PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 21 September 2017

(Extract from book 16)

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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 13 September 2017)

Premier	The Hon. D. M. Andrews, MP
Deputy Premier, Minister for Education and Minister for Emergency Services	The Hon. J. A. Merlino, MP
Treasurer	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Major Projects	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
Minister for Energy, Environment and Climate Change, and Minister for Suburban Development	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans	The Hon. J. H. Eren, MP
Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. M. P. Foley, MP
Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Aboriginal Affairs, Minister for Industrial Relations, Minister for Women and Minister for the Prevention of Family Violence	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
Minister for Consumer Affairs, Gaming and Liquor Regulation, and Minister for Local Government	The Hon. M. Kairouz, MP
Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Police and Minister for Water	The Hon. L. M. Neville, MP
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
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
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

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

(to 12 September 2017)

Premier	The Hon. D. M. Andrews, MP
Deputy Premier, Minister for Education and Minister for Emergency Services	The Hon. J. A. Merlino, MP
Treasurer	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Major Projects	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
Minister for Energy, Environment and Climate Change, and Minister for Suburban Development	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans	The Hon. J. H. Eren, MP
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Minister for Police and Minister for Water	The Hon. L. M. Neville, MP
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
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence (until 23 August 2017)	The Hon. F. Richardson, MP
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 Finn, Mr Gepp, 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 Elasmar, #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 Morris, Mr Mulino, 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.

Fire Services Bill Select Committee — Ms Hartland, Ms Lovell, Mr Melhem, Mr Mulino, Mr O'Sullivan, Mr Rich Phillips, Ms Shing and Mr Young.

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, Ms Hutchins, Mr Merlino, Mr M. O'Brien, Mr Pakula 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 Bath, Ms Patten and Mr Somyurek. (*Assembly*): Ms Asher, Ms Blandthorn, Mr Dixon 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*): Dr Carling-Jenkins and 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 Gepp 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 — Acting Clerk of the Legislative Assembly: Ms Bridget Noonan

Council — Acting Clerk of the Parliaments and 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 Melhem, Mr Morris, Ms Patten, Mr Purcell, 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[1]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Brien, Mr Daniel David[6]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel[2]	Western Metropolitan	AC	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[7]	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
Gepp, Mr Mark[4]	Northern Victoria	ALP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph[5]	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Young, Mr Daniel	Northern Victoria	SFFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[1] Appointed 16 April 2015
[2] DLP until 26 June 2017
[3] Resigned 27 May 2016
[4] Appointed 7 June 2017
[5] Resigned 6 April 2017
[6] Resigned 25 February 2015
[7] Appointed 13 October 2016

PARTY ABBREVIATIONS

AC — Australian Conservatives; 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

CONTENTS

THURSDAY, 21 SEPTEMBER 2017

Thursday, 21 September 2017

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

CHIEF JUSTICE OF THE SUPREME COURT OF VICTORIA

The PRESIDENT — Members, I would like to place on record — and many of you may well be aware of this, but I think that it is important for our house to make recognition of this event — an acknowledgement of the retirement of Chief Justice Marilyn Warren, who has served this state in a number of capacities with great distinction. Obviously as the first female Chief Justice of the Supreme Court of Victoria, she has led the court into a new century and has made a number of significant changes to the way it operates that I think — and I am sure many members would share the view — have improved the Supreme Court's operation and ensured that we have a very firm foundation for justice going forward.

As you would be aware, Chief Justice Marilyn Warren also has performed the role of Lieutenant-Governor, supporting the Governor of Victoria, and in that capacity again has served with great distinction. In many ways she has been a trailblazer. Obviously that is an apt description, given that she was the first Chief Justice of the Supreme Court, but her career has been one of considerable achievement. In fact she did serve time in a parliamentary counsel role here with the Victorian Parliament early in her career.

I would hope that you would join me in extending congratulations to her on her fine service to the people of Victoria and in wishing her well in retirement. I met with her recently, as I think has the Leader of the Government, and she assured me that she is not going fishing but will still be around, and she is still keen to pursue certain interests and be of service to Victoria, should there be any areas in which that might be required.

I take this opportunity to also indicate that on 27 September, when Chief Justice Warren will conclude her term as chief justice, there will be the appointment of the new chief justice. What is remarkable about this appointment in one way, but hopefully not remarkable into the future, is that the new chief justice is also a woman. It is terrific to see, as Chief Justice Warren said at a function recently, that it is not a situation where she was appointed and then we go back to the blokes. Honourable Justice Anne Ferguson has been appointed by Martin Pakula, the Attorney-General. Currently Anne Ferguson is a Supreme Court judge, and she will take up her role, or be commissioned, on 27 September.

I am sure that the Parliament looks forward to a continuing relationship with the chief justice that is at arm's length on some matters but indeed involves two arms of government working closely together in the interests of Victorians.

PAPERS

Laid on table by Clerk:

Adult, Community and Further Education Board — Report, 2016–17.

Adult Multicultural Education Services Australia — Report, 2016–17.

Australian Centre of the Moving Image — Report, 2016–17.

Australian Grand Prix Corporation — Report, 2016–17.

Barwon Region Water Corporation — Report, 2016–17.

Central Gippsland Region Water Corporation — Report, 2016–17.

Central Highlands Region Water Corporation — Report, 2016–17.

City West Water Corporation — Report, 2016–17.

Coliban Region Water Corporation — Report, 2016–17.

Corangamite Catchment Management Authority — Report, 2016–17.

Council of Trustees of the National Gallery of Victoria — Report, 2016–17.

Disability Services Commissioner — Report, 2016–17.

Docklands Studios Melbourne Pty Ltd — Report, 2016–17.

East Gippsland Catchment Management Authority — Report, 2016–17.

East Gippsland Region Water Corporation — Report, 2016–17.

Economic Development, Jobs, Transport and Resources Department — Report, 2016–17.

Education and Training Department — Report, 2016–17.

Emerald Tourist Railway Board — Report, 2016–17.

Emergency Services Superannuation Board — Report, 2016–17.

Energy Safe Victoria — Report, 2016–17.

Environment, Land, Water and Planning Department — Report, 2016–17.

Environmental Protection Authority — Report, 2016–17.

Fed Square Pty Ltd — Report, 2016–17.

Film Victoria — Report, 2016–17.

Financial Management Act 1994 — 2016–17 Financial Report for the State of Victoria (incorporating Quarterly Financial Report No. 4) (*Ordered to be published*).

Freedom of Information Commissioner — Report, 2016–17.

Geelong Performing Arts Centre — Report, 2016–17.

Gippsland and Southern Rural Water Corporation — Report, 2016–17.

Glenelg Hopkins Catchment Management Authority — Report, 2016–17.

Goulburn Broken Catchment Management Authority — Report, 2016–17.

Goulburn Murray Rural Water Corporation — Report, 2016–17.

Goulburn Valley Region Water Corporation — Report, 2016–17.

Grampians Wimmera Mallee Water Corporation — Report, 2016–17.

Independent Broad-based Anti-Corruption Commission — Report, 2016–17 (*Ordered to be published*).

Kardinia Park Stadium Trust — Report, 2016–17.

Library Board of Victoria — Report, 2016–17.

Lower Murray Urban and Rural Water Corporation — Report, 2016–17.

Mallee Catchment Management Authority — Report, 2016–17.

