the fact that those hard, black-letter words indicate that a small builder who commits an infraction — it could be quite minor — is then up for a very significant financial penalty, a criminal conviction potentially and a very significant outcome in terms of their reputation and ability to ensure that they have a livelihood into the future.

I have indicated, and the opposition remains open, that we are prepared to talk about these matters and work out a solution that suits the government, the opposition and the minor parties but in particular the industry — the sector. We want a solution that actually protects the public and sends a very clear signal to those rogue builders and rogue operators who have undertaken outings like the Corkman. There are indeed others; I note there have been cases even as recently as this week where major heritage buildings have disappeared. The opposition will seek to move amendments in the committee stage. We will seek to ask a number of questions and seek some assurances from the government. It would be appreciated if those amendments could be circulated now.

Opposition amendments circulated by Mr DAVIS (Southern Metropolitan) pursuant to standing orders.

Mr DAVIS — These amendments very much follow the matters raised by the Master Builders Association and the Housing Industry Association. They seek to insert the words 'with the intention of obtaining financial advantage' in particular in those criminal conviction clauses that say 'must not'. We believe they will provide additional protection for some

of those builders that could needlessly — and haplessly perhaps in some cases — get caught up in these provisions.

Let me be very clear here: we strongly support tougher penalties and we strongly support making sure that those rogue operators who misbehave are put in their place and pay a very big penalty, but we are also very aware of the risk of a number of small builders who would seek to go about their business in the industry and who would, through error or through a lack of attention to minor detail, see a building permit in some way infringed, and it could be an extremely minor infringement. Those enormous financial penalties — the five years jail and the indictable offence — seem too severe for some of those cases.

Our building industry is very important to the state. It is a huge part of our economy in dealing with the massive population growth we have at the moment, which was 127 500 in the year to 30 September. Huge numbers of properties and new homes for families are needed, across the edge of the city in particular. The sorts of builders I am talking about play an enormous role in that process. They are the large builders but also the small builders and contractors who are part of this important industry. What we do not want to see is a situation where builders are rubbed out in this way when the infringements are essentially minor.

As I said, I welcome assurances by the government and indications that the codes of prosecution and of practice by the Victorian Building Authority will be in operation. I also welcome the responsible minister putting those matters on the record later. That does not deal with the fact that the black-letter law is so sharp. Those codes and statements of practice are not binding. They can be changed — and they can be ignored. I would not want to be responsible for seeing minor infractions result in unfair criminal convictions for small builders. Those small builders that play a very important role in our economy and those tradies across our suburbs and into our regional centres that are so much a part of our community and our economy are not people we should be locking up in jail for minor infractions. They are people for whom we should be finding a way to ensure that the application of permits and the building that follows are of a very high standard. We should be guiding and supporting them. There should be clear penalties for those who seriously infringe or breach and particularly those who do that wilfully to seek financial advantage.

It is clear that in the case of the Corkman there was an attempt to rip down a historic old building and to do that in a way that was designed to advantage the owners of the property and that that would have resulted in a very significant windfall. The whole community in its outrage wanted to see action. I compliment the minister on bringing action to the chamber. But it is also important that the action is the right action and that it be modulated in a way that ensures that we do not cause unintended consequences to a very important industry and a series of individuals who are fundamentally going about their lives in a way by which they are seeking to serve the community via a process of building new homes and undertaking renovations for people across our state.

I am happy to make further comment in committee and I am happy to talk to the government and indeed the minor parties ahead of the committee if that is of any assistance. I have flagged my intention to move those amendments. We are prepared to discuss how they can be framed in a different or variant way that would achieve the objectives that I have outlined and that I think are largely common objectives. We are just not convinced at this point that assurances and codes are going to provide protection to the honest tradesmen and the honest builders, including the small builders — that is, the builders who are very much part of our community and provide the outcomes that they and the community would expect.

Ms DUNN (Eastern Metropolitan) — I rise to speak on the Building Amendment (Enforcement and Other Measures) Bill 2016. This bill provides some badly needed improvements to the regulatory framework for the building construction and property development sectors in Victoria. The outrageous actions of greedy developers have of course heightened community interest at this point. The Greens have been campaigning for better protection of heritage places that come under the ownership of developers. We have continued to see over many years many heritage places lost, some with permission and of course many without any permission at all.

The illegal demolition of the Corkman Irish Pub, formerly the Carlton Inn, was the flashpoint around which the community coalesced to call for more stringent regulations on protecting local heritage and ensuring that developers could not knock over buildings in the middle of the night. Certainly one of the core issues has been that there is very little penalty applied in relation to illegal demolitions. In fact any penalty that may be applied is just built into the cost of the development and considered part of doing business as usual.

The Corkman was not of course the most salubrious of establishments. I laugh about one of the stories I heard

about the Corkman. A customer ordered a pint of Guinness at the Corkman. As that was being delivered the keg expired mid-pour. The barman's response was to pour half a pint of a different ale and present both half glasses to the customer. The customer expressed his displeasure at receiving two half pints of different beers when what he actually ordered was a pint of Guinness, noting that this was hardly an outrageous request to make in an Irish pub. In response, the barman sculled both half pints in quick succession and walked off.

It is stories such as this of course that add to the fabric of this wonderful city of ours and enhance the heritage of places. It is not about just the built form; it is about the culture and the special places that these buildings hold in the community and the experiences the community can share in these places. It is certainly this gruff charm that people will miss about the Corkman pub.

The penalties faced by 160 Leicester Pty Ltd, which owns the property on which the Corkman stood, could add up to over $1 million. But this is grossly inadequate because the improved value of that site could turn out to be many, many millions of dollars. The penalties would just be considered the cost of doing business. That is why the increase in penalties and the addition of indictable offences and the prison term in this bill are so important.

I certainly continue to have concerns about the building inspection regime in this state. It is fraught by the fact that builders are generally the contracting party for inspectors, and this allows for cosy operating relationships. This bill does not disrupt that dynamic. The reality is that the state government will one day have to get serious about ensuring the independence and integrity of the inspection regime by separating their contractual arrangements from builders.

I know from my experience as a local government councillor that there are many, many occasions when building works inspections by private building surveyors are signed off when they should not be signed off because the works in fact do not comply. It continues to be an enormous issue for local government and local government councillors, who are really at the front line when things go wrong in relation to building, private building surveyors and the signing off of works.

Nevertheless, this bill does take some steps in the right direction. We will certainly talk more in relation to this bill when it comes to the committee of the whole and certainly explore some issues in relation to those that have been raised by local government, but the bill will be supported by the Greens.

Mr ELASMAR (Northern Metropolitan) — I also rise to contribute to the debate on the Building Amendment (Enforcement and Other Measures) Bill 2016. The bill strengthens the reforms to Victoria's building system initiated with the Building Legislation Amendment (Consumer Protection) Act 2016. The aim of the bill is to provide a strong regulatory system in which consumers, building practitioners and industry can have confidence. This bill addresses longstanding flaws in the system and in particular responds to the remaining findings of the Victorian Auditor-General in relation to building practitioner registration, the building permit levy system and the role of local government. It also demonstrates the Andrews government's commitment to responding to emerging issues such as the Lacrosse building fire in 2014 and the recent disgraceful demolition of the Corkman hotel in Carlton.

The bill provides greater regulatory powers in areas where they are needed. Stronger offence provisions with higher penalties are intended to act as powerful disincentives to people who do the wrong thing. New indictable offences are being inserted. They will apply to a person or corporation that knowingly carries out building work without a building permit or knowingly carries out building work in contravention of the act, the building regulations or a building permit.

As these are indictable offences the provisions of the Confiscation Act 1997 will apply to contraventions. Penalties of $93 276 or five years imprisonment for an individual and $466 380 for a body corporate will apply. Stronger injunction provisions will allow courts to make any orders they consider appropriate with respect to a person who has, or proposes to, contravene the Building Act 1993 or any person who aids, abets, procures or counsels such a contravention.

The bill introduces registration of corporations as building practitioners, not just individuals. There will also be new restrictions on a domestic builder's entitlement to any payment if they carry out work when unregistered. Importantly there will be improved and accessible information on the Victorian Building Authority website for consumers on building practitioners' registration and disciplinary history to assist them in making better informed decisions about their choice of building practitioner.

The Labor government is serious about protecting ordinary Victorians from scam artists and people who are underqualified to perform major renovations on

family homes. It also seeks to defend and protect our heritage sites from unscrupulous property developers who are only anxious to make a quick buck. The bill is a positive way forward that increases the chances of mums and dads employing registered, reputable builders to undertake works on their most precious possession — their family home. I commend the bill to the house.

Mr RAMSAY (Western Victoria) — My contribution will be brief because my colleague Mr Davis actually went into some detail on the coalition's position on the Building Amendment (Enforcement and Other Measures) Bill 2016. I understand that some of the detail of the bill will get an airing through the committee stage, so I do not intend to go into a lot of detail except to support Mr Davis's concerns and reservations, and not only his but those of the Housing Industry Association (HIA) and the Master Builders Association (MBA) in relation to the indictable offences and the penalties that will be applied to those builders that are in breach of the act.

The purpose of the bill is to amend the Building Act 1993 to improve the enforcement of that act, to provide for the further regulation of building practitioners and to reform the building permit process as well as to amend the Domestic Building Contracts Act 1995 to further regulate entry into domestic building contracts and make consequential and other miscellaneous amendments to other acts and for other purposes.

The main provisions of the bill and the key purposes of the bill are to provide for the registration of body corporate building practitioners, and the bill will enable bodies corporate to register as building practitioners. The bill will also give the Victorian Building Authority (VBA) discretion to register an applicant for registration as a building practitioner following examination of their qualifications and experience as well as a range of other personal and financial probity matters.

The bill will also establish a new register of building practitioners that will incorporate information on building practitioners' registration and disciplinary history. The bill will improve collection processes for the building permit levy. Building permits will only be able to be issued after a building permit number has been issued by the VBA. A building permit number will only be issued after the applicant has paid the building permit levy, and the levy will also be able to be assessed on unauthorised work and where the cost of building work has increased, so it is somewhat of a tracing methodology through the permit process. The bill will simplify the service and enforcement of building notices and building orders, particularly with respect to owners corporations. The bill will also clarify who can inspect building work and how inspections are to be carried out.

The bill will introduce a new framework of entry and information-gathering powers for authorised persons and will also introduce strong, wideranging injunction powers to prevent illegal building work and ensure that it can be effectively remedied when it does occur. The bill will establish a clear framework to provide that the person who was named on the building permit as the builder must ensure the building work carried out under the building permit is compliant — so the onus goes back to the name on the permit, which is required to be the builder, and he or she is then responsible for making sure that the building work is compliant.

I wanted to spend just a couple of moments of time perhaps reinforcing Mr Davis's comments in his contribution in relation to the issues that have been raised by the Housing Industry Association (HIA) and also the Master Builders Association. Their concerns are consistent with the coalition's concerns in relation to this particular bill and the ramifications for builders, who in the main are compliant in relation to work, workmanship and guarantee of that work, but nevertheless there are some out there who are rogues. Sadly families do suffer significant losses because of those rogue builders who take no responsibility for work done, the timing of the work or the guarantee of that work.

I know of a building company that recently went into administration down on the outskirts of Geelong. I know many of those families who were having their homes built by this particular company were concerned about whether the seven-year warranty on the building work would actually be covered by the company that went into administration, and obviously the administrators then had a role to play. My hope is that families who do contract work for domestic home building particularly are more protected under this bill and that those rogue builders are actually shunted out of the system by the very heavy penalty costs associated with their poor workmanship and delays and their incapacity to provide the right sort of warranty and guarantees for their work if in fact it is found that there is a requirement for significant repairs.

The Master Builders Association have raised issues around section 16B of the bill. They believe it is quite excessive, particularly considering that it introduces an indictable offence which carries a maximum penalty of five years. This section as drafted is very wide and does not go to the scale of the wrongdoing or the actual

damage or consequence. They say that although it is acknowledged the offence at clauses 16B(1) and 16B(3) requires knowledge to be shown that a permit was required if there was no permit in force, they maintain an additional element that should be included is that of a significant financial gain. They also repeat their concerns in relation to the introduction of an indictable offence at clause 16B and remain concerned that such an offence could potentially cover many minor works, such as back gardens, gazebos and pergolas.

Further, any such offence brings about a criminal conviction, which would have far-reaching consequences for an individual's livelihood for many years. I know many young builders who have started out on their own — they have started a company, have low cash reserves and, as we know, often have to pay up-front for building materials, and then they may find themselves not compliant in relation to this particular act if it is passed. They would then through the penalty system find that they have received a criminal conviction, which would basically scar them for life in relation to any potential new work or any other activities they might want to engage in in employment form. So it is a pretty harsh penalty, and obviously the Master Builders Association have raised this as a concern.

The HIA have also indicated the bill increases penalties by introducing a corporate multiplier for offences as a consequence of the introduction of corporate registration. They recommend an amendment to the bill to limit the corporate model applied to larger companies, and I know Mr Davis has a number of amendments that he has now provided to the chamber.

The Victorian Building Authority (VBA) is able to impose a fine of up to 100 penalty points if disciplinary action against a registered building practitioner is proven. This bill increases this to 150 penalty units for a natural person — I have always liked that phrase, 'natural person'; I am not sure what an unnatural person is — and 750 penalty units for a body corporate, which I assume is unnatural. It is the HIA's view that a regulator should not be allowed to impose such a large fine, as this is the role of the judicial system and a large fine is not necessary as the VBA can impose the sanction of suspending or cancelling the registration of the builder if the misconduct of the registered builder is serious enough. They recommend that the existing limit of 100 penalty units for a fine imposed by the VBA following a non-judicial process should be retained. They say that penalty points should remain at the status quo.

Clause 21(2) of the bill introduces a new indictable offence with a term of imprisonment, as I mentioned before. The new offences are an alternative to the existing offences in section 16 of the Building Act 1993, and again it is the HIA's view that simply having knowledge of non-compliance should not expose a registered builder to the risk of prosecution for an indictable offence. I suspect we will hear more about this in the committee stage. They recommend that if the offences are to be retained, they should be amended to limit the offending behaviour to non-compliance that endangers the public or creates risk.

So I think the permit and registration processes discussed in this bill are appropriate. There is no doubt that the two major stakeholder groups in the building industry, the master builders and HIA, have raised considerable concerns around the offence and penalties that would be imposed if this bill went through in its current form, particularly on the small misdemeanour faults in the bill — it could be a non-compliance where a criminal record might apply and obviously, as I said, leave a significant scar on the employment opportunities for that builder. So I look forward to hearing in the committee stage the arguments that the government might put forward in relation to concerns that those two building groups have raised and obviously also through the amendment process by Mr Davis as he works through the committee phase.

Ms PATTEN (Northern Metropolitan) — I would like to just briefly speak to the Building Amendment (Enforcement and Other Measures) Bill 2016.

An honourable member — Briefly.

Ms PATTEN — I know; it is a big bill, and I have got 45 minutes to speak on this rather large bill, so shall I start with 'At the preliminary point'?

Honourable members interjecting.

Ms PATTEN — No, I will not, Mr Dalidakis and Mr Melhem. I am going to confine my remarks on the bill specifically to proposed section 16B, which as we know arose largely from the illegal demolition — and the tragic demolition — of the Corkman pub in Carlton.

An honourable member — The wanton destruction.

Ms PATTEN — The wanton destruction. And I think we all expressed our regret over that absolute wanton destruction of a fine watering hole that has many great memories for many of us. All of us would have received emails and letters of outrage about that demolition because of the quite obviously significant

heritage value of that hotel. People were furious that the developers were able to buy the site and get legal advice that the fines would be $388 000, and the developers effectively factored those fines into their business plan as part of a cost of business.

An honourable member — Outrageous.

Ms PATTEN — It is outrageous. So there do need to be effective and strong penalties to discourage this type of unscrupulous activity. New section 16B is meant to do that, but I am concerned that some parts of this section may have missed the mark, and critically, because their advice on the Corkman was that $388 000 was okay, they could consume that and they factored that in as a cost of business. Now the maximum fine is $466 000, so I actually think we could probably have increased the financial deterrent in this section for a body corporate. I appreciate that it is now an indictable offence — I will mention that in a minute — and that also is one of my concerns about this, but if you are building a multistorey apartment block with a value uplift of tens of millions of dollars, factoring in $466 000 — —

Mr Davis — It is not much.