Melbourne and Olympic Parks Trust — Report, 2016–17.

Melbourne Convention and Exhibition Trust — Report, 2016–17.

Melbourne Cricket Ground Trust — Report, 2016–17.

Melbourne Port Lessor Pty Ltd — Report, 2016–17.

Melbourne Recital Centre — Report, 2016–17.

Melbourne Water Corporation — Report, 2016–17.

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns — June 2017 and Summary of Variations notified between 3 August 2017 and 20 September 2017 and Summary of Primary Return — 3 June 2017 (*Ordered to be published*).

Mental Health Complaints Commissioner — Report, 2016–17.

Mental Health Tribunal — Report, 2016–17.

Museums Board of Victoria — Report, 2016–17.

National Parks Act 1975 — Report on the working of the Act, 2016–17.

National Parks Advisory Council — Report, 2016–17.

North Central Catchment Management Authority — Report, 2016–17.

North East Catchment Management Authority — Report, 2016–17.

North East Region Water Corporation — Report, 2016–17.

Phillip Island Nature Parks — Report, 2016–17.

Places Victoria — Report, 2016–17.

Port of Hastings Development Authority — Report, 2016–17.

Port Phillip and Westernport Catchment Management Authority — Report, 2016–17.

Premier and Cabinet Department — Report, 2016–17.

Public Record Office Victoria — Report, 2016–17.

Roads Corporation (VicRoads) — Report, 2016–17.

Rolling Stock Holdings (Victoria) Pty Ltd — Report, 2016–17.

Rolling Stock (Victoria-VL) Pty Ltd — Report, 2016–17.

Rolling Stock (VL-1) Pty Ltd — Report, 2016–17.

Rolling Stock (VL-2) Pty Ltd — Report, 2016–17.

Rolling Stock (VL-3) Pty Ltd — Report, 2016–17.

South East Water Corporation — Report, 2016–17.

State Electricity Commission of Victoria — Report, 2016–17.

State Sports Centre Trust — Report, 2016–17.

State Trustees Ltd — Report, 2016–17.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 94.

Transport Accident Commission — Report, 2016–17.

Treasury Corporation of Victoria — Report, 2016–17.

V/Line Corporation — Report, 2016–17.

Victorian Arts Centre Trust — Report, 2016–17.

Victorian Catchment Management Council — Report, 2016–17.

Victorian Coastal Council — Report, 2016–17.

Victorian Curriculum and Assessment Authority — Report, 2016–17.

Victorian Environmental Assessment Council — Report, 2016–17.

Victorian Funds Management Corporation — Report, 2016–17.

Victorian Government Purchasing Board — Report, 2016–17.

Victorian Institute of Teaching — Report 2016–17.

Victorian Managed Insurance Authority — Report, 2016–17.

Victorian Multicultural Commission — Report, 2016–17.

Victorian Planning Authority — Report, 2016–17.

Victorian Ports Corporation — Report, 2016–17.

Victorian Public Sector Commission — Report, 2016–17.

Victorian Rail Track — Report, 2016–17.

Victorian Regional Channels Authority — Report, 2016–17.

Victorian Registration and Qualifications Authority — Report, 2016–17.

Victorian WorkCover Authority — Report, 2016–17.

Victorian Veterans Council — Report, 2016–17.

VITS Languagelink — Report, 2016–17.

Wannon Region Water Corporation — Report, 2016–17.

West Gippsland Catchment Management Authority — Report, 2016–17.

Western Region Water Corporation — Report, 2016–17.

Wimmera Catchment Management Authority — Report, 2016–17.

Yarra Valley Water Corporation — Report, 2016–17.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until 12.00 p.m. on Tuesday, 17 October 2017.

Mr O'Donohue — On a point of order, President, as I understand the business program for this week we were intending to sit tomorrow. That was to debate the Country Fire Authority (CFA) bill. I seek clarification from the government by way of point of order why we are not debating the CFA bill this week.

The PRESIDENT — You are welcome to come back tomorrow. It occurs to me that we do not have a government business program in this house and therefore the government is entitled to move this motion. There is no compulsion for us to sit tomorrow, despite the fact that a provision may have been made in order to transact business depending on what had occurred during the week. So from that point of view the motion is totally within order, and there is no reason to confirm Friday as a sitting day under a government business program because there is no such program in our house.

Honourable members interjecting.

The PRESIDENT — I shall try to choose my words more carefully in future.

Motion agreed to.

MINISTERS STATEMENTS

Wakakirri Secondary School

Ms MIKAKOS (Minister for Youth Affairs) — I rise to update the house on how the Andrews Labor government is supporting young people from across Victoria to gain skills and experience in performing and creative arts, design and event management. Last night I had the pleasure of opening the Wakakirri Secondary School Challenge competition for 2017, and I can report that the atmosphere was magnificent. Seven schools from across the state competed in the Victorian final of this year's competition, and this year Wakakirri has increased participation with an additional four schools and one dance company taking part in the challenge.

The Andrews Labor government is a proud supporter of the Wakakirri Secondary School Challenge. Last year I announced $200 000 a year over three years from 2017 and a further $35 000 each year to support the Wakakirri accredited training program, providing young people with training and career pathways. In 2017 it is the 25th year of the Wakakirri Secondary School Challenge, giving young people the opportunity to create and share a story that has real meaning to them. So many young people benefit from the opportunities Wakakirri creates. The program develops students' awareness of teamwork and community as well as their creative arts and performance skills. It contributes to their educational outcomes and experiences and connects students to valuable information and advice about the creative arts industry through industry workshops and mentoring from industry professionals.

I want to congratulate the division 1 winners, one of my local schools, Reservoir High, and division 2 winners Traralgon College, and I want to congratulate every young person that took part in this year's competition. Wakakirri is another example of the outstanding and extraordinary skills of young people in Victoria. These young people inspire and excite and once again have proven that through their hard work, innovation and creativity they are making a mark on Victoria.

Victorian Protecting Children Awards

Ms MIKAKOS (Minister for Families and Children) — I rise to update the house on how the Andrews Labor government is recognising the people who protect Victoria's most vulnerable children. In the past two weeks we have acknowledged and celebrated both National Child Protection Week and Foster Care Week, and I was pleased last week to present the Victorian Protecting Children Awards. It was a night to recognise and celebrate the achievements of our dedicated child and family services sector and our foster and kinship carers who do such amazing work. It was an opportunity to say thank you for a lifetime of work or care that changes lives for the better.

I particularly want to acknowledge the recipient of my Minister's Award for Innovative Care, Fiorina Castellan. Fiorina has cared for over 200 children as a foster carer. Last year she began caring for vulnerable children through a new model that enables her to take children who first go into out-of-home care for short-term placements, enabling greater stability and support for these children and enabling their needs and concerns to be adequately assessed before they are appropriately placed in home-based care or returned home safely. Fiorina has already supported more than 200 children and young people through this program. In one stunning example she helped to stabilise the problematic behaviours of a three-year-old child and supported his transition back to the family home.

I also want to acknowledge Kerryn and Stephen Longmuir, who were awarded the Carer Award in recognition of more than 30 years of providing foster care to over 300 children in their home. Over the past 11 years they have been providing care for three siblings, who have flourished and achieved great things in their care.

I have said many times that our foster and kinship carers are the unsung heroes of our community, and having an opportunity to celebrate their contribution to our community last week was very important. They open their hearts and homes to vulnerable children in need, and they do incredibly hard work and indispensable work. The Andrews Labor government shares their passion for providing better outcomes for vulnerable children and young people, and I know that by working together with our carers and the community sector we are improving outcomes for vulnerable children and their families.

MEMBERS STATEMENTS

Richmond Football Club

Mr LEANE (Eastern Metropolitan) — As a past Richmond player — yes, I did play half a dozen games for the Richmond under-19s until they worked out I could not play — I am on the wagon, and I wish them very well for a successful game on Saturday. One of those reasons is that I want the grand final holiday to be very successful as well, so it might be bittersweet for Mr Finn, but I wish them very well.

Australian marriage law postal survey

Mr LEANE — On another matter, and probably more seriously, I want to put my weight behind the yes vote in the equal marriage debate. I think there is a lot of momentum behind this, and I think everyone would agree that equality is an important thing. We should all champion equality for everyone every chance we get. I am sure that this vote will be successful, and I am sure there will be an amendment to the Marriage Act 1958. I think it is inevitable. In generations to come it will not be a big deal. No-one will ever talk about this. They will wonder why we did not do it earlier.

Fire services legislation

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The decision of the government to once again delay debate on the Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Bill 2017 is treating the Parliament and the people of Victoria with contempt. At the government's behest the select committee inquiring into the fire services restructure completed its work in an unprecedented seven-week time frame, requiring extraordinary effort on the part of the committee staff. During the course of the inquiry government witnesses repeatedly stressed the urgency of completing the inquiry and dealing with the legislation.

Now, more than a month after the select committee tabled its report, the government has failed to progress the legislation. For the last two sitting weeks the government has proposed extended Friday sittings. Last week, however, the government adjourned the house mid-afternoon after only three second-reading contributions on the bill. It is now apparent that despite allocating tomorrow for debate, the government is not going to bring the bill on for debate at all.

Having repeatedly claimed that consideration of this bill is a priority and that the fire services require

certainty, the government is refusing to deal with the bill because of its concern at the outcome. The fire services and the Victorian community deserve certainty, and the government should put the bill to a vote to provide that certainty.

Dairy industry

Mr BARBER (Northern Metropolitan) — Dairy farmers in south-west Victoria have already experienced some of the volatility and extreme weather events that are part of the early effects of climate change, but at the same time, as all members in this place know, the price that they have received for their product has also been extremely variable. That variability itself actually makes it much harder to survive and flourish in this industry.

The member for South-West Coast in the Assembly, Ms Roma Britnell, who is herself a dairy processor, has given something of a running commentary on this via the local media. On 29 April in the Warrnambool *Standard* the headline was 'Britnell says don't desert Murray Goulburn'. However, by 17 August 2017 the headline was, 'Britnell family to swap from Murray Goulburn to Warrnambool Cheese and Butter'.

There is some commentary across the district as to exactly where and when it was that Ms Britnell was selling her milk. Did she in fact benefit from an uplift in the Murray Goulburn price by hanging around a little bit longer than she was telling her constituents? I think it would be very good if Ms Britnell actually made clear, possibly in *Hansard*, exactly which processors she was selling to at each relevant time and what price she benefited from, because people in this area cannot just do what Ms Britnell says, they want to be doing what she is also doing.

Honourable members interjecting.

The PRESIDENT — In respect of that matter I took the view in the chair that Mr Barber was calling for an explanation rather than making any allegations against the member, which as members would realise would have required a substantive motion.

Australian marriage law postal survey

Ms SHING (Eastern Victoria) — I rise today to address members of the LGBTIQ community, their families, their friends, their workmates and colleagues and people who love them exactly as they are. The marriage equality postal survey is having an enormous effect on us as LGBTIQ people. It is having an effect on our families and on our friends, and it is having an effect on the way in which we feel as though we can be part of the community in which we live and work and have our own families and our own lives, which are in many ways unremarkable but in many ways required to be defended at every turn.

To anybody who is facing additional distress or upset, to anyone who is facing anxiety, to anyone who is feeling the greater effects of this, which are often the result of an aggregate of a lifetime of shame, of justification, of the need for ongoing explanation as to why they or we are good enough, please know there is a groundswell of love and support for you.

There are resources available to you. There are means available to you to make sure that you take care of yourselves in the course of this survey, and I would urge you to reach out, to talk with others, to be kind to yourselves, to be gentle with the people who you care about to make sure that we all get through this together.

Richmond Football Club

Mr FINN (Western Metropolitan) — I join Mr Leane in wishing all the very, very best to the Richmond Football Club for a very, very big week ahead.

Vietnamese community

Mr FINN — One of the great joys of my time in this chamber has been getting to know the Australian Vietnamese community throughout much of Melbourne's west. They are great people, hardworking people, community-minded people, people who never take Australia for granted because they remember why they and those before them fled Vietnam and the welcome that they received in their new home.

I am very proud of my friendship with so many members of the Australian Vietnamese community, and it distresses me greatly to see them hurting, and hurting they are. Today I am attending in this building a briefing on human rights abuses in Vietnam. The Vietnamese government might like us all to think modern Vietnam is a responsible, decent citizen of the world, but sadly that is far from the truth. The Communist government in Vietnam is comprised of barbarians who use violence and terror to suppress freedom in their land.

Many friends and relatives of members of the local Australian Vietnamese community are suffering under the dead hand of a regime that treats its people like dirt beneath their feet. I stand shoulder to shoulder with my friends in the Australian Vietnamese community in calling for freedom in the nation of Vietnam, and I

assure my friends that I will continue to fight with them for that freedom.

The PRESIDENT — Can I suggest, Mr Finn, that when you are contemplating your wardrobe of a morning you might actually check in with Ms Fitzherbert, because there is a distinct colour clash.

Alishia Mason

Ms PATTEN (Northern Metropolitan) — This week my office has had the pleasure of hosting the lovely Alishia Mason from Portland Secondary College. Alishia has made a large effort to stay in Melbourne with some friends for her week with us, which is great. Alishia is a year 10 student and has interests in economic development, women's rights and equality, to name just a few, and she has been a real benefit to our office this week. So thank you for working with us, and congratulations on working out how to get out of Parliament station this morning!

The Storyteller

Ms PATTEN — Last Friday I had the privilege of attending the closing night of the annual theatre production at the Dame Phyllis Frost Centre. It was called *The Storyteller*, and it featured the women performing songs, dances, poems and raps, with many of them telling how their lives led them to prison. There was some great humour but also some really tragic stories of mental health, abuse and homelessness. Most of the women have suffered substance abuse, and it was somewhat confronting to hear their stories of home life and incarceration. Thank you to Somebody's Daughter Theatre Company for working with the women to create yet another successful play and art exhibition. Women I spoke to after the show all acknowledged the amazing healing benefits of creatively exploring their stories.

Australian marriage law postal survey

Ms PATTEN — I would like to share Mr Leane's and Ms Shing's call for a yes vote to bring equality to marriage, and I ask all members of our rainbow community to look after themselves.