Ms PATTEN — It is not much, Mr Davis. It is still a cost of business. We looked at the Corkman, and they were only going to make $4.7 million, and with a fine of $388 000, or even with the new fine, it is still only a 9 per cent variance on that, so there was some good money to be made by ignoring this.

The other concern with the section relates to concerns that the Housing Industry Association has raised with me and no doubt with many of you, and I apologise for missing some of the contributions here. They have indicated that the language of the section is too wide and could lead to small builders being charged with an indictable offence for minor infractions — so building a pergola slightly outside what the building permit allows, prior to a building permit being approved laying a slab that is 2 metres too wide or other minor infractions. But even if they are only fined a small amount, having an indictable offence on your record is very serious. It will affect your ability to travel, it will affect your ability to seek further employment and a whole range of things.

I was somewhat concerned, and I did have conversations about this with my colleague Ms Dunn last night and she did not allay my concerns. Zealous local governments who are furious, who may have refused a development only to have VCAT overturn that decision — zealous councils may not have liked a particular builder or a particular site — could take action under this new section, section 16B. And I appreciate that that is not — —

Ms Dunn — On a point of order, Acting President, I am just concerned that the conversation that we might have had as an aside might have been taken out of context and with the potential that it has not been properly represented. I am not suggesting that it is an enormous slur or deliberate by any stretch, but I am just concerned that it might have been taken out of context in terms of what I was saying.

Ms PATTEN — I would be fine to strike it.

The ACTING PRESIDENT (**Mr Morris**) — Order! Thank you, Ms Dunn. I think I might take that as a point of clarification rather than a point of order at this point.

Ms PATTEN — Thank you, Acting President. So I raised these concerns with government, and I would have to say to the government's credit they appreciated those concerns and have agreed to write to all local councils to tell them to direct all potential prosecutions under section 16B to the Victorian Building Authority. I am quite satisfied that that will provide a measure of assurance and a measure of security for what may have been seen as a vexatious charge, not that there may have been one. However, I think this provision could be strengthened with that requirement written into law, and I believe that the government should consider doing that in the future.

I would also consider increasing some of the penalties. If the owner of the Corkman Hotel thought $388 000 was the cost of doing business, how many may think $466 000 is the cost of doing business? I appreciate that we could send them to jail, but I also appreciate that under corporate structures that is very often difficult and is rare. We need strong legislation to protect our cultural heritage, but that needs to be directed at the problem, and the problem is unscrupulous developers. To hit them where it hurts, you need to target the money, and the penalties we have are not enough. I have raised this with my crossbench colleagues, who largely agree, but I am happy that the government has signalled their willingness to consider further changes.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I am actually summing up, Acting President, so thank you for the opportunity. My apologies, Acting President, in my old age hearing loss is getting the better of me. Seeking leave from Mr Davis, I would like to read my summing-up speech into *Hansard*. This has been prepared to try and address

some of the concerns that have been raised by my parliamentary colleagues in this place, specifically in relation to new section 16B, which relates to indictable offences.

Following the demolition of the Carlton Inn, also known as the Corkman hotel, the need for higher penalties for knowingly undertaking unlawful building work became apparent. The bill creates new indictable offences with increased maximum penalties to strengthen compliance with the Building Act 1993. Indictable offences are intended to apply to the most serious contraventions of the Building Act. The indictable offences apply to a person in the business of building who knowingly carries out building work without a building permit, or who carries out building work knowing that the building work contravenes the Building Act, the building regulations or a building permit.

A person in the business of building includes a person in the business of managing or arranging the carrying out of building work. If found guilty of one of these indictable offences, the provisions of the Confiscation Act 1997 can also apply to ensure people cannot profit from their wrongdoing. The Victorian Building Authority (VBA) will update its compliance and enforcement and prosecution policies to ensure the offence is only used in the most serious of cases. Some stakeholders are concerned there are insufficient safeguards against inappropriate use of the indictable offence by the VBA and others to prosecute minor matters. The indictable offence is cast broadly, but this is necessary for it to operate effectively in the case of serious breaches. Attempting to limit its scope would lead to problems of proof and enforceability in the serious matters.

I expect the opposition will claim that its amendments will be effective in limiting the ability to use the indictable offence to more serious breaches. There are a number of things to be said in response to this claim. The first is that wherever building work is carried out by a person in the business of building, it is obviously carried out with the intention of obtaining a financial advantage, unless of course the building work was carried out for free. A financial advantage occurs where the person is paid for the building work.

The second is that if financial advantage is meant to relate to something other than or additional to payment for the building work, proving this intention at the point where the building work is carried out will be very difficult. It would also be difficult to distinguish any financial advantage arising from payment for the building work from any other sort of financial advantage obtained as a result of the offending conduct, so the amendment would lead to problems of proof and enforceability.

Finally, if the purpose of the amendment is to ensure that the offence is restricted to the most serious cases, it is completely unclear how it would achieve this purpose. A financial advantage may be $500 or indeed $500 000.

In relation to questions raised specifically by Dr Rachel Carling-Jenkins in this place, the new indictable offence is justified because we saw in the case of the Corkman the need for higher penalties for knowingly undertaking unlawful building work. The indictable offence is also required to enliven the Confiscation Act 1997 to ensure people cannot profit from their wrongdoing. The indictable offence needs to be broadly drafted to ensure enforceability, but the government is committed to compliance and enforcement and prosecution policies ensuring that the offence is only charged in the most serious cases — for example, where community health and safety is put at risk, or where there is in fact death or injury or there is a flagrant and deliberate breach of the law for financial gain.

Section 241 of the act provides for an offence against part 3 of the act to be brought by a person authorised by a council, usually a municipal building surveyor. However, councils are not generally resourced to prosecute an indictable offence, and it is envisaged that if a municipal building surveyor believes an indictable offence should be prosecuted, they would refer the matter to the VBA. Therefore the Minister for Planning will write to councils indicating that, if council or the council's municipal building surveyor believes section 16B has been breached due to building work in the council's municipality, council should refer the matter to the VBA.

In relation to whether the new indictable offences capture landowners and developers, we believe the definition of a person in the business of building is broad enough. The developer is necessarily a person who is in the business of managing or arranging the carrying out of building work, and a landowner will also be captured if in the business of building.

We on this side of the house believe that this will go a long way to satisfying the concerns and queries in relation to section 16B, indictable offences, of the legislation before us. Obviously we commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! Members, we are dealing with the Building Amendment (Enforcement and Other Measures) Bill 2016, a bill for an act to amend the Building Act 1993 to improve the enforcement of that act, to provide for the further regulation of building practitioners and to reform the building permit process and to amend the Domestic Building Contracts Act 1995 to further regulate entry into domestic building contracts, to make consequential and other miscellaneous amendments to other acts and for other purposes. We will deal with clause 1. Are there any speakers on clause 1?

Mr DAVIS (Southern Metropolitan) — Can I begin perhaps by thanking the minister for the statement he has just made. There are a couple of points I would make in response to that, which I might make by way of general comment on clause 1, the purposes clause, and they relate to both of the amendments that I seek to respond to, because there are issues in common, and I just want to do it in direct response to the minister's statement at the end of the second reading.

First of all, I am thankful the minister has made that statement, because I think the various guidelines do assist the chamber, they do assist the industry and they do go some way towards the government's intent. Notwithstanding that, there are a number of points I would make. On a minister writing to councils to indicate to municipal inspectors that they should refer this to the Victorian Building Authority (VBA), I would not want to be sure that every one of those municipal councils and inspectors would comply with that. That is my first point.

The second point I would make in response to the minister's comments is that guidelines and prosecutorial arrangements and VBA codes are all relevant and important, but they can be changed at the drop of a hat by a future minister or a future VBA. A new board might seek at some point to take quite a different approach, and it does matter what the black-letter law actually does say. So I make those points.

In response to the minister's point that our proposed amendments would not provide absolute cover, I agree with that. They are an improvement and this is partially why I sought to indicate to the government that we were prepared to discuss these matters in detail and come to some points of commonality because I think the broad objective is the same. We want to go after those characters who have done the wrong thing — the Corkman hotel example is large, but there are other examples too — and we have no difficulty with tougher penalties for such misbehaviour.

But we are aware that the way the words are drafted at the moment can catch those more minor infractions. They can catch those smaller builders who build to a permit that is not identical, in a way, to the permit that has been granted. It may be in error; it may be because of a whole range of other points. The question is whether they would derive financial advantage. I think the minister is seeking to put a construction on that, but we would put a different suggestion to him that the court could well read this as obtaining financial advantage by the actions that are involved. Building a pergola 1 metre across is not compliant with the permit and, on the strict reading of this clause, building that pergola 1 metre across is of no advantage to the builder; in fact it might give him some grief. But nonetheless he is not in compliance and on the strict reading of these clauses in fact that builder could go for the jump for five years if a court was so minded.

I do not think a court would always do that, of course, but I do think that even to have a criminal conviction brought against you for what is a minor or technical infraction of that type would be a very sad day. I am not sure that that is actually what the government wants to do or intends to do. I accept that that is not what it is intending to do, but unfortunately that is what the words say. That is my concern. Broad objectives — full agreement. The way of achieving them is where we have some concerns.

I do note the Master Builders Association are happier with the assurances, but I do not believe the master builders are fully happy with this legislation at all. I do not believe that the master builders believe this is a desirable clause in its current form. I think they are happy to see that the government's intent is not to go after builders for minor infractions, but the reality is that we are not just talking about this government, this minister and this Victorian Building Authority; we are talking about the future as well. We are also talking about other prosecutorial agencies that may seek to prosecute the law in this area and could easily do so with the law as it is constructed in these clauses. That is what concerns us and that is what we are seeking to, perhaps imperfectly, ameliorate. We are trying to knock some of the rough edges off it in a very reasonable way so that some of those good, honest hardworking builders out there who are doing their best are not dragged into this net unfairly, which would potentially see their careers ended and criminal convictions

recorded. The bringing of a criminal charge, even if it was later defeated in court, is not something that people would want on their record.

Honourable members interjecting.

Mr DAVIS — I am not sure that this has been done — —

Mr Dalidakis — Ignore that interjection. It is not representative of the government. Look at the minister on duty.

Mr DAVIS — Yes, look at the minister on duty. I am sure he does not think that everything that is done by some of the building unions is kosher and of a type that would stand great scrutiny. We know that the courts have prosecuted building unions from time to time — correctly so, and successfully — so we will leave those court proceedings standing. We know that the cost of building union malpractice certainly adds to that considerably. But having said that, that is not my main purpose here today. My main purpose is to put those points on the record.

As I understand it, and the advice from the clerks and the Deputy President is, the first three amendments I have would be moved as one and the second two amendments would be moved as one. Each would apply as a separate tranche, if I can describe them that way, for the chamber's benefit.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Can I also for the record state that I absolutely accept in good faith the comments that Mr Davis has just made on behalf of the opposition. I agree that neither he nor I, neither the government nor the opposition, nor indeed the crossbench wish to see somebody prosecuted for a minor infraction, which is why in reading into *Hansard* the summing-up speech I was very careful to crystallise the views of the Minister for Planning, the responsible minister for this legislation. I made it clear that in fact it was not the government's intent that the legislation be used in that way and that the minister would obviously write to local government authorities right across Victoria to make that point clear.

But again I extend the courtesy to Mr Davis of acknowledging the comments he made in good faith. There is broad agreement in the application of the bill before us, whether it applies to our government today or a future government tomorrow.

Mr DAVIS (Southern Metropolitan) — With the chamber's indulgence, I have one further comment. The Housing Industry Association (HIA) has also got a very strong view on this bill which I in part referred to in the second-reading debate. HIA are very much opposed to these criminal clauses — the criminalisation of what can be minor infractions — and I think it is important that it be on record that neither of the major building associations are happy with the criminalisation of these matters and would have sought a different and, in my view and the opposition's view, a better outcome that could have achieved the same objectives.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The best advice that I have received from the responsible minister's office is that the most recent correspondence from the HIA on this matter dates back to February. Since then there has been no further correspondence by the HIA putting forward their views on this particular issue, but again I take Mr Davis on face value that his representation of their views is as he represents.

In relation to the Master Builders Association (MBA), can I just point out that in fact there was a piece of correspondence that Mr Davis has already seen, and referred to, back in March of this year to the Minister for Planning, and that piece of correspondence in fact does state very clearly that the master builders did have concerns with the provisions and the nature of them as Mr Davis has expressed. However, it also acknowledged the statements made by the government in the passing of legislation in the other place, the Legislative Assembly, and stated that they were confident and also assuaged by the advice from the government in relation to the passing of that legislation. The comments that were made in the lower house did in fact satisfy their concerns in relation to this.

There has been no further correspondence provided to the government by the MBA that would dispute the letter that we received from them, so I am happy for Mr Davis to place on the record the position as he represents it for the Housing Industry Association, but I do wish to make it clear that in the most recent correspondence and communications between the government and the MBA, the MBA have made it very clear to us that they are comfortable with the commentary provided by the government around the legislation as it was passed in the Legislative Assembly.

Mr DAVIS (Southern Metropolitan) — I think it is just worth noting that the master builders' letter from March is a part of the story, but they do make the point here — and I think it is worth actually putting this on the record — that they are thankful for the advices that are provided by the government, including in the Assembly, but they also say:

> You are also aware that we were concerned with the insertion of section 16B into the bill introducing an indictable offence which carries monetary penalties and a maximum penalty of five years jail. The section in our view does not go to the scale of the wrongdoing or the actual damage or consequence, thus risking its application to unwarranted behaviours.

I can indicate that in my own communications with the MBA in recent days they have been fundamentally not delighted with this section at all. They are happy that those points have been put on the record in the lower house and indeed I understand will be thankful that those matters have been further sharpened by the minister today, and I thank him for that, but that does not mean that the master builders think that these indictable aspects are a good idea. It does not mean that they think that this is the desirable way to go. In fact I think the reality is the opposite is the case.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Davis for his contribution. Can I point out that the correspondence that I am referring to, which may indeed be the same as Mr Davis's, was written by none other than the chief executive of the Master Builders Association, Mr Radley de Silva. In that correspondence — again the same one that Mr Davis sought to quote, and if I may also quote it — its final two paragraphs state:

> You are also aware that we were concerned with the insertion of section 16B into the bill introducing an indictable offence which carries monetary penalties and a maximum penalty of five years jail. The section in our view does not go to the scale of the wrongdoing or the actual damage or consequence, thus risking its application to unwarranted behaviours.
>
> We are therefore thankful for the clarity provided by the government in the Legislative Assembly debate for the bill on Tuesday, 7 March 2017. For example, we welcome Mr McGuire's statements that clarify the provision will be used for serious offences and that the VBA need to gather sufficient evidence to demonstrate such seriousness.
>
> We thank you for your assistance in this matter.

That is in fact the most recent correspondence that we in the government have from the Master Builders Association, where I think it makes it pretty unequivocal that, whilst they had concerns about that provision, because of the statements made by the government in the Legislative Assembly, as I mentioned just moments ago in committee stage, in fact they were happy to accept that statement in terms of their concerns.

Mr DAVIS (Southern Metropolitan) — Well, I can vouch for my more recent correspondence and conversations with a number of people at the MBA, including Radley de Silva, as recently as Friday. There are concerns that still remain, and whilst they welcome the government's assurances, they are very alive to the fact that the prosecutorial guidelines — the intent of the government — are not the same as what is in the black letter law, and they understand that there are risks involved.

Ms DUNN (Eastern Metropolitan) — I am just raising a matter that was brought to my attention through representations made to my colleague Ms Pennicuik from the Boroondara City Council, and they relate to concerns raised in relation to increased administration for councils. So in terms of the new system proposed, where the Victorian Building Authority (VBA) will issue a permit and collect the levy before the relevant building surveyor can issue a permit, the council have raised concerns that it will result in that municipality receiving three notifications — namely, the notification of the appointment of the building surveyor at section 80, the notification of issue of permit in section 30 and the notification from the VBA that they have issued a building permit number. At the moment the way the system works is that those sections 80 and 30 notifications are made at the same time. That council is concerned that it may create a doubling of administrative work for municipalities in terms of processing these notifications, and I am just wondering whether there has been any consideration I guess of the red tape involved around that and the potential impact on local government.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Ms Dunn for her question on behalf of both the Greens and also her colleague Ms Pennicuik, who happens to share the representation of Southern Metropolitan Region with me, including obviously the City of Boroondara. Can I actually say from the outset that whilst this has nothing to do with what Ms Dunn asked, and I will address that matter in a moment, I no doubt share the concern of Ms Dunn and other colleagues, including Ms Pennicuik's, about the recent practice of the City of Boroondara dispensing with the welcome to country. Can I state that in my region of Southern Metropolitan Region — —

Mr Davis — On a point of order, Deputy President, I think the purposes clause allows for a very wide discussion and the Boroondara council does a heck of a lot of things, but I am just not sure that the — —

Mr DALIDAKIS — I was about to praise them.

Mr Davis — Were you? But either way, I think welcome to country is probably beyond the purview of the bill.

Mr DALIDAKIS — On the point of order, Deputy President, I was just about to say that of all the municipalities that I represent within Southern Metropolitan Region I have always thought the City of Boroondara was by far the most inclusive in terms of the work it has done with people with disability, with people from a non-English-speaking background, on behalf of refugees and on behalf of public housing tenants. So I want to praise Boroondara.

Mr Davis — Deputy President, on the point of order, I believe it is beyond the scope of the bill.

The DEPUTY PRESIDENT — Order! Mr Davis spoke broadly on that. I believe the minister can continue.

Mr DALIDAKIS — As I was about to address Ms Dunn's question, I was simply pointing out that the City of Boroondara has a number of other concerns, least of which would be the concern it has expressed to Ms Pennicuik about red tape.

Can I say to Ms Dunn that the government's view is that this is not an onerous obligation on behalf of the local government authorities, municipalities and councils. We believe the small amount of paperwork that will be created as a result of these provisions will certainly be assuaged by the significant public policy outcomes presented by the legislation passing. I no doubt look forward to the City of Boroondara bringing back a welcome to country as a standard practice in its municipal offerings.

Clause agreed to; clauses 2 to 19 agreed to.

Clause 20

The DEPUTY PRESIDENT — Order! I call on Mr Davis to move his amendments 1, 2 and 3, which seek to add identical words to three separate parts of clause 20 in relation to officers carrying out building work.

Mr DAVIS (Southern Metropolitan) — Again, I am not going to reiterate this in huge detail. I move:

1. Clause 20, line 15, after "ensure" insert ", so far as is reasonably practicable,".

2. Clause 20, line 27, after "ensure" insert ", so far as is reasonably practicable,".

3. Clause 20, page 51, line 2, after "ensure" insert ", so far as is reasonably practicable,".

Committee divided on amendments:

Ayes, 15

Bath, Ms	O'Donohue, Mr
Carling-Jenkins, Dr	Ondarchie, Mr
Crozier, Ms	O'Sullivan, Mr (*Teller*)
Dalla-Riva, Mr	Peulich, Mrs
Davis, Mr	Ramsay, Mr
Finn, Mr (*Teller*)	Rich-Phillips, Mr
Fitzherbert, Ms	Wooldridge, Ms
Morris, Mr	

Noes, 21

Barber, Mr (*Teller*)	Mulino, Mr (*Teller*)
Bourman, Mr	Patten, Ms
Dalidakis, Mr	Pennicuik, Ms
Dunn, Ms	Pulford, Ms
Eideh, Mr	Purcell, Mr
Elasmar, Mr	Shing, Ms
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Melhem, Mr	Young, Mr
Mikakos, Ms	

Pairs

Atkinson, Mr	ALP vacancy
Lovell, Ms	Springle, Ms

Amendments negatived.

Clause agreed to.

Clause 21

Mr DAVIS (Southern Metropolitan) — I move:

4. Clause 21, page 52, line 6, after "must not" insert ", with the intention of obtaining financial advantage,".

5. Clause 21, page 52, line 21, after "must not" insert ", with the intention of obtaining financial advantage,".

We have discussed these points at length in debate on the purposes clause and the second-reading speech. These ensure that builders working on small projects who commit minor infractions would have less chance to incur the full wrath of this clause in terms of the indictable offences and five years jail aspect of the penalty. It would put an additional hurdle there and provide some protections, and we believe that these are reasonable.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Obviously the government opposes the amendments before the house.

Committee divided on amendments:

Ayes, 15

Bath, Ms (*Teller*)	O'Donohue, Mr
Carling-Jenkins, Dr	Ondarchie, Mr
Crozier, Ms	O'Sullivan, Mr
Dalla-Riva, Mr (*Teller*)	Peulich, Mrs
Davis, Mr	Ramsay, Mr
Finn, Mr	Rich-Phillips, Mr
Fitzherbert, Ms	Wooldridge, Ms
Morris, Mr	

Noes, 21

Barber, Mr	Mulino, Mr
Bourman, Mr	Patten, Ms (*Teller*)
Dalidakis, Mr	Pennicuik, Ms
Dunn, Ms	Pulford, Ms
Eideh, Mr	Purcell, Mr
Elasmar, Mr (*Teller*)	Shing, Ms
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Melhem, Mr	Young, Mr
Mikakos, Ms	

Pairs

Atkinson, Mr	ALP vacancy
Lovell, Ms	Springle, Ms

Amendments negatived.

Clause agreed to; clauses 22 to 46 agreed to.

Clause 47

Ms DUNN (Eastern Metropolitan) — This question is again in relation to representations made to my colleague Ms Pennicuik by Boroondara City Council. This clause in the bill refers to entering buildings used for residential purposes. The council is concerned that there is no definition of residential building as part of the bill, and they are seeking some clarity around what that definition may consist of.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for her question. The simple answer is that a residential property is one that from a common-law perspective has stood the test of time, as distinct from say a commercial property or indeed a commercial property in terms of business, such as a hotel. From the government's perspective the definition is pre-existing, which is why this legislation has not necessarily seen the need to cover it.

Clause agreed to; clauses 48 to 113 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

APPROPRIATION (2017–2018) BILL 2017

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 (charter act), I make this statement of compatibility with respect to the Appropriation (2017–2018) Bill 2017.

In my opinion, the Appropriation (2017–2018) Bill 2017, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The Appropriation (2017–2018) Bill 2017 will provide appropriation 'authority' for payments from the Consolidated Fund for the ordinary annual services of government for the 2017–2018 financial year.

The amounts contained in schedule 1 to the Appropriation (2017–2018) Bill 2017 provide for the ongoing operations of departments, including new output and asset investment funded through annual appropriation.

Schedules 2 and 3 of the Appropriation (2017–2018) Bill 2017 contain details concerning payments from advances pursuant to section 35 of the Financial Management Act 1994 and payments from the advance to Treasurer in 2015–2016 respectively.

Human rights issues

1. Human rights protected by the charter act that are relevant to the bill

The Appropriation (2017–2018) Bill 2017 does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the Appropriation (2017–2018) Bill 2017 does not raise any human rights issues, it does not limit any human rights and therefore it is not necessary to consider section 7(2) of the charter act.

Conclusion

I consider that the Appropriation (2017–2018) Bill 2017 is compatible with the charter act because it does not raise any human rights issues.

Gavin Jennings, MP
Special Minister for 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:

President, budgets are more than economic blueprints. They're more than a set of numbers, more than a list of initiatives.

They're about people. They're about communities. They're about the type of society our grandchildren will inherit.

They show us where a government's heart lies.

They are, in essence, a test of not so much a government's priorities as its fundamental decency.

When the Andrews Labor government was elected in 2014, Victoria was in a state of flux. We had one of the highest unemployment rates on the mainland. Our roads had ground to a halt. The previous government had sent a wrecking ball through essential services, particularly in health and education.

The task before us was significant: to rally, to rebuild, to grow and to flourish.

We've laid the groundwork, we've made tough decisions and now Victoria is reaping the rewards.

President, since we were elected, we've invested billions of dollars in the infrastructure and services the state needs, all the while maintaining a strong financial position.

The 2017–18 budget is about getting on with the job.

It's about remaining steadfast to the commitments and values that propelled us to government.

It addresses the issues familiar to any Victorian raising a family, studying, commuting or running a small business — the dignity of work, access to decent health care, getting home from work safely, and quickly and stable, affordable housing.

It's a budget that is unashamedly geared towards the most vulnerable in our community — those in danger of falling through the cracks and those in danger of not sharing in our economic prosperity.

At its heart is an unprecedented, comprehensive, and long overdue $1.9 billion package to address family violence.

It commits another $1.3 billion to continue the revitalisation of our education system — a system that benefits all Victorian children, no matter where they live and no matter what their parents earn.

It builds on our record-breaking investments in the state's health system, with almost $2.9 billion to ensure all Victorians, irrespective of their economic circumstances, receive world-class care.

It gets on with the job of shoring up our infrastructure pipeline, investing $10.1 billion into the projects our cities, towns and communities need — more than double the average of $4.9 billion a year that preceded this government.

It provides a record $2 billion boost to Victoria Police, ensuring they have every resource they need to keep our streets safe, put victims first and hold perpetrators to account.

And it makes a record $4 billion investment in regional Victoria, continuing the government's commitment to governing for all Victorians.

President, all the social initiatives and infrastructure projects in the world count for nothing if they're not underpinned by strong economic management.

This government has kept its promises, met every challenge and maintained its AAA fiscal discipline.

The 2017–18 budget produces an operating surplus of $1.2 billion, with surpluses averaging $2.4 billion over the forward estimates.

After a lamentable period of inertia under the previous government, we have regained our status as the nation's economic engine room.

We've bucked the national trend when it comes to economic growth and jobs, with 216 000 jobs created on our watch — more than 130 000 of them being full time.

Net debt as a proportion of the economy has been maintained at below the levels we inherited and will remain at no more than 6 per cent of gross state product over the next four years.

We're one of only two Australian states with a AAA rating from both major credit rating agencies.

We've maintained growth in gross state product that is significantly higher than growth in national gross domestic product.

Business is booming. Productivity growth has surged from negative to positive territory.

And importantly, labour force participation is growing, which means more Victorians are taking the opportunity to contribute to our economy.

This is despite a Sydney-centric federal government that continues to deny us our fair share of infrastructure funding — that continues to short-change Victorians.

As a consequence, the commonwealth can lay no claim to Victoria's economic revitalisation, but just imagine what could be achieved if they were willing partners.

President, by 2014, after four years of shoulder-shrugging by the previous government, our unemployment rate was nudging 7 per cent.

It was a blight on our state and one we haven't wasted a moment addressing.

With prudence and with foresight, we have turned this around, creating almost 250 jobs every day.

This government's record infrastructure spend alone is expected to generate more than 50 000 jobs.

Latest figures show Victorian employment grew by an annual average of 3.4 per cent, the strongest of all states, while the rest of Australia averaged only 0.6 per cent.

Put another way, more jobs were created in Victoria in the past year than the rest of the nation combined.

We are particularly proud of the jobs growth in regional Victoria, with the rate of employment growing at more than double the national rate.

This budget will stimulate statewide employment growth and drive private sector investment. It will secure today's jobs and create tomorrow's.

It's especially important that we invest in our small businesses, whose numbers grew by an additional 15 000 last year.

This is a government that values its relationship with business.

We want to reduce impediments to their growth so they can develop their operations, expand into new markets and create new jobs.

The government is therefore bringing forward previously announced increases to the payroll tax-free threshold.

This will benefit around 38 000 businesses with a payroll tax liability. It also means that in two years time 1600 Victorian enterprises will have stopped paying any payroll tax.

In addition, we're reducing the payroll tax rate by 25 per cent for all businesses operating substantially in regional Victoria — an Australian first that directly reduces costs for around 4000 businesses.

It will mean Victoria's regional employers will have the lowest payroll tax rate in the nation.

This will support employers to grow their businesses, encourage job creation and ensure our regional communities share the benefits of economic growth.

President, when we talk of leaving no Victorian behind, that includes the workers — and their communities — that have been the backbone of Victorian manufacturing for so long.

This government is creating jobs, but we're also focused on protecting jobs.

Whether they're former employees of Ford, Toyota, GM Holden or the Hazelwood power plant, we'll capitalise on their remarkable range of skills, and work to lessen the pain for their families and their local communities.

We'll expand the Local Industry Fund for Transition program, supporting those affected by the decline of the automotive industry with retraining and career advice.

Working with industry, we'll expand the timber plantation estate in Gippsland to support the long-term sustainability of Victoria's timber harvesting industry.

We'll keep the Portland smelter operating, which will secure more than 1600 jobs and continue to inject more than $120 million into the local region every year.

We'll establish a program for manufacturers exposed to high energy prices, especially in the gas market, and help protect jobs.

And we'll improve digital access across the state, to ensure rural communities, schools and businesses are not left behind.

Our government is working to ensure every part of our state can grow and prosper. But that also means keeping Victorians safe.

President, today I announce historic action on family violence, a national emergency that destroys too many lives, that has been underfunded for far too long.

As former Australian of the Year Rosie Batty said: 'Family violence may happen behind closed doors but it needs to be brought out from these shadows and into broad daylight'.

We recognise her loss and pain, together with the tens of thousands of Victorians who are victims of family violence every year.

It's an issue where everyone has a role to play, but where governments must lead.

In 2015, we established Australia's first Royal Commission into Family Violence.

We committed to implementing every one of its 227 recommendations over a 10-year period.

We listened to victim survivors, to police, to frontline service providers — and we acted.

The unprecedented breadth and scope of our package reflects the gravity and complexity of the issue.

This budget allocates $1.9 billion to protect victim survivors, hold perpetrators to account and help change community attitudes.

It's funding that will help establish a network of support and safety hubs — crucial points of contact for women and children experiencing family violence, and other vulnerable families to get the services they need.

It will fund after-hours crisis support, financial counselling and therapeutic support, including for children and Aboriginal victims.

It will help build long-term public housing and modernise and expand crisis accommodation to ensure victim survivors' safety and allow them to begin a new life.

It will also help fully implement specialist family violence courts at Ballarat, Frankston, Shepparton, Moorabbin and

Heidelberg Magistrates Courts — facilities that will help ensure the perpetrators of family violence are held to account.

It will provide support in areas where there are diverse or complex needs, including for LGBTI, migrant, multicultural and Aboriginal communities, as well as people with disabilities and elderly women.

And crucially, it will provide $132 million to protect vulnerable children, many of whom have experienced or witnessed family violence.

President, this government won't turn its back on these victim survivors.

We'll give those who have experienced family violence a chance — a chance to overcome physical, financial and emotional trauma. A chance to start anew.

President, this budget will make our communities safer. As we've demonstrated with our family violence package, this government doesn't believe in quick fixes for complex problems.

What's needed is a long-term approach — evidence-based solutions that will make the state safer.

President, the 2017–18 budget invests $2.4 billion in community safety measures, including new police recruits, new police stations, the strengthening of youth justice precincts and improved public transport safety.

At its core is the largest single investment in the history of the Victorian police force.

More than 2700 new police officers will be sworn in and we're replacing 10 police stations across the state.

Together with the 446 police officers we've already funded, Victorians will enjoy the safety and protection of more than 3000 extra police.

It's a stark contrast to the previous government, which was quick to trot out its 'tough on crime' rhetoric but failed to back it up.

This funding will give our police greater powers, connect them better with their local communities, and ensure they have what they need to hold offenders to account.

This record investment is part of a broader overhaul of the justice system that focuses on early detection and prevention, as well as punishing serious crime in a way that is commensurate with community expectations.

$361 million will strengthen the youth justice precincts in Parkville and Malmsbury, as well as building a new fit-for-purpose youth justice centre at Cherry Creek.

We are delivering on our community safety statement, funding 100 new protective services officers, providing support for legal aid and community legal centres and expanding the Werribee and Bendigo courts.

This budget is providing the right investments and the resources police need to protect Victorians, keep them safe and reduce harm.

President, this government is committed to the task of enriching the lives of young Victorians and giving them the best education possible.

After all, education shouldn't promote privilege or perpetuate inequality. It should drive hope and opportunity.

That's why we're getting on with what's been the single biggest education investment in Victoria's history.

Brick by brick, school by school, student by student, we are building the Education State.

The previous government gutted our education system. There were too many boarded-up schools, too many classrooms in a state of disrepair, and too many children left behind. Too many opportunities lost.

To date, we've funded more than 1000 projects across the state, including 43 new schools.

This budget commits $1.3 billion to continue the revitalisation of our education system.

It directly funds the construction of another nine new schools, and acquires land for a further 11 schools. And it funds further upgrades for 108 schools across the state.

Six of those will be special needs schools.

Fifty-nine of them will be in regional and rural Victoria.

And we're investing in much-needed relocatable buildings and early childhood facilities.