Arrium steelworks

Mr MELHEM (Western Metropolitan) — I rise to speak on the recent sale of the Arrium steelworks to the London-based GFG Alliance. This deal has ended more than a year of uncertainty for the 5500 Australian workers employed by Arrium across Australia. This represents over 1000 jobs in Victoria, many of them in my electorate of Western Metropolitan Region. Most of these jobs looked likely to be lost after Arrium fell into voluntary administration 15 months ago. The increasing financial pressure also meant that the mills were operating significantly below capacity, which meant less output and less jobs. Negotiations between the Australian Workers Union (AWU), Arrium and GFG resulted in the arrangement that will see Arrium's steelworking operations secured. This outcome will also facilitate a significant increase in production to cater for the growing population and infrastructure needs of Melbourne.

I want to praise the hard work of the AWU for their excellent representation of the workers employed by Arrium. They achieved an impeccable outcome for their members and their families. I also want to commend the GFG executive chairman, Sanjeev Gupta, who has shown a resolute willingness to invest in Australia and Victoria. He recently visited one of the company's operations in Sunshine and announced further investment in the Victorian operation.

Arrium's future has also been solidified through the Victorian government's support for local jobs, such as the requirement for 100 per cent local steel in level crossing removal projects and the increased demand emanating from the Melbourne Metro Tunnel transport project. The firm commitment to increase production at Arrium will lead to a stronger Victorian economy and more jobs for my local community. This arrangement will continue Victoria's current trajectory as the jobs powerhouse of Australia.

John Butler

Mr ONDARCHIE (Northern Metropolitan) — On 6 September 2017 Lieutenant Colonel, retired, and councillor of the City of Whittlesea, David John Butler, passed away. Known as John, he was a great Australian, a great servant of the community and a great bloke. John battled a very rapid fight with cancer and passed away much quicker than one would ever hope. John and I would sit in his hospital room regularly and chat about what he wanted for his community. After serving this nation in the armed forces both in Australia and internationally, John brought back to the northern area of Melbourne, particularly the suburb of Doreen, a fight to do better things for the community. As we sat in his room we talked about what he wanted. He was not fearful of death. He was in fact encouraged that he would get time to spend time with Our Lord.

He gave me a list and said that this was what he wanted: a tennis centre for Doreen — not for Mernda or anywhere else, he said, just for Doreen; a licensed RSL

club for Doreen under the auspices of the RSL predicated on the Whittlesea sub-branch; netball courts for Doreen that catered for both the young and the old; ending traffic congestion; reduced spending and rates at the City of Whittlesea; getting soldiers to run Anzac Day and remembrance services; doing something for the Country Fire Authority station in Doreen, including installing traffic management lights, a bigger engine shed, a changing area and training and office facilities; and doing something about creating an inland port to create jobs in the local area. John Butler was a good man — a servant to the people right to the very end. Vale, John Butler.

Marc Leishman

Mr PURCELL (Western Victoria) — I rise today to congratulate Warrnambool's Marc Leishman on his third major win after holing a 20-foot putt in the BMW Championship in Illinois. Marc was quickly joined on the 18th green by his wife, Audrey, and children, Ollie, Harvey and two-month-old Eva. Mark is a favourite son of Warrnambool and regularly returns to visit family and play golf at his favourite golf course at Warrnambool.

Hampden Football Netball League

Mr PURCELL — The second sporting event I wish to acknowledge is the Hampden league grand final, which I will be attending this Saturday. It is between neighbouring long-time rivals Koroit and Port Fairy. While the two teams are long-term rivals, their recent football success is vastly different. Koroit is lining up for its fourth premiership in a row, and Port Fairy has not won a premiership for 59 years. My allegiance will definitely be with the Port Fairy Seagulls, with whom I played a number of seasons. Go Gulls!

Shepparton Search and Rescue Squad

Ms LOVELL (Northern Victoria) — It gave me great pleasure to recently attend the Shepparton Search and Rescue Squad 45th anniversary celebration held at the GV Hotel in Shepparton. The Shepparton Search and Rescue Squad is a volunteer rescue organisation based in Shepparton and is one of only two independent rescue units in the state recognised by the Victorian government. The squad operates under the framework of the emergency management model and provides life-saving road rescue and logistic support to other local emergency service agencies. It was a wonderful night celebrating the 45th anniversary of this great organisation. We saw several members of the squad awarded with a variety of service awards. The Shepparton Search and Rescue Squad is justifiably proud of its valuable work in minimising road trauma and saving lives, and I congratulate and thank the squad for 45 years of wonderful service to the Shepparton community.

Northern Victoria Region police

Ms LOVELL — On Tuesday last week, together with my colleague Luke O'Sullivan, I attended the Victoria Police eastern region division 3 medal presentation ceremony, which was held at Shepparton Golf Club. The presentation saw a number of serving police members awarded a variety of national and Victorian police service medals in recognition of their years of service to Victoria Police and communities. I congratulate all the award recipients and thank Victoria Police for all the work they do in keeping our communities safe.

Richmond Football Club

Ms LOVELL — I would like to join my colleagues Bernie Finn and Shaun Leane in wishing my beloved Tigers, the Richmond Football Club, all the best for the remainder of the finals season. We all hope that they can go all the way and win the grand final, but whatever happens this weekend in the preliminary final, it has been a great ride this year and we are justifiably proud of our team and their achievements. Thanks to all of the team members for what has been a wonderful season.

Morwell Swimming Club

Ms BATH (Eastern Victoria) — This year Morwell Swimming Club is celebrating 60 years of education and competition. As part of the celebrations president Alan Godfrey, secretary Monica Bramley and coach Melissa Scholes organised the inaugural Morwell and District Primary Aquatic Games, which I attended last week. Participation, friendship and good sportsmanship were the order of this well-run event. An outstanding young Olympian, Josh Beaver, met and mingled with the students and gave generously of his time. Living on an island continent with beautiful waterways, learning to swim is not only a life-saving skill but has tremendous health benefits as well. I congratulate the Morwell club on their commitment to improving the health and safety of our local young children.

Prostate Cancer Awareness Month

Ms BATH — September is blue bun month. Recently I joined Allan Cunningham and his dedicated team for the launch of Prostate Cancer Awareness Month at Traralgon Bakers Delight. To assist the

Latrobe Valley Prostate Support Group, baker Matt and Narelle Stephenson are generously donating 100 per cent of the proceeds of the sale of the blue buns from their Traralgon and Sale Bakers Delight stores. We thank them very much for it. Latrobe's Biggest Ever Blokes BBQ will donate $90 000 from this year's event to prostate cancer research and local treatment. I thank Allan and his team and Matt and Narelle for their ceaseless work to raise funds and awareness of this terrible disease.

YARRA RIVER PROTECTION (WILIP-GIN BIRRARUNG MURRON) BILL 2017

Second reading

Debate resumed from 22 August; motion of Mr JENNINGS (Special Minister of State).

Mr DAVIS (Southern Metropolitan) — I am pleased to rise and make a contribution to the Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017. This is a bill that the opposition will not oppose. It supports strongly many of the principles behind the bill. It is a bill for which some of the preparatory work goes back into the period of the last government. Matthew Guy as planning minister introduced the first interim planning protections for the Yarra, and he did that in direct response to what the community and many members in this place felt was excessive development that was not of a type that was sympathetic to the Yarra River and its surrounds. I applaud the fact that he took that step, and I was strongly supportive of him at the time. There was also significant preparatory work done by the then environment minister, Ryan Smith in the other house, as part of the focus of this bill, and I pay tribute to that work.