President, we believe in the transformative power of education for all of our children, regardless of disability or circumstances beyond their control.

That's why we're investing $138 million in specialist programs for children from disadvantaged backgrounds, children with a disability, children who — for whatever reasons — may not be getting the attention they deserve.

Like the provision of a good education, quality health care will always be a fundamental priority for this government.

President, we're a government that believes patients aren't mere statistics.

They're not clients or consumers.

They're our loved ones who deserve the best possible care.

They're our parents and our grandparents; our sons and our daughters. They're Victorians who should get the health care they need, not just the health care they can afford.

That's why we've already invested more than $5 billion in the state's health care system.

And that's why this budget gets on with the job, with nearly $2.9 billion to ensure all Victorians receive world-class care.

That means more beds, more nurses, more surgeries and more resources, closer to home.

It will mean our emergency departments, intensive care units, mental health practitioners, maternity admissions, palliative

care facilities and ambulance services will all get the funding they need and were missing under the former government.

This budget invests $498 million in our hospital infrastructure, including $163 million for stage two of the Northern Hospital redevelopment, together with funding for the Monash Medical Centre emergency department and essential upgrades at the Royal Melbourne Hospital and the Austin Hospital.

It also provides $8.3 million to establish a new mental health facility in Ballarat.

It upgrades patient data systems, boosts medical research, and invests $14 million to deliver Victoria's Cancer Plan, which will provide around 45 000 additional breast, bowel and oral cancer screens.

President, our investments in critical infrastructure were the cornerstones of our previous two budgets.

Prior to handing down our first budget, infrastructure investment had been averaging around $4.9 billion per year for the preceding 10 years.

Since then, we've seen the average spend jump to $8.4 billion per year, with this budget taking it to an annual average of $9.6 billion over the next four years.

We've already started construction on the $11 billion Metro Tunnel, the biggest overhaul of our train network since the construction of the City Loop and a huge boost for local jobs.

As promised, the proceeds from the record lease of the port of Melbourne — 10 per cent of which are being invested in regional and rural infrastructure projects — have been paid into the Victorian Transport Fund, allowing us to remove 50 of the state's most dangerous and congested level crossings.

This landmark project will make our roads safer and more reliable and create thousands of jobs. To date we've removed 10 level crossings, with a further 27 either under construction or out to tender.

Likewise, the $5.5 billion West Gate tunnel project will create more than 6000 new jobs. It will mean 500 apprenticeships, 150 jobs for former automotive workers and up to 400 new jobs in our burgeoning western suburbs.

And it will take trucks off the streets of the inner west.

The tunnel will change our state; the jobs will change people's lives.

This budget gets on with the job of strengthening our road system with an investment of almost $2 billion that will help reduce congestion and keep Victorians safe behind the wheel.

It will mean more roads, better roads and safer roads.

The M80 Ring Road will be widened and enhanced with cutting-edge traffic management, ensuring smoother and safer journeys for the more than 160 000 Victorians who use the freeway every day.

We've also allocated $300 million for the construction of the Mordialloc bypass, which will significantly reduce congestion in the south-east.

And we'll upgrade the Great Ocean Road, the Henty Highway and the South Gippsland Highway, as part of a $531 million commitment for regional roads.

This includes an extensive program of resealing, resurfacing and rehabilitation works across the state, work that will free up key freight routes, reduce the risk of crashes, relieve bottlenecks and improve traffic flow.

President, as important as our roads are, a modern, easily accessible public transport system is critical.

It reduces the number of cars on the road, positions us as a world-class tourist destination and gets Victorians home quickly and safely.

This is especially true in regional Victoria.

Our regional rail revival builds on the $1.3 billion we invested in last year's budget to upgrade every major line in regional Victoria.

The centrepiece of this is a $435 million commitment to upgrade key Gippsland rail infrastructure — including track duplications, additional platforms and crossing loops.

We'll upgrade the Warrnambool and North East lines and deliver Surf Coast rail stage 1 to prepare for a new rail link to Torquay — provided the commonwealth is willing to work with us in partnership to deliver for regional Victoria.

We'll also provide $316 million for enhanced maintenance, in addition to more trains, better bus services, new connections and upgraded stations.

It will mean additional services to Melbourne. It will mean more punctual and targeted services. It will mean safer and more comfortable journeys.

This budget gets on with the job of overhauling our metropolitan public transport system with $880 million invested in new trams, safety measures, and train and station upgrades across Melbourne.

From a $187 million investment in a long-term stabling solution for the Frankston line to the permanent rollout of the weekend Night Network, we'll continue to invest in a public transport system that befits the world's most livable city.

We'll also direct $10 million from our entitlement under the federal government's asset recycling initiative into planning for the Melbourne Airport rail link.

We're calling on the commonwealth to partner with us on this project — so it progresses properly, integrates into our rail network and ensures Melbourne remains a world-class city for decades to come.

President, this budget further establishes Victoria as both a prime tourist destination and an enviable place to live — a state renowned for its arts and culture, its sporting events, and its natural wonders.

It's a budget that commits to increasing the supply of decent, affordable and stable housing for those who need it most.

It does so in a number of ways, including abolishing stamp duty for first-time buyers purchasing homes for up to $600 000, and doubling the first home owner grant in regional Victoria.

It frees up land and simplifies planning rules, with the aim of maintaining housing approvals at more than 50 000 new homes a year and adding more than $3.7 billion to the Victorian economy.

And perhaps most importantly, it supports those at risk of becoming homeless, with a raft of measures designed to provide more modern, safe and secure social housing.

Maintaining Victoria's natural resources and cultural gems is also paramount. This budget provides more than $798 million to care for our environment and manage our water resources.

This is a government that believes in a fact-based approach to public policy.

We recognise climate change is a genuine threat, which is why we're investing a further $25 million in our response to climate change.

We're also allocating additional funding to biodiversity programs, Victoria's parks, and the Environment Protection Authority.

The budget allocates $25 million for Visit Victoria to attract tourists, driving jobs growth in our visitor economy while showcasing the best of Victoria to the world.

It cements our status as the nation's creative capital, with funding of $106 million for our creative industries, including exhibitions at the National Gallery of Victoria, upgrades to our iconic arts centre and redevelopments of the Australian Centre for the Moving Image and the state library.

Sport is central to our way of life, and the Australian Open tennis is one of our many premium international offerings.

This budget provides $272 million for the final stage of the Melbourne Park redevelopment, an investment that will secure the tournament until 2036.

We won't neglect grassroots sporting clubs either — so often the bedrock of our suburbs and towns — with funding to upgrade facilities, especially for women and girls.

President, budgets are ultimately about people and communities.

This is a budget that delivers choice, control and vocational and educational opportunities for Victorians with a permanent disability, as well as support for their families and carers.

This is a budget that funds vital work with Aboriginal Victorians — more than $68 million to build the foundations for self-determination, to empower communities, to create jobs and to support cultural links.

The Andrews Labor government is listening to Aboriginal communities. We believe genuine change can only occur when Aboriginal Victorians have control over the decisions that affect their lives.

As former Prime Minister Paul Keating said in his Redfern speech nearly a quarter of a century ago, we should endeavour 'to bring the dispossessed out of the shadows, to recognise that they are part of us'.

It's this commitment that perhaps best defines us, shows us who we are and what we value.

President, when we were elected in 2014, we were up-front about what we stood for.

This budget reaffirms those values.

It's a responsible budget, a fair budget, a budget for all Victorians.

I believe the greatest failure in public life is a failure of effort. We will never fall short by that measure.

There is no virtue like necessity, and the Andrews Labor government is resolutely focused on the things that really matter — the things that must be done to enhance our great state and the welfare of every one of its citizens.

That's why we're getting on with the job.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 18 May.

Mr Ondarchie — On a point of order, Acting President, before us in the Parliament today we have another example of this government in disarray. This is in relation to the bill they have just introduced and its statement of compatibility with the charter of human rights and its second-reading speech, which they have just tabled. I have in my hand the Appropriation (Parliament 2017–2018) Bill 2017 and also in my hand is the Appropriation (2017–2018) Bill 2017 and its statement of compatibility with the charter of human rights and its second-reading speech. They are separate bills with separate statements of compatibility and separate second-reading speeches. Can this government get their act into order, please? Otherwise we should stop what we are doing right now.

The ACTING PRESIDENT (Mr Melhem) — Order! Before we jump to any conclusions, mistakes do happen; and before we blame the government, I would advise the member that it was a staff error. Let us not play politics over an issue where people have made a mistake. I refer to what the President said when Mr Davis on Tuesday made a similar comment; I do not know how many times Mr Davis, when Leader of the Government in the previous Parliament, made similar mistakes. It was a staff error; let us move on.

Mr Ondarchie — On the point of order, Acting President, we are unable to proceed any further in today's business until we get this right. The reality is, as the government choose to blame everybody but themselves, we have two different sets of documents in front of us. My point to you is that we cannot proceed any further with anything else until we get this first bit right.

The ACTING PRESIDENT (**Mr Melhem**) — Order! Your point is taken, Mr Ondarchie, and we are correcting that right now. Basically what I am saying is let us not make a political issue out of it. We will have it corrected, and then will move on to the next bill.

Honourable members interjecting.

The ACTING PRESIDENT (**Mr Melhem**) — Order! I think we have had enough discussion on this matter, so let us move on. Let me clarify where we are at. The matter has now been clarified. Members received the correct documentation in relation to the first bill, and now we move on to the second bill, the Family Violence Protection Amendment (Information Sharing) Bill 2017.

FAMILY VIOLENCE PROTECTION AMENDMENT (INFORMATION SHARING) BILL 2017

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 Family Violence Protection Amendment (Information Sharing) Bill 2017.

In my opinion, the Family Violence Protection Amendment (Information Sharing) Bill 2017 ('the bill'), as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Family Violence Protection Act 2008 ('the principal act') to establish an information-sharing scheme specifically designed to enable prescribed entities to share family violence information in a timely and effective manner, such that it prevents or reduces family violence, and to provide for a framework for achieving consistency in family violence risk assessment and family violence risk management practices. The bill also makes consequential and miscellaneous amendments to other acts and for other purposes.

The bill implements one of the key recommendations of the Royal Commission into Family Violence by creating a specific family violence information-sharing regime that will apply where entities are not authorised under existing privacy legislation to share information relevant to family violence risk assessment and protection. The purpose of the regime is to provide a statutory authorisation for organisations that provide services to victims or perpetrators of family violence to share relevant information with each other for family violence purposes. It does so by inserting a new part 5A into the principal act to provide for the sharing of confidential information between specified persons and bodies for the purposes of assessing and managing risks of family violence, and to promote the coordination of services by those persons and bodies to further the purposes of the principal act.

The bill also inserts a division 6 into new part 5A of the principal act to establish a central information point ('CIP'). The establishment of the CIP was recommended by the royal commission as a critical systems enabler to support better information sharing and to provide updated information to assist risk assessment and risk management.

The bill also inserts a new part 11 into the principal act to give legislative status to the family violence risk assessment and risk management framework, where approved by the responsible minister. In doing so, the bill will require prescribed organisations to align their policies and practice guidance with the framework, require public service bodies and public entities to include alignment with the framework as a condition in future contractual or service agreements relating to family violence, and provide for annual reporting on the framework.

Human rights issues

In my opinion, the human rights under the charter that are relevant to the bill are:

the right to privacy as protected by section 13 of the charter;

the right to be presumed innocent as protected by section 25(1) of the charter;

the protection of families and children as protected by section 17 of the charter; and

the right to receive and impart information and ideas under s 15(2) of the charter.

For the reasons outlined below, I am of the view that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Family violence information-sharing regime

Privacy

The bill requires and permits the collection, use or disclosure of health and personal information for family violence assessment or protection purposes, that may relate to both victims, perpetrators or potential perpetrators, and in some cases relevant third parties. Therefore, the rights to privacy and reputation in section 13 of the charter are relevant. 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. Section 13(b) provides that a person has the right not to have

his or her reputation unlawfully attacked. In my opinion, although several provisions of the bill will permit interference with a person's privacy and reputation, for the reasons outlined below they will not constitute a limit on the right in section 13 and are therefore compatible with the charter.

Scope of the information-sharing regime

The information-sharing regime created under new part 5A will apply to persons and bodies, or classes of persons or bodies, that are prescribed by regulations to be 'information sharing entities' for the purposes of this part. New section 210A provides for the Governor in Council to make regulations with respect to matters including prescribing persons or bodies as information sharing entities ('ISEs'), and whether a prescribed ISE is a 'risk assessment entity' or a 'protection entity' or some other class of ISE with more specific levels of authorisation to share or obtain information within the limits of the scheme. The regulations may also impose conditions on how those different categories of prescribed entities may handle confidential information.

'Confidential information' in part 5A comprises health information and identifiers (as defined in the Health Records Act 2001 ('HR act'), personal information (as defined in the Privacy and Data Protection Act 2012 ('PDP act'), including sensitive information, and unique identifiers.

New section 144J of the principal act sets out a number of principles to be used for guidance in relation to the collection, use or disclosure of confidential information that is authorised or required to be collected, used or disclosed under this part 5A. These principles include that ISEs should:

> work collaboratively to coordinate services in a manner that respects the functions and expertise of each ISE;
>
> in deciding whether to collect, use or disclose confidential information, give precedence to the right to be safe from family violence over the right to privacy;
>
> only collect, use or disclose a person's confidential information to the extent that the information, use or disclosure of information is necessary to assess or manage risk to the safety of children and adults from family violence, and to hold perpetrators of family violence accountable for their actions;
>
> collect, use or disclose the confidential information of a person who identifies as Aboriginal or Torres Strait Islander in a manner that promotes the right to self-determination and is culturally sensitive and considers the person's familial and community connections; and
>
> have regard to and be respectful of a person's cultural, sexual and gender identity and religious faith.

The bill regulates the handling of confidential information both of 'primary persons' (i.e. persons reasonably believed to be at risk of being subjected to family violence) as well as 'persons of concern' (i.e. persons who an ISE reasonably believes may commit family violence). In some circumstances the bill also imposes requirements in respect of confidential information of persons who are alleged to pose a risk of family violence, who I will refer to in this statement as 'alleged persons of concern'. Given the dynamics of many family violence cases can be complex and the risk of misidentification of victim or perpetrator (for example, due to cross-applications for court orders), the bill intends to give ISEs sufficient discretion to determine who the actual potential victim or perpetrator is for the purposes of the information-sharing regime.

Further, the bill also regulates the handling of confidential information of third parties who are 'linked persons'. A 'linked person' is any person whose confidential information is relevant to assessing or managing risk of the primary person being subjected to family violence or the person of concern committing family violence.

Disclosure obligations under the regime

Divisions 2 and 3 of new part 5A of the bill permit and require, in certain circumstances, ISEs to disclose confidential information about primary persons, persons of concern and alleged persons of concern, and linked persons, either to an ISE that is a risk assessment entity for a 'family violence assessment purpose' (i.e. for the purpose of establishing and assessing the risk of a person committing family violence or a person being subjected to family violence); or to another ISE for a 'family violence protection purpose' (i.e. for the purpose of managing a risk of a person being subjected to family violence to reduce or remove that risk or to prevent its escalation, and includes the ongoing assessment of the risk of the person being subjected to family violence).

Division 4 of part 5A also provides for ISEs to voluntarily disclose confidential information about a person of concern to a primary person (or to a parent of the primary person other than the person of concern) for a family violence protection purpose; however, the bill also prohibits a primary person, or the parent of a child who is a primary person, from using or disclosing confidential information obtained about a person of concern under the bill except for the purposes of managing the primary person's risk, or their child's risk, of being subjected to family violence.

In each instance, confidential information may only be shared in accordance with these provisions if it is not 'excluded information'. The bill recognises a limited number of circumstances where information-sharing entities can refuse to share for legitimate reasons (e.g. where sharing information could endanger a person's life or result in physical injury, prejudice law enforcement or contravene legal professional privilege).

Division 5 of part 5A prescribes whether and when consent is required for the collection, use or disclosure of confidential information about a primary person, a person of concern or alleged person of concern, or a linked person.

Division 8 of part 5A deals with the relationship between this part and other acts, in particular the PDP act and the HR act. New section 144Q provides that part 5A does not affect collection, use or disclosure of confidential information by an ISE that would otherwise be permitted by or under the PDP act, the HR act or any other act, however the bill also amends the PDP act and the HR act, to expressly displace information privacy principles 1.4, 1.5 and 10.1 in relation to persons of concern and alleged persons of concern. Health privacy principles 1.3 and 1.5 are also be expressly displaced for a person of concern and an alleged person of concern.

The new section 144QA and part 5 also provides for specific exceptions to access rights under the PDP act, HR act and the FOI act where providing access would increase the risk to a

primary person's safety from family violence or where providing access would pose a serious (rather than serious and imminent) threat to an individual's life, health, safety or welfare.

The new section 144QB ensures that the PDP act will apply to ISEs that are not presently covered by that act in the context of the collection, use and disclosure by those ISEs of personal information under new part 5A. ISEs that collect, use and disclose health information under the new part 5A will also be covered by the HR act.

Confidential information about a primary person or linked person — consent requirements

The bill provides that confidential information about a primary person or a linked person may be voluntarily disclosed by an ISE to a risk assessment entity or another ISE, and in some circumstances must be disclosed where requested by a risk assessment entity or another ISE, for family violence assessment or protection purposes, provided that the confidential information is not excluded information and is permitted to be disclosed in accordance with consent requirements in division 5 of new part 5A.

Under new sections 144NA and 144NB in division 5, an ISE must not collect, use or disclose confidential information about a primary person or about a linked person, unless:

> the primary person or the linked person (as the case may be) consents to the collection, use or disclosure; or
>
> the ISE reasonably believes that the collection, use or disclosure is necessary to lessen or prevent a serious threat to an individual's life, health, safety or welfare. There is no requirement that the serious threat must also be 'imminent'.

Where the bill requires an ISE to obtain the consent of a primary person or linked person before disclosing confidential information, and that person is incapable of giving consent to the disclosure (by reason of age, injury, disease, illness, disability, physical impairment or mental disorder), the ISE may obtain consent from that person's authorised representative (as defined in the bill), unless the authorised representative is a person of concern or is an alleged person of concern.

Where the primary person is a child, the bill does not require that an ISE obtain the consent of any person before disclosing the confidential information about that child (includes adult victim who is also a parent or any relevant linked person). Unlike for adult victims (where consent is regarded as more determinative for whether information is shared), the bill adopts a more purpose-driven approach for sharing information in relation to children — namely, under new section 144NC, sharing is permitted if it is necessary for risk assessment and safety management of a child victim, and provided that it is not excluded information, regardless of consent.

Confidential information about a person of concern and an alleged person of concern — consent requirements

The bill provides that confidential information about a person of concern may be voluntarily disclosed by an ISE to a risk assessment entity or another ISE, and in some circumstances must be disclosed where requested by a risk assessment entity or another ISE, for family violence assessment or protection purposes, provided that the confidential information is not excluded information.

The bill also provides that confidential information about an alleged person of concern may be required to be disclosed where requested by a risk assessment entity or another ISE, but only for a family violence assessment purpose.

Under new section 144N, an ISE may collect, use and disclose confidential information about a person of concern or an alleged person of concern, without their consent.

This provision will apply to information about persons of concern and alleged persons of concern, whether they are adults or children. The particular effect of this provision on children who pose a risk of family violence is discussed further below in relation to the right in section 17(2) of the charter.

Any interference with privacy is lawful and not arbitrary

I am satisfied that any interference with a person's privacy that occurs will be permitted by law. I am similarly satisfied that any interference with a person's reputation that may occur through the sharing of information pursuant to the regime will be lawful.

The circumstances in which confidential information may be shared are limited and clearly set out in the provisions and are appropriately circumscribed, having regard to the important objectives of this bill. Further, the provisions are not arbitrary as they are for legitimate purposes that are relevant to and necessary for the proper operation of the information-sharing regime. In particular, I wish to highlight the following points.

Although the bill represents a recalibration of rights to give precedence to the right to be safe from family violence over the right to privacy, it retains appropriate protections for the privacy of persons of concern and alleged persons of concern through the exclusion of 'excluded information' from the obligation to disclose, and the applicable thresholds that must apply for the information to be requested and provided. Existing privacy protections are only displaced to the extent necessary. For example, confidential information cannot be disclosed where to do so would prejudice the fair trial of a person. This exclusion ensures the regime's compatibility with the fair hearing right in section 24(1) of the charter.

In relation to the potential interference with privacy of alleged persons of concern, I note that confidential information about an alleged person of concern may be disclosed for a family violence assessment purpose simply by virtue of an allegation made by another. Further, the fact that their consent is not required, and because of the displacement of the notification requirements under IPP 1.5 and HPP 1.5, it is possible that the alleged persons of concern may never know that their personal or health information has been collected, used or disclosed. Despite this, in my opinion this is a proportionate and appropriate response to ensuring that ISEs have an accurate picture of the overall risk to primary persons, and is consistent with the royal commission's 'safety first' model. In addition, the bill only permits the handling of confidential information about alleged persons of concern for a family violence assessment purpose, and does not permit it for protection purposes, which means that the information will be handled by a smaller subgroup of ISEs until such time as an ISE is able to form a reasonable belief that the person may pose a risk of committing family violence.

I note that, unlike for adult victims, the bill does not require that an ISE obtain the consent of any person before disclosing the confidential information a person where that information is relevant to assess risk or manage the safety of a primary person who is a child. The bill therefore gives explicit recognition to the precedence of a child's right to be safe from family violence over any individual's rights to privacy. It also enables early intervention where child victims are involved without requiring that a threat to a child become serious before relevant information can be shared without consent. Further, requiring ISE workers to determine the appropriate consent model in each individual case could lead to inaction due to uncertainty about the right approach and encourage unnecessary risk aversion among practitioners when considering whether to share information without consent. Having regard to these factors, I consider that any interference with the privacy of child primary persons occasioned by the bill is not arbitrary. For similar reasons, I am also satisfied that any limit on the right of a child in section 17(2) of the charter to such protection as is in their best interests by permitting information sharing to protect child victims irrespective of consent, will be demonstrably justified in accordance with section 7(2) of the charter.

In relation to the inclusion of 'linked persons' in the bill, I note that this may result in an interference with the privacy of third parties who are neither primary persons nor persons of concern. However, in my opinion it is necessary to include third parties within the information-sharing regime in order for ISEs to obtain a comprehensive picture of the history of the perpetrator and the overall risk to the victim. The bill also preserves adult primary persons, and linked persons' control over the sharing of their information, except in cases of serious threat or where their information relates to a child victim.

In addition to the protections imposed by the carefully tailored provisions discussed above, the bill also contains a number of safeguards to protect against misuse of confidential information that is used or disclosed in accordance with the provisions of the bill. For example, division 7 of new part 5A provides for the minister to issue guidelines with which ISEs will be required to comply when handling information in accordance with part 5A. Division 9 of new part 5A includes offences, with substantial penalties, where a person uses or discloses confidential information otherwise than in accordance with part 5A and a small number of specific exceptions; unless the person can prove that it was done in good faith and with reasonable care. Offences will also apply to agents or officers acting on behalf of bodies corporate.

An individual will be able to make a complaint to the commissioner for privacy and data protection or the health complaints commissioner if their privacy is unlawfully interfered with under the regime. The commissioner for privacy and data protection and the health complaints commissioner will continue to exercise their existing powers to investigate and issue compliance notices to information-sharing entities for serious or flagrant privacy breaches under the regime. For organisations that are subject to national privacy laws, complaints may also be made to the office of the Australian Information Commissioner.

For these reasons, I am satisfied that the provisions of the bill do not limit the rights to privacy and reputation under section 13 of the charter.

Amendment of the seriousness threshold in the PDP act and HR act

The bill also amends the PDP act and the HR act to remove imminence from the 'serious and imminent threat' threshold for using or disclosing personal or health information in those acts. Amending these acts to remove imminence may result in increased interference with privacy as it lowers the threshold for sharing information.

The requirement that a serious threat must be imminent before information can be used or disclosed without consent has been identified as problematic by a number of reviews and reports, and the Australian Privacy Principles have since been amended to remove the 'imminence' requirement from the equivalent exception. Further, evidence heard by the Victorian Royal Commission into Family Violence suggested that the threshold is unreasonably high, and the concept of 'imminence' is uncertain, making it difficult to establish and resulting in overcautious practices which may potentially put, in that context, victims at risk.

ISEs that are authorised to share information under the regime established by the bill may also be required in other instances to apply the PDP act and the HR act. Therefore, the test for displacing consent should be consistent.

I am satisfied that any interference with a person's privacy that occurs will therefore be permitted by law. I am similarly satisfied that any interference with a person's reputation that may occur through the sharing of information pursuant to the regime will be lawful.

Further, the provisions are not arbitrary as they are for legitimate purposes that are relevant to and necessary for the proper operation of the information-sharing regime. While one part of the criteria for releasing information has been removed, the requirement that a threat must be serious remains. Consequently, lawful, prescribed criteria must still be followed prior to any release of information occurring. Accordingly, I am satisfied that the removal of the imminence requirement does not limit the rights to privacy and reputation under section 13 of the charter.

Presumption of innocence

A number of provisions in the bill engage the right to be presumed innocent in section 25(1) of the charter. 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.

First, the offence provisions in sections 144R and 144RA in division 9 of new part 5A, which are included to protect against inadvertent, as well as reckless or intentional unauthorised use and disclosure of confidential information, contain defences that impose a legal burden on an accused. Those defences provide that it is a defence to a charge for the person charged to prove that the use or disclosure of the confidential information was done in good faith and with reasonable care.

Further, the bill inserts new sections 208A and 208B to impose accessorial criminal liability to agents or officers of bodies corporate that commit the offences in new sections 144R and 144RA of the principal act. However, an officer of a body corporate may also rely on the defences in those provisions, bearing the same burden of proof. As

discussed above, because these defences require the accused to prove that the unauthorised use or disclosure was done in good faith and with reasonable care, to a limited extent they shift the burden of proof onto the accused.

Although these provisions transfer, to a limited extent, a burden of proof onto an accused, I am nevertheless of the view that the imposition of a legal burden to rely on these defences is compatible with the right to presumption of innocence in section 25(1) of the charter, as any limits on the right will be reasonably justified under section 7(2) of the charter.

In particular, I note that these defences are available for the benefit of an accused to escape liability where they have taken reasonable steps to ensure compliance, in respect of what could otherwise be an absolute or strict liability offence. Having regard to the highly sensitive character of the information that will be permitted to be shared in accordance with the bill, and the prescriptive nature of the regime, it is considered appropriate to impose a substantial threshold that must be met in order to avoid conviction for non-compliance with the regime to ensure the offences act as sufficient deterrence.

In the case of officers of a body corporate, the offences will only apply to officers that have a specific role and possess significant authority and influence over the body corporate. Moreover, whether a person or an officer of a body corporate has acted in good faith and with reasonable care, notwithstanding the fact they have disclosed information beyond what is authorised by the bill, is a matter peculiarly within the knowledge of that person. Such persons are best placed to prove whether they acted in good faith and exercised reasonable care. Conversely, it would be very difficult for the prosecution to prove the matter in the negative.

Accordingly, I am satisfied that the limitation of the presumption of innocence occasioned by these defences is demonstrably justified in accordance with section 7(2) of the bill.

Protection of families and children

By creating a specific family violence information-sharing regime to maximise the safety of children and adults from family violence, and to hold perpetrators of family violence accountable for their actions, the bill promotes the right in section 17 of the charter. Section 17 provides that families are entitled to be protected by society and the state, and that every child has the right to such protection as is in their best interests and is needed by them by reason of being a child.

To assist in promoting the rights of the child under section 17, section 144J establishes clear principles to be used in relation to the collection, use or disclosure of confidential information that relates to children in order to assess any risk to the safety of the child from family violence, or to protect the child from family violence. The principles state that information-sharing entities should:

> promote the agency of the child and other family members at risk of family violence by ensuring their wishes are taken into account, while having regard to the appropriateness of doing so and the child's age and maturity; and
>
> take all reasonable steps to ensure that, where confidential information includes confidential information about other family members at risk of family violence, the collection, use and disclosure is done in a way that plans for the safety of those family members at risk of family violence, and recognises the desirability to promote and preserve family relationships.

However, if a person who an ISE reasonably believes may commit family violence (i.e. a person of concern) is a child, or an alleged person of concern is a child, the bill may also affect the rights of those children. Where a child is either a person of concern or an alleged person of concern, their information will be handled in the same way under the bill as information about an adult who is a person of concern or alleged person of concern. As such, the bill may result in the disclosure of information about a child that is not in that child's best interests, but is relevant to the assessment or management of a risk of family violence to a primary person. There is a risk that having the information-sharing regime applied to them in this way may limit the rights of children who are persons of concern or alleged persons of concern to protection in their best interests and potentially results in harm to those children through labelling or stigmatisation.

Nevertheless, the right in section 17(2) of the charter is not absolute and may be subject to limits prescribed by law which are reasonable and demonstrably justified in a free and democratic society. I am satisfied that any limitation on a child's best interests occasioned by the general application of the bill to both adult and child persons of concern is demonstrably justified in accordance with section 7(2). In particular, the regime serves an important purpose of establishing consistent practices and facilitating information sharing for the purpose of preventing and decreasing instances of family violence. Further, it is relevant to note that for an ISE to determine that a child meets the definition of a person of concern or an alleged person of concern does not amount to a finding of criminal guilt against that child; rather it simply enlivens certain powers to share information with the purposes of maximise the safety of primary persons, including other children, from family violence.

Freedom of expression

The right to receive and impart information and ideas under section 15(2) of the charter has been held to create a positive obligation on government to give access to government-held documents. This right is, however, not absolute and is subject to justifiable exceptions for objective, proportionate and reasonable purposes.

The right in section 15 is relevant to the provisions of the bill which amend the Freedom of Information Act 1982 (the 'FOI act'). In particular, part 5 of the bill inserts a new exemption into section 33 of the FOI act that will require an agency under the FOI act that is also an ISE to refuse to grant access to information relating to the personal affairs of an FOI applicant, if the FOI application relates to information about a person in their capacity as a person of concern or alleged person of concern.

In my opinion, this exemption is an appropriately circumscribed limit on a person of concern's right to access their own information under the FOI act, in circumstances where granting access would result in increased risk to a primary person's safety. I am satisfied that the inclusion of this exemption strikes the appropriate balance, having regard to the potential risk to a victim that may occur through the disclosure of information that meets this threshold, in circumstances where the agency or minister cannot control

what the person does with the information once released under FOI to a person of concern or alleged person of concern. I consider that this is an appropriate and justified circumstance in which a person of concern's or alleged person of concern's right to access information in this way should be overridden. In reaching this conclusion, I have taken into account that, to the extent that a person of concern may require their own personal information held by an agency or a minister for the purposes of legal proceedings, they can access relevant information through other mechanisms that are subject to the supervision of courts, such as through pre-trial disclosure or under subpoena.

For these reasons, I am satisfied that the amendments to the FOI act contained in the bill are compatible with the right in section 15 of the charter.

Establishment of the central information point

Privacy and freedom of expression

The bill authorises the CIP to collect and disclose information about primary persons, persons of concern (including alleged persons of concern) and linked persons. In particular, under the bill certain ISEs may request information from the CIP, the CIP may transmit that request to other ISEs, and the CIP may collate and transmit the information provided by those ISEs to the requesting CIP. To allow flexibility, ISEs that are permitted to request CIP information known as 'CIP requestor' will be identified by ministerial declaration.

Under the bill, the CIP is not itself an ISE. However, in order to fulfil its functions, the CIP has the power to request, collect, use, disclose and store information in relation to certain specified purposes, namely responding to a CIP request, providing a 'CIP requestor' with new or updated information, and otherwise performing any of its obligations under new part 5A. The CIP will work with 'CIP data custodians', which may be representatives from multiple government departments, each of which will be a prescribed ISE under the new regime. The bill authorises data custodians to disclose information to the CIP and to other CIP data custodians.

When requesting information from the CIP, the CIP requestor may only request information from the CIP for the purposes that they are otherwise authorised to request information under the scheme (as outlined above). As such, for the reasons outlined above, I am satisfied that any interference with the privacy of persons whose information is handled by the CIP will be both lawful and not arbitrary.

However, under the bill, the information held by the CIP and regulated under division 5A of new part 5A is subject to greater restrictions in relation to persons accessing information pursuant to the FOI act, the PDP act or the HR act, than is the case for information shared between ISEs under the wider information-sharing scheme under part 5A for a family violence assessment or protection purpose. In particular, under the bill, the CIP is prohibited from allowing individuals to access information it holds about them. This is to protect against the risk of the CIP not having the appropriate expertise and knowledge to make a decision about whether allowing a person of concern with access to, or the ability to correct, their personal or health information would increase the risk to the safety of a primary person or a person of concern.