Notwithstanding all that, I also acknowledge that the government and the bureaucracy have done a significant amount of work on this particular bill. The objectives of the bill are ones that the opposition supports. We see the very significant need for greater protection. The main purposes of this bill are to provide for the declaration of the Yarra River and certain public lands in its vicinity for the purpose of protecting it as one living and integrated natural entity, to provide for the development and implementation of a Yarra strategic plan, to establish the Birrarung Council and provide advice to the minister in relation to the Yarra River, to set out principles to which public entities must have regard when performing functions or duties or exercising powers in relation to the Yarra River land, to provide for the declaration of an area of land as a state significant urban natural entity known as the Greater Yarra Urban Parklands, to amend the Planning and Environment Act 1987 to require ratification by Parliament for amendments to planning schemes in relation to land in this part of the Greater Yarra Urban Parklands and to amend the Commissioner for Environmental Sustainability Act 2003 to require the commissioner to report on the condition of Yarra River land.

Those objectives are ones that we see as important. I am going to make some comments about the focus of each of them as we go forward and indicate that there are matters on which we have some concerns, and we will raise those concerns in the committee stage of the bill. I will document many of those issues as I proceed through this second-reading debate speech so that the minister can perhaps respond to many of those key points.

One of the issues, and perhaps a prior issue, is the involvement of our Indigenous communities. We support the involvement of Indigenous communities. I think it is true to say that there are some concerns that the government has not been as even-handed with its approach to Indigenous communities as it ought to have been with this bill, and we note that one group appears to have had greater sway with this bill and others have been pushed to the side. We regard that as a concern. We would have hoped that this bill, with respect to our Indigenous communities, sought to include and not exclude, to bring together and not divide. Those points, I think, are very significant. I have had members of the Liberal Party and The Nationals party rooms make direct points about the entreaties a number of Indigenous people have made to them on these matters, and there is a feeling among some groups. I do not wish to labour this point, but I do want it squarely on the record that the government has got to be fair. It has got to treat the Indigenous groups equally, and it must use this bill to unite rather than to divide. I make that point, and I will pursue questions regarding that in the committee stage.

On the declaration of the Yarra River and certain public lands in its vicinity for the purpose of protecting it as one living and integrated natural entity, we will seek assurances about distances of impact. It seems to me that anything that impacts further upstream in a tributary or on land that is uphill from the Yarra may have some significant impact, and there are legitimate questions about not necessarily what the current minister might do or even the current government, to be fair, but what, as we put this in legislation, it means in future circumstances. Could there be in effect a catchment-wide policy ostensibly to protect the Yarra that may have a series of unintended consequences, or

could there be the use of legitimate Yarra River protection points to achieve other objectives? That is something that we will pursue. What guarantees and what protections does the minister envisage will be in place to prevent that occurring?

The strategic plan is a significant opportunity. I understand there has been some consultation work already undertaken, and I welcome that work, but I think there is much more to do — I know, as I consulted, for example, municipal councils. Ten I think is the number named in the schedule, and I consulted those. The progress here came as a surprise to many. That to me is a concern. I want to see this work, and I want to see that it involves local government fully. I do not want to see the bureaucracy and the minister scouting around behind the backs of local government in their area. I hasten to add that local government by and large supports this bill and the approach in it strongly, but I think what will occur as the actual full impact of the bill is understood is it will awaken careful concerns inside the council bureaucracies and many of the impacted council areas, and they will have a set of questions that flow from that — legitimate questions.

Equally there are other authorities that are impacted, and I note the central role that is to be given to Melbourne Water, although it could be any authority that is the designated one to do the work, as it were, and I will be seeking some information about what resources the government will provide Melbourne Water. Will this be something that is sucked up into greater rates? I want to understand clearly that we are not going to see a rise in rates as a response to this, as Melbourne Water's main source of revenue, or a key source of its revenue, is the collection of levies on water rates. Will additional levies be put in place to fund these services and these activities? I want to hear how much and how that bureaucracy will be funded.

I do not think it is logical or plausible that Melbourne Water would undertake all of this work without significant additional assistance. It is just not the real world. So given that, we want to see clear revenue streams that are actually provided by state government and are not a clobber on water ratepayers across the stretch of the Yarra River.

I also see that there are some genuine issues with respect to farming land. We have seen the impact of a number of environmental overlays and environmental controls on farming land in recent years, and this seems to me to be a dense or rich source of additional imposts and additional restrictions on farming land that is near to the Yarra, either immediately proximate to it or further up the tributaries. As I read it, there seems to be a distance from the Yarra, but as I also read it, there seems to be plenty of scope in this bill for an activist minister or an activist bureaucracy in the future to spread its wings and use the mechanisms in this and parallel mechanisms to put greater imposts and controls on farming land. I want to seek some guarantees in committee that the farming land protections will not be in any way diminished.

In terms of the declaration of the Greater Yarra Urban Parklands — and I want to understand this process because, as I understand it, the identification of all that land is not yet complete — the process needs to be understood. There is government land — that is, state government land; there is potentially federal government land as well in certain spots — and there is land that is privately held that might be desirable for the completion of contiguous parkland and parkland that is contiguous with the river and also builds to the suitable chain of parkland that would be desirable.

I am not in any way diminishing the legitimate desires that are here, but this may well impact on council lands. It may well impact on private lands, and I want to hear from the minister how that is going to be managed. I also want to understand from paragraph (d) of the purposes clause the principles that the responsible authorities will have to have regard to and how this will operate. Will this be a trump or will it be advice? And the strength of that advice — will it be something that is a no-go, a stop?

We actually do need some legitimate stop on some excessive development in great proximity to the river. If I drive from my house to the city, I sometimes come down Barkers Road. I come down through the cutting, and you get to the bottom of the hill over the bridge. Everyone who has driven that way will know the intensity of development there. Now the state government says it wants intense development everywhere, but arguably some of the developments in and around the river corner there — the old Honeywell site and so forth — are too intense, too impactful on the river, and ultimately in my view may have been unwise. To be clear, these are Justin Madden permits. These reflect directly on the current Minister for Planning, who is the local member in that area and who clearly allowed them all to roll through without intervention. He gave them the tick —

Mr Melhem — What about the former minister?

Mr DAVIS — Minister Guy actually put the protections on some of those zones. The minister before him, Minister Madden, is the one who gave many of the permits in that little pocket. Mr Melhem, you may

not have been here quite as long as me, but I have a long memory for these things and quite a detailed memory, which annoys people from time to time. But let me just give you the details about this —

Honourable members interjecting.

Mr DAVIS — I could go on, if you would like to go further, about the impact on the Kew side of the river. If you are on that side and you look over, you see the massive blue sign of a certain Scandinavian retailer. That I must say is the kind of impact that some would think is probably not the wisest way forward. I am not critical of developers who legitimately apply for permits under the law, but I am critical of the minister at the time, Minister Madden, who has now been given awards, despite his sham consultation and despite his unfortunate involvement with the Windsor Hotel and the permits surrounding the Windsor Hotel —

Ms Mikakos interjected.

Mr DAVIS — Do you want to get me going on these things? I can start if people would like that.

Ms Mikakos — You would be very keen for us to talk about the penthouse meeting!