I am satisfied that this is an appropriate safety measure in the circumstances, and note that individuals will still have the right to access information held by the CIP data custodians as well as information held by the CIP requestor who received the CIP information. Further, noting that the FOI act covers information that is broader than just personal information, the bill states that the FOI act does not apply to documents in the possession of the CIP, to the extent to which the document discloses confidential information about a primary person, person of concern, alleged person of concern or a linked person. All other documents in the possession of the CIP will be capable of being obtained under the FOI act unless another existing exemption applies.

For these reasons, I am satisfied that the provisions in the bill relating to the establishment of the CIP will not unlawfully nor arbitrarily interfere with a person's privacy. For the same reasons, I am satisfied that any limit to a person's right to receive and impart information (through restricting access under other legislation in the limited way described above), as protected under section 15(2) of the charter, will be demonstrably justified.

The Hon. Gavin Jennings, MLC
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:

Introduction

In announcing Australia's first Royal Commission into Family Violence in March 2015, the Premier, the Honourable Daniel Andrews, MP, stated that family violence is 'the most urgent law and order emergency occurring in our state and the most unspeakable crime unfolding across our nation'.

This statement emphasised the commitment of this government to prevent family violence, increase the focus on early intervention and make perpetrators accountable for their actions. The royal commission was tasked with investigating and reporting on how Victoria's response to family violence could be improved, including ways in which government and non-government agencies can better integrate and coordinate their efforts.

This bill is part of a package of reforms to implement all 227 recommendations of the royal commission and forms an essential part of Victoria's 10-year plan for ending family violence.

The reforms to be introduced through this bill will strengthen system-wide family violence risk assessment and management to help keep victims safe. The reforms will support earlier intervention and ensure consistency of approaches to support victims. Importantly, they will also

allow greater access to relevant information to better protect victims and hold perpetrators to account.

These changes build on a strong history of reforms to address family violence, including the Crimes (Family Violence) Act 1987 which introduced civil intervention orders. This act was later superseded in 2008 by the Family Violence Protection Act 2008, which provided an enhanced intervention orders scheme and a broader definition of family violence and family-like relationships.

In introducing the Family Violence Protection Bill in 2008, the former Attorney-General, Mr Rob Hulls described family violence 'as a scourge on our community'. This has been repeatedly, poignantly highlighted by evidence provided to a range of reviews and inquiries, including by Rosie Batty. The inquest into the death of Rosie's son, Luke Geoffrey Batty, who was killed by his father on 14 February 2014, gave insight into a fragmented system, which failed to provide consistency in identification, assessment and management of family violence risk, or effective information sharing that might have helped in identifying and managing that risk.

The royal commission recognised the efforts of Rosie Batty in her campaign against family violence and endorsed the findings from the inquest, including that all agencies that respond to family violence should be better supported to undertake family violence risk assessments.

The royal commission acknowledged the strong foundations built in Victoria over the previous 10 years, including through the Family Violence Protection Act 2008 and the family violence risk assessment and risk management framework, also known as the common risk assessment framework or CRAF. These initiatives have been instrumental in building a shared understanding of family violence and helping people working with victims and perpetrators to understand their roles and responsibilities.

At the same time the royal commission identified key gaps that need to be addressed through a redeveloped framework by the end of 2017. These included introducing specific risk indicators for children and victims of non-intimate partner violence, and additional risk management strategies that placed more focus on the perpetrator.

The royal commission also identified barriers to information sharing that needed to be addressed to enable more effective risk assessment and risk management, particularly so that agencies can share relevant information about perpetrators as needed to keep victims safe.

The Family Violence Protection Amendment (Information Sharing) Bill 2017 implements recommendations 2 and 5 and facilitates the implementation of recommendation 7 of the royal commission. It amends:

1. the Family Violence Protection Act 2008 to include:

    (a) a new part 5A to:

        (i) create a purpose-built family violence information-sharing regime, removing legislative barriers to sharing relevant information and authorising a 'trusted circle' of agencies to share information relevant to family violence risk assessment and management;

        (ii) enable the central information point to be an effective and timely conduit of information sharing for core agencies, such as the proposed support and safety hubs.

    (b) a new part 11 to require alignment by key organisations and funded agencies with the redeveloped family violence risk assessment and risk management framework so that they can better identify, assess and manage family violence risk.

2. the Privacy and Data Protection Act 2014 and the Health Records Act 2001 (privacy laws) to remove the requirement that a serious threat to an individual's life, health, safety or welfare must also be imminent before information can be lawfully shared, thereby removing interpretive uncertainty and allowing for more proactive sharing and intervention where a serious threat already exists. These amendments will apply generally, not just in the context of family violence.

Family violence information-sharing regime

One of the key findings of the royal commission was that there are significant legislative barriers to effective information sharing. Current laws are complicated, confusing and restrictive for those who work with victims and perpetrators. In particular, a lack of information sharing about perpetrators was found to be a key gap in the system that leaves victims vulnerable.

This bill squarely addresses this gap. It establishes a specific family violence information-sharing regime that prioritises victim safety over a perpetrator's right to privacy. The regime provides a clear authority for organisations responding to family violence to share relevant information as needed for family violence risk assessment and management, cutting through current complexity.

What information can be shared

The bill provides that information can be shared about perpetrators, victims and relevant third parties if the information is relevant for two key purposes:

to identify and assess risk to a victim of family violence, referred to in the bill as a family violence assessment purpose (for example, information about whether the perpetrator has a violent criminal history)

to manage the risk to a victim of family violence, referred to in the bill as a family violence protection purpose (for example, information about the perpetrator being released on parole).

Victims and perpetrators are defined broadly (victims as those at risk of being subjected to family violence, and perpetrators are those that risk committing family violence) to enable information sharing in the early stages of intervention, prior to the family's engagement with the justice system.

The bill covers the sharing of confidential information, which is defined to include any health or personal information (including sensitive information such as criminal record) as set out in privacy laws. This broad definition of confidential information has been adopted to ensure that a wide variety of

information can be shared if it is relevant to assess the risk of family violence and secure victim safety.

Who can share information

The bill allows for the prescription of information-sharing entities by regulation. They may be prescribed as a risk assessment entity, protection entity or otherwise be prescribed to share relevant information with an assessment entity or protection entity.

Risk assessment entities will be a smaller group of information-sharing entities that have the ability to share information for a family violence risk assessment purpose. These entities will have broader powers to gather information at the initial stages to establish and assess family violence risks including where an allegation of family violence has been made. Importantly, risk assessment entities will not need to be satisfied prior to assessment that a specific or identifiable risk exists — this is the very purpose of the assessment. Once family violence risk has been established, a larger group known as protection entities will be permitted to share relevant information that they reasonably believe to be necessary to manage that risk.

The royal commission recommended that the organisations that are part of the regime be prescribed by regulation to ensure that they are easily identifiable, can be added or removed as necessary and that sharing is limited to a discrete number of organisations.

When can information be shared

The bill provides that information-sharing entities can share information both on a voluntary basis and on an obligatory basis in response to requests from other entities. The obligation to share information is a critical aspect of the bill aimed at shifting the current risk-averse culture in relation to information sharing.

Consent in relation to perpetrator information

Information about perpetrators can be shared without their consent. This is a key element of the reform proposed by this bill. As many would be aware, privacy laws currently restrict the use of personal information to the purposes for which it was collected with some limited exceptions (for example, with consent, or when there is a serious and imminent threat to an individual's life, health, safety or welfare). This has led to key information about perpetrators not being shared at all or only when the risk to a victim becomes both serious and imminent, thus inhibiting effective early intervention. The bill reverses this privacy paradigm so that the safety of victims overrides the privacy of perpetrators where necessary. The bill also amends the 'serious and imminent threat' thresholds in privacy laws so that a threat need only be 'serious' before the relevant threshold applies.

Consent of adult victims and any other third party when assessing risk and managing risk for an adult victim of family violence

While information about perpetrators of family violence will be able to be shared for family violence assessment purposes and protection purposes without their consent, information about adult victims of family violence and any other third party to manage a risk to the adult victim, is to be shared under the scheme with their consent unless sharing without consent is necessary to lessen or prevent a serious threat.

This ensures that privacy rights of adult victims and third parties are only displaced to the extent necessary. In relation to family violence victims, the royal commission considered that this was a key part of ensuring victim agency and confidence in the service system.

Importantly, nothing in this bill is intended to prevent information-sharing entities from being able to collect, use and disclose personal and health information currently permitted under the other laws — for example, where information is used or disclosed consistently with the purpose of collection.

Consent when assessing risk and managing risk for a child victim of family violence

Children can often be the invisible victims of family violence. The bill recognises children as primary victims (rather than adjuncts to the parent victim).

The bill authorises, when assessing and managing risk for a child victim of family violence, the sharing of information without consent from any person (including the child or a parent who is also a victim). This approach makes clear that a child's right to be safe from family violence takes precedence over any individual's rights to privacy so that all risk-relevant information is able to be shared. It also enables information sharing without requiring that a threat escalate to the point that it is 'serious'. Crucially, this will support earlier intervention, as it will ensure that an aggregate picture of risk can be formed, prior to a specified risk threshold being met.

This approach differs from the royal commission's model, which would have required parent victim consent to sharing personal information about them and their child.

The government recognises that victims of family violence go to extraordinary lengths to protect their children and many have carried the burden of managing this risk for years. In some cases, the effect of the violence upon the adult victim parent is such that requiring their consent can present a barrier to the sharing of critical information necessary to assessing and managing risk for the child. In order to ensure simplicity and to avoid missing critical information that would result in diminished safety outcomes for children, the bill therefore authorises the sharing of personal information about the parent who is a victim (and anyone else) without consent where the information is relevant to protecting the safety of a child.

For similar reasons, the child victim's consent is also not required, as this would be complex in practice, involving consideration of a range of factors such as the age and maturity of child.

While the bill permits information sharing without consent to protect child victims of family violence, it includes specific principles to guide responsible information sharing for this purpose. These principles expressly state that information sharing must be limited and proportionate to what is necessary to assess or manage family violence risk, and where children are involved, that information-sharing entities should promote the agency of the child and other family members at risk of family violence and take their wishes into account.

It is the government's intention that practitioners will apply these principles so that consistent with best practice, parent victim and child victim consent is sought wherever appropriate. In addition, all information-sharing entities will be subject to the requirements of privacy laws, which require organisations to take reasonable steps to ensure all victims are

informed of certain things including how their information may be used or disclosed, allowing victims (including children) to continue to make informed decisions about service engagement. The responsible minister will also issue guidelines that information-sharing entities must comply with to ensure information is handled in a responsible and appropriate manner. It is government's expectation that information-sharing entities will only be prescribed once they are trained and have the requisite skills and capacity to share in ways that are compliant with the regime.

Excluded information

The bill sets out categories of information that are excluded from being able to be shared, as a safeguard against inappropriate sharing. Excluded information includes information that would endanger a person's life or result in physical injury, would prejudice the investigation of a crime or the fair trial of a person, or that would contravene a court order.

Protections and oversight

To further guard against misuse of the regime, the bill creates two offences — one for unauthorised use and disclosure of confidential information and one for intentional or reckless unauthorised use and disclosure of confidential information.

As recommended by the royal commission, the bill includes a protection for individuals who have shared information in good faith and with reasonable care. This is an important aspect of changing the culture of reluctance to share by ensuring that workers are not exposed to liability for sharing where they have done so in good faith and taken reasonable care. The bill also provides that when information is shared in good faith and with reasonable care, it is not a breach of professional ethics or unprofessional conduct.

An individual will be able to make a complaint to the commissioner for privacy and data protection or the health complaints commissioner if their privacy is unlawfully interfered with under the regime. The commissioner for privacy and data protection and the health complaints commissioner will continue to exercise their existing powers to investigate and issue compliance notices to information-sharing entities for serious or flagrant privacy breaches under the regime.

In line with the recommendations of the royal commission, there will also be a two and five-year review of the information-sharing regime.

Central information point

The royal commission recommended the establishment of a central information point as a key enabler for effective and timely information sharing. The royal commission's vision was of co-located agencies accessing their respective data systems (such as Victoria Police and Corrections, which are key holders of perpetrator data) and providing timely responses to risk assessment entities such as the proposed support and safety hubs. The bill enables the central information point by removing privacy barriers to the central information point's ability to respond to requests. in particular, the bill provides that the central information point will be able to receive requests for confidential information from information-sharing entities, transmit those requests to other information-sharing entities, and provide a collated response back to the requesting information-sharing entity. To allow flexibility, the bill provides that entities permitted to request information from the central information point will be identified by ministerial declaration.

Victorian family violence risk assessment and risk management framework

The bill implements recommendation 2 of the royal commission's report by providing a statutory basis for the Victorian family violence risk assessment and risk management framework (the framework).

The current framework or CRAF was introduced in 2007 as a key element in establishing an integrated response to family violence across the service system. While noting its positive impact, the royal commission found that the framework needs to be improved, understood by all relevant service providers and applied consistently to ensure coordinated risk assessment and risk management throughout the system.

To that end, the royal commission recommended that the government review and redevelop the framework so it is comprehensive and sets minimum standards and roles and responsibilities for screening, risk assessment, risk management, information sharing and referral throughout Victorian agencies. This work is underway, and I will return to it below.

The royal commission also identified the need for a stronger authorising environment to ensure that relevant agencies align with the framework. The royal commission recommended that this should be achieved by amending the Family Violence Protection Act 2008 to empower the relevant minister to approve a framework, and require prescribed organisations and agencies contracted by the Victorian government to align their policies, procedures, practices and tools with it.

This bill delivers that recommendation by inserting a new part 11 into the Family Violence Protection Act 2008 entitled 'Family violence risk assessment and risk management' that will:

empower the relevant minister to approve a framework;

require framework organisations, prescribed by the minister, to align their policies, procedures, practice guidance and tools with the approved framework;

require government bodies to include alignment with the framework as a condition in future contracts or agreements for services that are relevant to family violence risk assessment or risk management;

provide for the relevant minister to table an annual report in Parliament on prescribed matters relating to the implementation and operation of the framework;

require review of the framework at five-yearly intervals to ensure it retains its currency as best practice.

The bill does not include any penalties for failing to align with the framework, nor is the new part intended to create any new legal rights or civil causes of action. This recognises that alignment with the framework will require organisational and workforce cultural and practice change, and allows sectors to focus their time and efforts on achieving this change rather than new compliance activities. The bill also requires a review of the new part to be undertaken within five years of its commencement to assess whether it is achieving its objectives.

Redevelopment of the framework

As I have noted, the royal commission recommended a review and redevelopment of the framework be undertaken by the end of 2017. The new framework and supporting materials will provide a fit-for-purpose suite of risk assessment tools, clear minimum standards, roles and responsibilities, and comprehensive practice guidance to improve risk assessment and management practice across the system.

Family violence risk assessment and management provides a way of talking about family violence risk with a person, who may never have understood their experience as family violence, or what the behaviour meant in terms of their level of danger. It provides the practitioner with a framework to guide appropriate action, and clear understanding of the roles and responsibilities of other parts of the system to coordinate and implement safety and accountability planning.

Alignment with different sectors' practice and operational guidance

The framework will not replace all sectors' core practice in risk or needs assessment, or any other operational requirements, but rather will support all parts of the system to understand their role in identifying and responding to family violence. This includes availability of accessible information in identifying family violence risk, knowledge of where to seek secondary consultation, and how to respond to perpetrators.

For example, one of the gaps in the framework highlighted by the royal commission was effective identification of the separate and unique effects of family violence on children. New tools and practice responses developed through the framework will reflect the risk of cumulative harm emphasising the child's age and stage of development when assessing risk. The new framework will draw from and provide clear links to specialist resources such as the Victorian best interests case practice model, which will also align to the new framework.

Building capability essential to effective implementation

The development of the new framework will include consultation with all sectors and workforces that will be affected. Analysis of sector readiness, workforce status, and current practice tools and operational guidance will inform the separate strategies for each sector to meet their obligations in aligning with the new framework.

It is important to note that this is enabling legislation. The requirement to align with the framework will not take effect for specific organisations until the framework review is completed, the minister approves a framework, and organisations are prescribed or, in the case of service providers, relevant agreements are entered into. This will ensure that there is sufficient lead time to support organisations to align with the framework prior to any formal obligations taking effect.