Mr DAVIS — I will tell you what — what I actually would say in this chamber is I personally do not believe it is appropriate that Justin Madden got the awards he got, to be frank. I think he —

The PRESIDENT — Order! I know you have been provoked on this occasion, and I do not really appreciate the provocation, but I do have some concern about moving to the Windsor development, which is several hundred metres from the Yarra, and I do not think it is really having much impact on the Yarra. This bill is fairly narrow in its provisions, and I think it would be best for all concerned if the member were to return to discussing the bill.

Mr DAVIS — I am always happy to take your guidance, President. One of —

Ms Mikakos — The penthouse may be overlooking the Yarra for all we know. It might have great relevance to this bill.

Mr DAVIS — Well, you are provoking again, and I am tempted to —

The PRESIDENT — Thank you, Ms Mikakos. As I said I do not wish to have the provocation, because he will take it up.

Mr DAVIS — See, on the other side of the river, Ms Mikakos, immediately juxtaposed to that sort of site is the Studley Park winery, which backs onto Walmer Street, and they are very concerned about many of the intense developments that are occurring on that exact pocket that we were talking about that are in Minister Wynne's electorate. Minister Wynne, of course, has ticked through a lot of these developments and was prepared to support these developments in the period prior to 2010.

Mr Wynne was quiet as a church mouse as these impacts on the Yarra River occurred, so that points very directly to some failures. I can understand on occasions why somebody in a very traditional Labor seat like that might become agitated and want to vote even for the Greens in some cases around the Yarra there. Look at the impact that is occurring just now. Ms Dunn will understand exactly what I am saying here. Think about the Yarra River at Alphington and that important zone at Alphington there, Ms Dunn. There is the huge development that is occurring on the old Alphington Paper Mill site, and that site is going to have about 4000 or 5000 residents right next to the river — and I stand to be corrected on the exact number, but it is a very intense development.

So far as I can see, one of the government's main decisions on this in the recent period was not just to give the planning permit, and Mr Wynne gave the planning permit or ticked off on some of the planning processes with local council support in some cases. Let us be clear here. One of the government's main decisions was in fact to build a six-lane bridge across the Yarra, and I am going to use this as a significant case study on how this bill will operate. If this bill had been in place, would that six-lane superhighway that has been planned next to the old bridge that Sir John Monash built and designed — a heritage bridge which will be now become a pedestrian and cycling bridge — have been built?

I acknowledge the sad story of the member for Northcote, a woman I had some respect for, but let us also be clear that Labor and she went to the last election promising that that superhighway crossing the Yarra would be on the east side of the heritage bridge. Now what we find is that the bridge is on the west side, and there has been a massive swathe of trees cut through that area. What have been the processes behind this? This has been a crash-through approach adopted by this government. We have a bill saying we have to protect the Yarra and its environs and surrounds. Actually at this moment today I can very much assure the house that there are workmen on the site and that there has been a massive swathe of trees cut down with massive

impacts. I am not saying that there should not be additional bridge capacity in that vicinity, but everyone understood prior to the election that the bridge was going to be on the east side, which would have been on the old industrial land site, and that would not have had the same environmental impact as the change that is now occurring with the development of this six-lane freeway across the Yarra and the consequent loss of vegetation, the consequent loss of habitat and the consequent impact on the Yarra River.

This government is saying — and it does this with some degree of bravado — that it is going to protect the Yarra River. However, at the same time there are massive impacts with almost no processes. There is no community support for the western bridge there. Frankly, if I were a resident in that area of Alphington, I would be absolutely furious with Labor. I would say, 'I was lied to before the last state election. I have got something very different from what I was promised'. I have spoken to a number of the people from the western side of the Chandler Highway. It is actually not that far from my electorate, and these bridges impact on my electorate where there has also been loss of trees and loss of vegetation. They are very, very unhappy and feel that they have been dudded by Premier Daniel Andrews, his planning minister and other Labor figures in this process. Is this bill going to stop that?

I will be asking the minister in committee, using this as a case study, if this bill would have ensured that the alternative option of building on industrial land between the Assembly electorates of Kew and Northcote — a contentious area at the moment — would have been taken? Would it have had some impact on ensuring that the bridge was built on the available industrial land? Or is it all just about the government saying that they are going to maximise the yield and build dirty big towers with massive density on the old paper mill site, that that they do not care a stitch about knocking over all of the trees and about the environmental impact that is occurring on the western side, even though they said they would not build that? I am going to ask the minister, as a case study, what additional protections this bill would have provided in that case. Did they wait to get that bridge over the Yarra ticked off and then bring the bill in, or is the bill going to be a toothless tiger that will not be able to stop that occurring? I think this is something that the minister needs to answer in the current context. The people in Northcote in this case — Ms Dunn will probably agree with me here — have every right to ask some legitimate questions about this.

There are a number of other points that I want to draw attention to here. I have consulted widely on this bill and there has been significant support for the bill, not just from a range of Landcare groups and various environmental groups — and I pay tribute to the work of many of those groups in their efforts to protect their local waterways and efforts to protect the Yarra in particular. I have also had commentary from farmers, the Municipal Association of Victoria, the Victorian Local Governance Association and other groups about this bill. I am aware that there is some concern in the development industry, and again I look for the minister to make some commentary on a number of those points. He might want to pick up a number of my points in the early part of the purposes clause, and I will ask the indulgence of the committee to actually seek a proper response to a number of those. He may be able to pick them up and knock them out one by one in a structured way so that we can then follow up with further questions if needed in some areas, or not if the answers provide the satisfactory response.

I will complete my contribution with one further point. Melbourne is growing very significantly, and Victoria is growing very significantly. We have seen a significant uptick in population growth in the last 12 months. To 31 December there was an increase of 146 600, comprised of natural population growth, overseas movements and 18 500 people coming from interstate. It is the biggest amount of growth in the state's history, I believe, and it is having a very significant impact.

The government has a policy of densification, unashamedly. Infrastructure Victoria's documents, the Premier and the Minister for Planning are all focused on a single-minded determination to look at densification. What that can mean if poorly applied is a loss of quality of life, a loss of livability and a loss of vegetation at a monumental scale, and we are seeing a huge amount of that in many areas that are in and around the Yarra. The 10 municipalities in the schedule to this bill that surround the Yarra are areas where a lot of intense development is occurring.

We have obviously been very concerned about the removal of neighbourhood residential zone protections by the minister recently. He admitted at the Public Accounts and Estimates Committee that a neighbourhood residential zone block that previously, under Minister Guy, had protections that meant an 8-metre height limit and a two-dwelling maximum has now gone to 9 metres and the cap on the number of dwellings has been completely removed. The minister has admitted himself at public accounts that it could be eight, 10 or more dwellings on that block, which previously had a cap of two.

Let us be clear about this: in and around the Yarra many of those areas have neighbourhood residential zones that previously provided protection. If you moonscape the block and you put 12 units on it — previously there was one house or maybe two — that is going to have a huge and detrimental effect in terms of run-off and stormwater surges. There is none of that thought process in the government's push for densification. There is a loss of canopy trees in and around the Yarra. In these 10 municipalities those canopy trees are in many cases under dire threat under this government's densification policy. It has let it rip; it has let it roll over local communities. In the general residential zones the 9-metre limit is now 11 metres minimum. Municipalities are not allowed to have a level less than 11 metres and three storeys as of right. There is no maximum number. Think of the density of development. What does the minister intend to do?