The development of the new framework will also be accompanied by a range of other system reforms such as building the required workforce through the 10-year industry plan, operationalising the central information point, and building evidence-based perpetrator interventions, such as through the work overseen by the expert perpetrator panel.

Changes to Privacy and Data Protection Act 2014 and Health Records Act 2001

As noted above, the bill includes amendments to the 'serious and imminent threat' thresholds in privacy laws, so that information can be used or disclosed under those acts where necessary to lessen or prevent a serious threat to an individual's life, health, safety or welfare, without having to wait until that threat also becomes imminent. Currently, these privacy laws allow personal and health information to be shared without consent where there is a serious and imminent threat to the life, health, safety or wellbeing of any person.

The inclusion of imminence in the exception threshold has been identified as problematic by a number of reviews and reports and it has been removed from the Australian Privacy Principles. The threshold that a serious threat be imminent before information can be shared has been considered unreasonably high as well as difficult to establish in practice. The bill therefore includes amendments to privacy laws to remove 'imminence'. This means that information can be shared without consent, including but not limited to a family violence situation, where necessary to lessen or prevent a serious threat to the life, health, safety or welfare of any person.

Conclusion

This bill establishes a clear authorisation for information sharing by those responding to family violence in Victoria and a statutory requirement to align to the framework. In doing so, the bill will facilitate greater collaboration by organisations to keep perpetrators visible and accountable, ensure victim safety is given primacy over perpetrator privacy and enable organisations to form a comprehensive and consistent view of risk in safeguarding those experiencing family violence.

This bill forms one part of the government's comprehensive commitment to address family violence in Victoria.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 18 May.

APPROPRIATION (PARLIAMENT 2017–2018) BILL 2017

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 (charter act), I make this statement of compatibility with respect to the Appropriation (Parliament 2017–2018) Bill 2017.

In my opinion, the Appropriation (Parliament 2017–2018) Bill 2017, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the Appropriation (Parliament 2017–2018) Bill 2017 is to provide appropriation authority for payments from the Consolidated Fund to the Parliament in respect of the 2017–2018 financial year.

Human rights issues

1. Human rights protected by the charter act that are relevant to the bill

The Appropriation (Parliament 2017–2018) Bill 2017 does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the Appropriation (Parliament 2017–2018) Bill 2017 does not raise any human rights issues, it does not limit any human rights, and therefore it is not necessary to consider section 7(2) of the charter act.

Conclusion

I consider that the Appropriation (Parliament 2017–2018) Bill 2017 is compatible with the charter act because it does not raise any human rights issues.

Gavin Jennings, MLC
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 Appropriation (Parliament 2017–2018) Bill 2017 provides appropriation authority for payments from the Consolidated Fund to the Parliament in respect of the 2017–2018 financial year including ongoing liabilities incurred by the Parliament such as employee entitlements that may be realised in the future.

Honourable members will be aware that other funds are appropriated for parliamentary purposes by way of special appropriations contained in other legislation. In addition, unapplied appropriations under the Appropriation (Parliament 2016–2017) Act 2016 have been estimated and included in the budget papers. Prior to 30 June actual unapplied appropriation will be finalised and the 2017–2018 appropriations adjusted by the approved carryover amounts pursuant to the provisions of section 32 of the Financial Management Act 1994.

In line with the wishes of the Presiding Officers, appropriations in the Appropriation (Parliament 2017–2018) Bill 2017 are made to the departments of the Parliament.

The total appropriation authority sought in this Appropriation (Parliament 2017–2018) Bill 2017 is $146 286 000 (clause 3 of the bill) for Parliament in respect of the 2017–2018 financial year.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 18 May.

MINERAL RESOURCES (SUSTAINABLE DEVELOPMENT) AMENDMENT (LATROBE VALLEY MINE REHABILITATION COMMISSIONER) BILL 2017

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 Mineral Resources (Sustainable Development) Amendment (Latrobe Valley Mine Rehabilitation Commissioner) Bill 2017.

In my opinion, the Mineral Resources (Sustainable Development) Amendment (Latrobe Valley Mine Rehabilitation Commissioner) Bill 2017, 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 the bill

The Mineral Resources (Sustainable Development) Amendment (Latrobe Valley Mine Rehabilitation Commissioner) Bill 2017 (the bill) aims to establish the office of the Latrobe Valley Mine Rehabilitation Commissioner, who will be responsible for investigating, monitoring and reporting to the minister and the Victorian community on the activities and strategies being implemented to rehabilitate coal mine land in the Latrobe Valley region.

The commissioner's role is to provide assurance to the community that public sector bodies and Latrobe Valley licensees are planning for the rehabilitation of coal mine land, to support the participation of community and local stakeholders in the development of the strategy, and to promote the effective implementation of the rehabilitation of coal mine land.

In order to fulfil these objectives, the commissioner has powers to carry out investigations and audits, coordinate rehabilitation planning activities and provide advice, reports and recommendations to both the minister and the Victorian community.

The bill also provides that the minister must prepare a regional rehabilitation strategy by 30 June 2020, which plans for the safety, stability and sustainability of coal mine and adjacent land, and the rehabilitation of coal mine land in the Latrobe Valley region.

Human rights issues

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. The bill contains provisions that may give rise to interferences with the right to privacy, as set out below, but any such interferences will be neither unlawful nor arbitrary and so are compatible with the right. Further, the charter is only relevant to those provisions that impact individuals, as opposed to corporations. As the majority of provisions that are relevant to the right to privacy relate to occupiers of coal mine land, which are corporations, the discussion below is limited to any natural persons who occupy land adjacent to coal mine land (and who may be affected by the commissioner's powers of entry and inspection).

Entering and inspecting land without consent

The minister may refer a matter relating to the rehabilitation of coal mine land, the regional rehabilitation strategy or rehabilitation planning activities to the commissioner for investigation. Clause 5 of the bill inserts a new part 7A into the Mineral Resources (Sustainable Development) Act 1990. Within this new part, division 4 sets out the powers of the commissioner or an authorised officer (together, authorised persons) to enter and inspect land for the purpose of investigating the referred matter. Under new section 84AR an authorised person may enter coal mine land or land adjacent to coal mine land without consent to carry out a referral investigation. While on the land, the authorised person may inspect the land, take measurements of any thing on the land and make any still or moving image or audiovisual recording that the authorised person believes on reasonable grounds is relevant to the referral investigation.

Before entering the land, the authorised person must produce his or her identification to the occupier and take all reasonable steps to notify the occupier of the land. The power of authorised persons to enter land without consent may only be exercised between 9.00 a.m. and 5.00 p.m. and does not extend to entry to residential premises. If the occupier of the land is not present when the authorised person enters the land, the authorised person must leave a notice setting out the time and purpose of entry, a description of things done while on the land, the time of departure and the contact details of the authorised person.

In my view, while the exercise of these investigatory powers may interfere with the privacy of an individual in some cases, any such interference will be lawful and not arbitrary. As noted above, the bill places significant limitations on when an authorised person may enter and inspect land adjacent to coal mine land. The matter must be referred by the minister and relate to the rehabilitation of coal mine land, the regional rehabilitation strategy or rehabilitation planning activities. The authorised person may only enter land adjacent to coal mine land if the commissioner believes on reasonable grounds that it is necessary to enter that land for the purposes of carrying out the investigation. The powers are also constrained by the terms of reference set by the minister.

An important purpose of the bill is to provide assurance to the Victorian community that public sector bodies and Latrobe Valley licensees are planning for the rehabilitation of coal mine land and implementing the regional rehabilitation strategy. The power to enter and inspect coal mine and surrounding land is necessary for the commissioner to effectively investigate referred matters and provide advice and reports to the minister and community. There is significant public interest in ensuring that the commissioner is able to access and inspect relevant land.

Public sector employees or inspectors may be authorised to assist the commissioner in carrying out investigations in order to improve the efficient and effective functioning of the commissioner's office. Authorised officers are subject to additional limitations in that their powers may be limited to a specific investigation and it is still the commissioner who must be satisfied that it is necessary to enter the land.

Publication of commissioner's investigation reports

New division 8 of part 7A of the act provides that the commissioner's investigation report and annual report must be published on the internet. Information in these reports is intended to relate to Latrobe Valley licensees and public sector bodies only. To the extent that reports may contain information derived from an investigation of land adjacent to coal mine land, it will be limited to the matter under investigation and will not extend to personal information of the occupier. I am therefore satisfied that the reports will not contain any information that is personal so as to attract the right to privacy as protected under the charter.

Property rights

Occupiers of land adjacent to coal mine land have a right under section 20 of the charter to not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are

confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

The bill contains provisions that may engage this right, but do not limit it.

In the course of conducting an investigation on coal mine land or adjacent land, the commissioner or authorised officer may take and keep samples of any thing found on the land. This power is limited to samples of things that the authorised person believes on reasonable grounds are relevant to the investigation. The power of authorised persons to remove property is also subject to the numerous safeguards mentioned above in the context of the right to privacy, including that the authorised person can only enter the land in certain circumstances and must leave a notice describing what was done on the land if the occupier is not present.

In my view, the specific and confined circumstances in which an authorised person can take samples from the land and the fact that this power is necessary for the commissioner to adequately monitor and report on rehabilitation planning activities in line with the commissioner's functions, means that any interference with property occasioned by the bill is in accordance with law and therefore compatible with the charter.

Right to presumption of innocence

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. The right in section 25(1) 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.

New sections 84AS and 84AT of the act, inserted by clause 5 of the bill, make it an offence for occupiers of the land which the commissioner or authorised officer wants to enter under division 4 of part 7A to, without reasonable excuse, refuse or fail to provide such assistance as the commissioner or authorised officer may reasonably require to enter or inspect the land. This obligation to provide assistance does not extend to providing documents or other things, which are covered by separate provisions and only apply to Latrobe Valley licensees and public sector bodies.

This 'reasonable excuse' exception may be seen to place an evidential burden on the accused, thereby engaging the right in section 25(1) of the charter. However, requiring the accused to raise evidence as to a reasonable excuse does not transfer the legal burden of proof onto the accused. Once the accused has given evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution who must prove the essential elements of the offence. Furthermore, the bill preserves the right to protection against self-incrimination by providing that it is a reasonable excuse for a person to refuse or fail to do any thing if doing so would tend to incriminate the person.

For these reasons, in my opinion, new sections 84AS and 84AT do not limit the right to be presumed innocent.

The 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:

Overview of the bill

The main purpose of the bill is to amend the Mineral Resources (Sustainable Development) Act 1990 to create the Latrobe Valley mine rehabilitation commissioner, detail the commissioner's functions and powers, and to require the minister to prepare and publish a Latrobe Valley regional rehabilitation strategy.

In February 2014 a fire broke out at the Hazelwood coal mine which lasted 45 days and had significant adverse impacts on the local community.

In April 2016 the Hazelwood mine fire inquiry found, among other things, that 'the current regulatory system is ill equipped to solve complex problems regarding rehabilitation'. To address this matter the inquiry report recommended that, by 30 June 2017, the government should establish an independent Latrobe Valley mine rehabilitation commissioner as a statutory appointment by amendment to the Mineral Resources (Sustainable Development) Act 1990.

In June 2016 the Andrews government committed to meet this recommendation through the Hazelwood mine fire inquiry implementation plan.

This bill will amend the Mineral Resources (Sustainable Development) Act 1990 to create the Latrobe Valley mine rehabilitation commissioner.

The commissioner will be appointed by the Governor in Council, on the recommendation of the minister, for a period not exceeding five years.

The commissioner's functions are to monitor and audit rehabilitation activities and report to the minister; inform the public of the results of rehabilitation activities and associated matters; convene meetings of relevant stakeholders; and to carry out investigations as referred by the minister.

To refer an investigation the minister must publish a notice in the *Government Gazette*.

In the course of undertaking such an investigation the commissioner is empowered to enter and inspect coal mine land and adjacent land, and obtain documents and other things which the commissioner believes on reasonable grounds are relevant to the referral investigation.

The bill provides safeguards against the improper use of these powers.

Before entering any land the commissioner must first produce identification to the occupier and taken all reasonable steps to

notify them of the entry. These powers can only be exercised during business hours, and do not extend to residential premises.

With regard to obtaining documents and other things, this power is restricted to the Latrobe Valley licensees and public authorities listed in the act.

I commend the bill to the house.

Debate adjourned for Mrs PEULICH (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 18 May.

ADJOURNMENT

Ms TIERNEY (Minister for Training and Skills) — I move:

That the house do now adjourn.

Devondale Murray Goulburn

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Regional Development, and it is regarding last week's announcement that Devondale Murray Goulburn is closing its Rochester and Kiewa factories, both of which are in my electorate. My request of the minister is that she, A, outlines what steps her government will take to help affected workers transition into new employment, including relevant skills investment and other support; B, outlines what steps will be taken to protect townships also affected, including any government assistance available to help repurpose the sites for future use; and C, commits to making this government assistance an immediate priority.

These plant shutdowns are evidence of the pressures that regional food producers, particularly within the dairy industry, continue to contend with. After losing more than 20 per cent of its milk supply in the past 12 months, facing a 15 per cent drop in revenue and posting a $31.9 million loss in the first six months of the financial year, Murray Goulburn announced at the start of last week that it is closing three of its 10 factories. Northern Victoria is bearing the brunt of this decision, with some 240 jobs across my electorate to be lost when the company closes plants in Rochester and Kiewa starting in August this year, with the closure of Rochester to be complete by March 2018 and Kiewa by September 2018.

This action is being described as devastating for the townships in which these plants are based, with Kiewa to lose 135 jobs from the largest employer located in the tiny 300-person Benambra district township and Rochester to lose 105 jobs from the major employer in a similarly small area within the Murray Plains district. Local comments about the loss of what is referred to as the heart of these communities, to which workers have given blood, sweat and tears, are that it is 'gut wrenching' and 'soul destroying'.

Just one of the local stories to emerge so far to detail the financial and mental impact the plant closures will have is of a family of mum, dad and four kids. Mum stopped working to raise the family. Dad worked at Murray Goulburn to keep the family fed and housed. Their one-year-old daughter has just undergone open heart surgery. Life has been hard for the family for the past 12 months already, and now the sole income for a family of six with two mortgages is being lost.

As would be expected and as has been made explicitly clear in recent comments by Campaspe Shire Council with respect to the Rochester plant, there is also concern about the flow-on effects for the wider community, with the closures to impact local families, businesses, schools, clubs and ultimately the very social fabric of the community. Indigo Shire Council mayor Jenny O'Connor has also said that the area will require a lot of assistance from the government. We as a community and a state have to be very careful not to let our regional towns wither away to nothing when major employers shut their doors.

A recent *Bendigo Advertiser* editorial headed 'Once great towns on the verge of extinction' paints a concerning picture about what can happen to towns in the position that Rochester and Kiewa now find themselves in and warns that regional areas have always been vulnerable to the inherent boom and bust nature of their industries. A former Murray Goulburn plant in Leitchville that closed in 2010 left 80 people without work and has remained empty ever since, and the community has felt this hole. It is encouraging that another dairy company has expressed interest in purchasing the Rochester plant following the previous interest of a consortium last year, and I hope the state government will seriously consider any assistance requested.

Hurstbridge rail line

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Public Transport, Jacinta Allan, and it is regarding social enterprises getting the opportunity to tender for subcontractor work on level crossing removals and works being done along the Hurstbridge line. I know the minister has put it into major contracts that this should be taken into account if possible, and I am just asking her if she could ensure that the Level Crossing

Removal Authority involves the local government, members of Parliament and other interested parties in identifying where social enterprises are located along the Hurstbridge line that could possibly tender for subcontractor work due to the nature of their enterprises.

Deer consumption

Mr BOURMAN (Eastern Victoria) — My adjournment matter is for the Minister for Agriculture. Deer meat at the moment is generally consumed by the hunter themselves or left there — there is not a whole lot more that can be done with it. I have been approached by someone with a good idea, and that is to start using the deer meat for pet food. We currently have a kangaroo meat pet food trial going on — it may well have finished — but the action I require from the minister is that she investigate the possibility of changes being made to the relevant acts to allow the deer venison to be used for pet food, because at the moment it is actually specifically prohibited to use it for that purpose.