I could go through the list from Stonnington and Kew right up the Yarra Valley, right up along the path of the river. Those protections have been torn away. The recognition by Matthew Guy that we needed to stop the destruction of canopy trees and the destruction of some of these key issues has been reversed and the protections have been torn away. What a tawdry thing it is when you come to a bill like this. They are saying, 'Oh, we're protecting the Yarra, but with all of the houses in the sweeps along there we're going to rip out the trees and we're going to densify like nobody's business for decades to come'. That is Minister Wynne's plan; let us be clear. That is what Daniel Andrews and Minister Wynne want to do — they want to densify as hard and as fast as possible.

By the way, they have singled out the south and east of Melbourne. They are saying, 'You're going to get special attention. We're after you, and in a vicious and nasty way we're going to attack areas in the east and south'. This bill is mostly about the east and the north, but on the protected areas that were there we are going to see the removal of canopy trees.

Mr Wynne says, 'Oh, I'm going to have a garden requirement'. When you actually look at it, the garden requirement is less than many municipalities already have. That is the truth of the matter. This bill is at odds with these other points in the planning system. I will be asking the minister about how he seeks to reconcile the desire to protect the Yarra with the stated desire to densify and to tear out the trees and to put in dense development in and around the Yarra. I can tell you, concrete footpath, hot roofs and no trees will lead to stormwater surges and run-off that will flow directly into the Yarra River. It is not a nice picture. It is not the picture painted by this bill, but that is the reality of what is occurring. I, for one, am very concerned about that.

I want to make another point about the Yarra riverkeepers and pay tribute to the work that they have done. I was honoured — I am trying to remember what year —

Mr Melhem — 1821.

Mr DAVIS — The Yarra riverkeepers were not around then, Mr Melhem, but in the early 2000s, let me say, when the Yarra Riverkeeper Association was being formed as a group I attended its very first meeting. It was a great day because we had a set of advocates prepared to speak out about the river and in favour of the river. Ian Penrose did a very good job as the first full-time riverkeeper, and I pay tribute to his work. His successors will continue that very good work.

I think it is important to have, in the style of America, an actual, formal advocate for the river — somebody who will stand up for the quality of water, for the access that is protected, for the surrounds of the river and for the vegetation — to say, 'Here's an integrated system that's incredibly valuable to our quality of life, it's incredibly valuable to the livability of Melbourne and it needs an advocate who will protect and ensure that that asset is protected into the future so that future generations can enjoy it and we can all enjoy it'. It is a classic public good, and I support the funding of groups like the riverkeepers because effectively what they are doing is providing a service to the whole community, and they are able to advocate and protect what is the public good in the Yarra. That is very much in the spirit of this bill, and I have talked to the Yarra riverkeepers about this bill and their support for it. I want to put that also on the record.

It is an important bill. It is a bill that we are not opposing. I have that set of questions, which we will ask in committee. I look forward to seeing the progress of this bill.

Ms DUNN (Eastern Metropolitan) — I rise to speak on the Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017. The bill does a range of things. It provides for a declaration of the Yarra River and certain land in its vicinity, protecting it as one living and integrated natural entity; it provides for the development and implementation of the Yarra strategic plan as an overarching policy and planning framework; it establishes the Birrarung Council to report on the development and implementation of the plan; and more significantly it acts as a voice for the Yarra River. The bill sets out some principles for public entities in terms

of what they must regard when performing functions or duties in relation to the Yarra River and Yarra River land. Lastly, the bill provides for the declaration of the Greater Yarra Urban Parklands.

The Greens certainly welcome this bill. We see it as a positive step to working towards a holistic, sustainable management of the Yarra River and its environs. In particular the Greens are very supportive of the Indigenous governance arrangements provided in the bill. We welcome further formal and meaningful inclusion of Indigenous representatives in governance arrangements in Victoria. This will contribute to recognising the strength of the bonds between Indigenous people and country. It extends beyond a mere extractive process of consulting Indigenous groups for that knowledge and moves Indigenous stewardship and leadership front and centre.

The Greens note the extraordinary effort that has been expended over centuries by the Wurundjeri to have a formal and sanctioned role in the governance of the river. This has been an effort that commenced with the first contact. It is worth noting that the Wurundjeri people made two formal applications for land along the Yarra River, in 1840 and again in 1863. The latter resulted in the formation of the Coranderrk mission, which became very successful in terms of growing and selling wheat, hops and crafts. It is an extraordinary part of our landscape, and it is well worth going to visit. Of course now some of the Coranderrk mission is incorporated into the Healesville Sanctuary.

Significant in relation to Coranderrk is that it is the place where William Barak resided. Of course William Barak was a most notable Aboriginal activist who presented a petition in 1886 requesting freedom for the people who lived on the Coranderrk mission to come and go as they pleased. It was extraordinarily successful. There was a forced departure of the people of Coranderrk in the 1890s, and then we saw it closed eventually in 1924.

Considering the remarkable history of the Wurundjeri engagement with the British and Australian authorities and the management of the river it is only right to see extensive input and oversight by the Wurundjeri people enshrined through this bill. The planning protections it provides for the public spaces and environs of the Yarra River are appropriate. The bill cuts through existing complicated and ineffective planning processes to ensure that there is a unified planning and governance process for the Yarra River, both in its waters and in its land.

I just want to touch a little bit on a particular planning document that I hold very close to my heart — it really goes back to my history as a Yarra Ranges councillor — and that is the *Upper Yarra and Dandenong Ranges Regional Strategy Plan*. It is a very significant planning document. It is a document that was the result of the Hamer government recognising how significant and how important that land was in the Yarra Valley and Dandenong Ranges areas. Of course as part of the regional strategy plan it had a lot to say on the Yarra River. What is notable about the regional strategy plan is that in fact it can only be amended with the approval of both houses of Parliament. It stands as a planning instrument to this very day. It is very powerful, and in fact matters in relation to Yarra Ranges Shire Council cannot be inconsistent with the regional strategy plan.

The strategy plan came into being through the development of the Upper Yarra Valley and Dandenong Ranges Authority, which was established in 1977 through an act of 1976. It essentially covered what were the former shires of Healesville, Lilydale, Sherbrooke and Upper Yarra. The main feature of the Upper Yarra Valley and Dandenong Ranges Act was to enable increased protection for the special features and character of the region.

I want to turn now to the part of that particular strategy plan that relates to water resources. It is worth noting that for some time there has been recognition — particularly in the Yarra Ranges section of the river, which essentially is nearly to the headwaters, which I believe probably are in Baw Baw, but locked away in water catchment areas — that an enormous tract of the Yarra River goes through the Yarra Ranges Shire Council area.

In terms of the regional strategy plan, it talks about the maintenance of high water quality for domestic and other beneficial uses and the maintenance of environmental values, and primary objectives and policies have been developed specifically to achieve that objective. As most of the region is used as a catchment for Melbourne's water supply, the policies reflect its importance. Of course we must thank those people who came before us, our forebears, who in fact closed our wet forests of Victoria and determined them to be water catchments, because the legacy of that is that Melbourne has a supply of some of the cleanest drinking water in the world.