Docklands primary school

Mr ONDARCHIE (Northern Metropolitan) — The adjournment matter I have tonight is for the Minister for Education, James Merlino, and it concerns the location of the long-awaited Docklands school, which was recently announced and which will service my constituents in Northern Metropolitan Region. The new school site is on a leftover scrap of land on busy Footscray Road at the western extremity of the Docklands precinct in the shadow of the imminent off-ramp for the western distributor. The site was previously earmarked as a place of worship, but now, having sold off the original school site near the corner of Harbour Esplanade and Dudley Street in the Digital Harbour precinct of Docklands, the government has no leftover land available for a school. Therefore people will be stuck with the dregs on a site so small that meeting demand will be impossible.

The architects now have the challenge of trying to make the best of a bad situation. Community consultation has begun, but the constraints have been made clear. The brief is to build a primary school for no more than 425 students, and no discussion has been entered into for anything outside of this brief. The architects have had no involvement with road planners or public transport providers, so access issues for students around this precinct are going to be tough. There has been no consideration of utilising the site for a P–12 school, and the government will not acknowledge a shortage of secondary school places in the inner city. The government is not able to meet 35 per cent of the demand for secondary schools and 65 per cent of the demand for primary schools in the Docklands catchment zone, with only University High School meeting 15 per cent of the demand. It is also clear that the government does not wish to meet market demand. They just want to provide spaces to meet the short-term requirement — being less than five years — for children who live in the zone. The action I seek from the minister is that he provide me with the details of the Docklands school and its associated planning with provision for the longer term needs of people in Northern Metropolitan Region and also for that Docklands precinct.

Gippsland internet access

Ms SHING (Eastern Victoria) — The matter that I wish to raise this evening is for the attention of the Minister for Small Business, Innovation and Trade, Mr Dalidakis. I note in this regard that it relates to wi-fi and increased access to technology throughout Gippsland and the Latrobe Valley. As our communities grow and as we diversify economies we also need to make sure that there are opportunities for people to access online resources. With Morwell having a relatively low level of internet connections at a household level, I would draw to the minister's attention the inability for many people in the Latrobe Valley — in towns such as Morwell, Traralgon, Churchill and beyond, right through to the Shire of Wellington and back to the Shire of Baw Baw — to access internet services and the periodic dropouts that a number of businesses have experienced over recent weeks and indeed months.

The issue has caused considerable frustration and delay and often interferes with the way in which people do business and communicate in an area where resources such as handheld devices play a really important role. In this regard I would seek the minister's support for further work to be undertaken and for wi-fi areas and free internet access areas to be considered for the Latrobe Valley and for key townships which do not have access through existing public facilities or local government facilities. In this regard I note the importance of making sure that not only do we invest in the Latrobe Valley through a combination of skills, training and education, as well as infrastructure and jobs, but that we also make sure that the people who look to their handheld devices or look to technology on a daily basis to give them information and to keep them connected have the best possible opportunity to do so, whether it is in or around the railway station or in or around public places in those areas.

Bendigo railway station

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is for Jacinta Allan, the Minister for Public Transport. It has been brought to my attention by a number of people that at the Bendigo railway station there are no luggage lockers. This is causing quite a problem for people who are, say, coming from Castlemaine to Bendigo for medical appointments, for shopping or whatever, and they have got nowhere to actually leave their bags. It is unclear as to why the lockers are no longer available and why they have been removed, but I know of at least two people who have been to Ms Allan's office to ask about this issue, and the issue has not been resolved.

The action I ask of the minister is to give me information about when the lockers might be restored. One of the issues that was raised by these people was that there is a concern about terrorism, but there are luggage lockers at Flinders Street and at Spencer Street, so I think Bendigo is probably not a big target. It would be good to have information from the minister about when the luggage lockers will be reinstated at Bendigo station.

Brimbank school sites

Mr FINN (Western Metropolitan) — I have raised on previous occasions the issue of a number of former school sites in the City of Brimbank and have asked the Minister for Education about them, and tonight I am raising the issue with him again. This is a matter that has been taken up with some gusto by Brimbank City Council, which I am delighted to say is now in pretty good hands, unlike in previous years.

I recently had a meeting with the mayor of Brimbank, Cr John Hedditch, and we had a very, very cordial discussion about the need to hand these former school sites over to the people of Brimbank for community use. To quote the mayor from a media release that he put out recently:

> Lands like these former school sites could be used to create an environment that addresses the issues our community faces — of being less active, less healthy and battling higher levels of obesity and diabetes than the Melbourne average.
>
> These former school sites could make a big difference to our community, if they were used for either education purposes — or for sport and active recreation, to support our community to get healthier.
>
> We have a crying need for sport facilities in Brimbank. We have sporting groups crying out for more facilities so that they can get more people into sport.
>
> Brimbank is also seeing a recent boom in female sports participation, on the back of the recent AFL Women's competition. This has led to increasing demand for facilities. We have sports clubs in Keilor and Taylors Lakes that are desperate for sports facilities suitable for female sport. And the sad fact is that we just don't have sufficient sports facilities to support this.
>
> …
>
> We're asking the state government to put a hold on disposing of these sites, and to sit down and discuss with us how the sites could be used for the betterment of the people who live in Brimbank.

That is exactly what I am asking the minister to do — to put on hold the sale of these sites. One in particular has been rezoned and I understand is on the verge of being sold, and that is the former Calder Rise Primary School site in Keilor. So obviously if the minister is going to act, he needs to act pretty quickly on this one.

I ask the minister to take that on board, to stop the sale of these sites, to sit down with Brimbank council and to discuss the facilities that could be put to the use of the people of Brimbank. I think it is a reasonable thing, a very good thing, and I ask the minister to come on board and to support the community in this way.

Growing Suburbs Fund

Mr MULINO (Eastern Victoria) — My adjournment matter is for the Minister for Local Government, the Honourable Natalie Hutchins, and it relates to the Growing Suburbs Fund. The Growing Suburbs Fund has been a great success in a number of councils in my area.

Mr Davis — She's cut it in half.

Mr MULINO — As Mr Davis points out, that fund is now producing $25 million per year more than it ever did under the previous government, so this is a very successful fund for councils that are experiencing rapid population growth. That is experienced, in many cases, over widely varying demographics and widely varying infrastructure needs.

There are four interface councils in my electorate: Mornington, Casey, Cardinia and Yarra Ranges. I want to refer tonight to the projects in the Shire of Mornington Peninsula which are being funded by this fund. In 2015–16 two projects received funding — Destination Rosebud, which received over $4 million, and Somerville Community House. In 2016–17 six projects received funding, including more than $1 million for the Emil Madsen Reserve sports and recreation facilities.

The project, Destination Rosebud, is very important for the Rosebud community. It is a young community; it is a community that is in need of recreation facilities. It is a community that experiences very high seasonal variations in population. The recreation facilities at Destination Rosebud have been completed for some time now, and they are very, very impressive, I must say. I took my own daughter to them a while ago, and while she was a little bit scared to go down the slippery dip because it was way too high, I must say nonetheless she was impressed with the aesthetic charm of the recreation facilities that have been built at Rosebud and would, if she was able to speak in this place, I am sure, affirm her agreement with my sentiments.

What I would like to ask in particular as an action is that the minister visit the Mornington Peninsula and that she visit Destination Rosebud and also receive an update on progress on other projects. As I said, there are a number of other projects underway, and I think it is very important both that the minister inspect where Destination Rosebud is up to and also that she receive an update on the other projects, the six projects that are underway from the 2016–17 budget.

South Geelong–Waurn Ponds rail line duplication

Mr RAMSAY (Western Victoria) — My adjournment matter tonight is for the Minister for Public Transport, Jacinta Allan, and the action I am seeking from the minister is for her to release the business case of the work done on the proposed duplication of the rail track between South Geelong and Waurn Ponds.

The state government in the previous budget committed $3 million and the federal government committed $1 million, to a total of $4 million, to undertake that work, and to date we are yet to see a business case made public in relation to the costs associated with the duplication. Interestingly enough in relation to this matter we have had federal and state budgets: one federal budget which has tagged half a billion dollars to regional transport in Victoria, with $100 million going to the duplication of that rail track that the business case was supposed to be conducted on. And then in the state budget papers I note there is a provision for $110 million to the Surf Coast rail stage 1, which I assume is the proposed rail corridor between Torquay and Waurn Ponds.

Then there is a second line item, the Warrnambool line upgrade of $100 million, and I am not sure or clear on whether in fact that is the duplication that the federal government has tagged their money to or whether in fact it is somewhere along the Warrnambool line with passing loops or other things. But the Surf Coast rail stage 1, which includes additional station sidings for the duplication, is named in the notes to that particular allocation but not the duplication itself. Also there is no allocation of funds for this work in either this current budget year or the forward estimates, so it seems to me funny money.

We have seen this through the whole regional rail revival package; all of the allocated funding is premised on the federal government providing the $1.4 billion. We know that the federal government has actually only provided half a billion dollars, and Mr Pallas in the Legislative Assembly is now saying that he has not yet committed to any of the regional rail revival package, and the budget here has nominated amounts but nothing in the line items for this financial year or the next financial year.

I am actually in agreement that Victoria should get its full asset recycling moneys owed on the port of Melbourne sale — I believe we should — but what I do not understand is there is no actual allocation of funding for this duplication that the business case was supposed to be done on, so we do not know exactly how much it is going to cost. We know the feds have allocated $110 million to it specifically but the state has not. So my question is to the minister: we need to see the business case so we know how much money is required to duplicate this track as well as provide the additional sidings.

Minister for Small Business, Innovation and Trade

Ms CROZIER (Southern Metropolitan) — My adjournment matter is for the Special Minister of State in his capacity of overseeing the integrity of government. It relates to an event attended by a member for Southern Metropolitan Region — which Mr Davis, Ms Fitzherbert and I also represent — the Minister for Small Business, Innovation and Trade, the Honourable Philip Dalidakis. It was brought to my attention that on Sunday the minister, in his capacity as a local member, attended an event at Crown organised by the Caulfield Shule to celebrate Israel's 69th birthday.

At this event the minister announced that he would be providing funding for the synagogue and presented a novelty cheque in his name for a sum of $250 000. The novelty cheque also had the Parliament of Victoria logo on it. I am led to believe that not all in the audience understood that this was in fact a government grant to the shule for the sum of $250 000. There were some in

the audience who thought that it was money provided by the member himself. What has been raised with me is that the member may have deliberately misrepresented the government grant for his own personal benefit. The action I seek is that the minister provide an assurance to me that the member has not breached ministerial conduct by misrepresenting the public and putting his own name to the novelty cheque for $250 000.

Local government elections

Mr DAVIS (Southern Metropolitan) — My matter tonight is for the attention of the Minister for Local Government, Ms Hutchins. The minister has a longstanding review of the Local Government Act 1989 underway, but there is great uncertainty among business organisations, small traders and others about the plans that are in the Local Government Act review directions paper to strip small businesses and property owners in various local government areas — not the City of Melbourne but the other 78 municipalities — of their voting rights. The government's directions paper clearly outlines the government's intention to strip these voting rights from all these property owners, second house owners, business owners and lessees, and owners of commercial properties of all types.

What this would mean is that the largest employer in town can own a property, but they would not have a single vote in the council elections. They might be the largest ratepayer in the municipality. It is Minister Hutchins's intention under the directions document to strip all business owners, all non-resident property owners, of a voting right in that municipality. There is an old-fashioned principle on which a revolution was fought — no taxation without representation — and I think there is a legitimate set of points here. Being forced to pay council rates but being denied a vote breaches that important principle of democratic government.

Most states, with one exception around the country, have a situation where property owners and businesses within those municipalities have a vote in council elections. I note that the government points this out, but I know many of the major business organisations, the Australian Industry Group and others, are very concerned about how this would operate. Small businesses deserve the right to vote. They are the major taxpayers. We have seen in a number of municipalities like Monash City Council, for example, that councils have jacked up the rates on small businesses by 11 per cent. These are huge imposts.

I also note that the government has in its plans a system to book — and they have already booked, I was told by David Martine at the Public Accounts and Estimates Committee briefing yesterday — the sale of the land system and the sale of the title system in Victoria. They are obviously going out to market with that and seek to screw back billions of dollars. But, again, our property system and our voting system are important parts of our economy. What I am seeking from the minister is that she move quickly before she releases this review of local government to end the uncertainty about small businesses and property owners not being able to vote. She should make a quick announcement and rule it right out now.

Bannockburn emergency services precinct

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Emergency Services, and it relates to the Bannockburn emergency services precinct. As the minister should well know, the Golden Plains Shire Council has been working with VicTrack, the Victorian State Emergency Service (SES) and the Country Fire Authority (CFA) since 2011 to establish a modern and efficient emergency services precinct in Bannockburn.

Council has secured a 30-year lease of a 1.4-hectare space of unused VicTrack land for the purposes. However, under the lease council only has this lease until June 2017 to ensure that the CFA and indeed the SES are able to lease and subsequently commit to construction of premises on this land. Both the local CFA and SES report that they have outgrown their existing and outdated facilities. It is now up to the CFA and SES to secure funding, of course with the support of council, for the construction of a shared facility that will meet their needs. However, funding for the lease that has been secured by council does need to be taken up by the state government for the next 12 months to ensure that that land remains able to house the CFA and SES on this site.

This is something that I know the Golden Plains shire, including mayor Des Phelan and CEO Rod Nicholls, have been advocating for for a significant period of time. This is a very important project that the government should be taking very seriously. Therefore the action that I ask of the minister is that he, on behalf of the government, commit to take up the lease of this land in Bannockburn by June 2017, and subsequently ensure that the funding — in the vicinity of $6 million — is made available for the construction of the CFA and SES facilities on this site.

Responses

Ms TIERNEY (Minister for Training and Skills) — There were 12 adjournment matters this evening. The first was from Ms Lovell to the Minister for Agriculture. It was in relation to plant shutdowns in her electorate, and she is seeking government support. I will refer that matter to Minister Pulford.

Mr Leane raised a matter for the Minister for Public Transport. It was in relation to ensuring that social enterprises along the Hurstbridge line have got the ability to tender for subcontracting. I will refer that matter to Minister Allan.

Mr Bourman raised a matter for the Minister for Agriculture asking the minister to investigate whether it is possible for venison to be used for pet food. That will be referred to Ms Pulford.

Mr Ondarchie raised a matter for the Minister for Education. It was essentially that he be provided with details of the Docklands education plans. That will be referred to Minister Merlino.

Ms Shing raised a matter for the Minister for Small Business, Innovation and Trade, Mr Dalidakis. It was in relation to access to internet services, particularly in the Latrobe Valley and East Gippsland. She is seeking action on further work to be done on wi-fi and free access to facilities. I will refer that to the minister.

Ms Hartland raised a matter for the Minister for Public Transport with respect to the lack of luggage lockers at Bendigo station. She is seeking to know when lockers will be restored.

Mr Finn had a matter for the Minister for Education in which he highlighted the need for sporting facilities in the Brimbank area. That will be referred to the minister.

Mr Mulino raised a matter for the Minister for Local Government seeking her agreement to visit the Mornington Peninsula, and in particular Rosebud, to see six projects that are currently underway and their plans for the future.

Mr Ramsay raised an adjournment matter for the Minister for Public Transport. He is asking for the minister to release the business case of the rail duplication between South Geelong and Waurn Ponds.

Ms Crozier had a matter for the Special Minister of State. There has been an allegation of a breach of ministerial conduct.

Mr Davis raised a matter for the Minister for Local Government. That will be referred to her.

Mr Morris raised a matter for the Minister for Emergency Services in relation to a new CFA shared facility.

I also have responses to adjournment debate matters raised by Ms Crozier and Mr Ramsay on 22 March.

Mr Ondarchie — On a point of order, President, as we seek to adjourn the sitting for this week, the opposition does seek an explanation apropos a motion moved in the house today as to why the government has chosen to return on the Wednesday of the sitting week and not, as is usual, on the Tuesday. The minister is at the table. I seek an explanation as to why the government chose not to return on the Tuesday.

The PRESIDENT — Order! The appropriate time to actually prosecute that would have been when the motion was moved this morning. I actually sought leave for it as it was a by-leave motion. There was an opportunity for the opposition to query it then. As the opposition would know, I think it is basically just that we sat for one day last week as part of the budget, and these two days will make up a three-day week on another occasion. I think that is all there is to it. I am not going to refer it, because we are already past the adjournment. As I said, the time to raise that would have been this morning.

On that basis the house stands adjourned.

House adjourned 6.00 p.m. until Wednesday, 24 May.