The policies of the regional strategy plan were prepared on the basis of a total catchment approach to water resource conservation. They concentrate on the waterways and adjacent lands and on issues specifically

related to water harvesting. River systems, including flood plains, are of particular significance because of their role in transferring water in times of flood, the habitat they provide for flora and fauna and the recreational opportunities they offer. The Yarra River and its tributaries, streams and creeks is widely recognised as a river system with special values, so it is certainly nothing new in terms of the regard in which the Yarra is held, particularly in relation to the regional strategy plan, which of course has guided development in what is now the Shire of Yarra Ranges.

It is worth noting, as part of this particular policy, land use management. That is quite significant in terms of providing decision guidelines around what is appropriate. The regional strategy plan particularly notes that government departments, public authorities, councils and planning authorities must ensure the maintenance of adequate streamflow to ensure protection of the biota and the aesthetic quality of the Yarra River and the stream system, the retention of riparian vegetation and the protection of the aquatic environment and appropriate revegetation of these areas and revegetation with appropriate native species of denuded and degraded stream banks and enhancement of the existing native vegetation along watercourses.

I want to turn now to the organisation Environmental Justice Australia (EJA), which has done a significant amount of work in relation to the protection of the Yarra River in association with the Yarra Riverkeeper Association. EJA talk about the fact that the bill itself:

> … does not establish the river as a legal person …

which of course we have seen occur elsewhere in the world:

> But the objects and purposes of the bill do affirm intrinsic and human values of the river. For example, the legislation aims to protect the river as 'one living and integrated natural entity'. The objects of the law would recognise 'ecological health' and the 'cultural, social, environmental and amenity values of the Yarra River and the landscape in which the Yarra River is situated'.
>
> …
>
> The act also establishes a type of institutional 'guardianship' arrangement in the advisory and advocacy functions of a new Birrarung Council and monitoring/auditing functions vested in the sustainability commissioner.

The EJA go on to say:

> Alongside these objects, purposes and practices, conventional models of planning and water management are also employed, in order to make the proposed river governance arrangements work. In particular, a Yarra strategic plan will be prepared as a 'land use framework plan' and 'healthy waterway strategies' will have to be prepared consistently with that strategic land use plan.

I would certainly hope that there is also consistency with the regional strategy plan in place at the Shire of Yarra Ranges, which has held that municipality in good stead for decades. The EJA talk about the:

> … innovative and conventional legal approaches … brought together by integrative management tools: a 50-year 'community vision', the 10-year Yarra strategic plan, and obligations for planners, water authorities and other decision-makers to act consistently with them.

I certainly congratulate the EJA on their work in relation to being fierce advocates for the Yarra River.

With that, I certainly concur with Mr Davis's comments in relation to the Yarra Riverkeeper Association and the important advocacy role they have played in terms of being a strong voice for the Yarra River. I certainly remember Ian Penrose coming to visit Yarra Ranges Council. At that stage Yarra Ranges Council did not actually contribute to the Yarra riverkeepers and Mr Penrose was, of course, making a pitch for us to do that. I am very pleased that the council did decide to contribute some funding towards the Yarra riverkeepers because of the essential role they play and because the Yarra Ranges actually has the largest stretch of the Yarra River in its municipality. I certainly congratulate the Yarra riverkeepers. They have worked enormously hard. They have been fierce advocates for the Yarra River over many years, and this bill is recognition of their hard work.

In terms of this bill I would like to explore one major threat to the Yarra, its tributaries and its watershed, on which this bill stays silent. It is worth understanding what the Yarra catchment comprises. As we probably know, the catchment lies north and east of Melbourne, it covers an area of just over 4000 square kilometres and it is home to more than one-third of Victoria's population and native plant and animal species. It spans protected forests and rural areas to urban development and established industry. The Yarra River runs through the catchment into Port Phillip Bay. It is sourced from the forested Yarra Ranges National Park on the southern side of the Great Dividing Range. It is a Victorian heritage river between Warburton and Warrandyte, meaning it has significant recreation, nature conservation, scenic and cultural heritage attributes. Certainly the river is highly valued and attracts millions of visitors a year, whether that is to walk, ride, row, fish, picnic or camp alongside the river.

The catchment is divided up into three sub-catchments. There is the Upper Yarra system, and in terms of the major waterways that are part of that system they

include the Yarra River itself of course, Hoddles Creek, Graceburn Creek, New Chum Creek, Coranderrk Creek, Watts River, Little Yarra River and the O'Shannassy River. Those waterways are highly valued by locals and visitors alike, and I can certainly report to the house that they have enormous aesthetic value, let alone their environmental values.

Some of those rivers run through towns, particularly towns such as Healesville. Most of them, because they are part of the Upper Yarra system, are in the forested catchments, which have enormous intrinsic environment values, including significant animal species such as the powerful owl, the Leadbeater's possum and the platypus. It is worth noting that the upper reaches of the Yarra catchment also provide around 70 per cent of Melbourne's drinking water.

Moving to the Middle Yarra system, which comprises Arthurs Creek, Diamond Creek, Steels Creek, Pauls Creek, Olinda Creek, Woori Yallock Creek and Stringybark Creek, there are also significant lands, including Yering Backswamp and other flood plain wetlands around Yarra Glen, which of course are listed in the *Directory of Important Wetlands of Australia*. These waterways are highly valued, particularly the main Yarra stem and its tributaries, because of their natural beauty and their support of many recreational activities and important animal species, such as the platypus. They also have very significant Indigenous values as well as European heritage values. The challenges for the waterways in the Middle Yarra are around urbanisation and agriculture and balancing social, environmental and economic needs.

Moving along the river we end up at the Lower Yarra system, which comprises the Plenty River, Darebin Creek, Merri Creek, Moonee Ponds Creek and Gardiners Creek. It is far more in an urban setting because essentially it is downstream from Templestowe. Much of the area along the waterways is protected in public open spaces. Fortunately the system still retains many natural wetlands within it, such as the Glen Iris wetlands, the Banyule Swamp and the Huntingdale Wetlands. The biggest challenge for the waterways in this particular region is urbanisation. Most of those waterways have been significantly altered in form and have very significantly reduced water quality. Modifications, including straightening, channelling and concrete lining, of course have an impact on the quality of natural vegetation in relation to those waterways. Large amounts of stormwater enter these waterways, reducing water quality and changing water flow rates, and together with waterway diversions upstream cause low flows and low dissolved oxygen, which harms plants and animals in the waterway.

It is interesting to look at the health of the Yarra River and its tributaries. Sadly it is not a great picture that is painted. Very few parts of the river are in fact healthy. Most of them are of poor quality, and that is in relation to the significant urbanisation around that catchment.

Having gone the length and breadth of the Yarra and the catchments that make up that river system, I want to go back to the Upper Yarra, which is in an area forested by mountain ash. These forests provide the ecosystem service of infiltrating, which is retaining and filtering rainfall into groundwater that wells up in springs, and these are the source of the Yarra's tributaries. As I have already mentioned in my contribution, this is the principal reason why Melbourne has the cleanest drinking water in the world.

However, there is something that threatens our water quality and in fact the quantity of water that we can capture from our water catchment areas. The state-run logging industry threatens these forests. It does this directly by logging hundreds of hectares of forest in watersheds each year. More worryingly, logging combined with more frequent bushfires is imperilling the very existence of the mountain ash ecosystem to the extent that it has been listed as critically endangered by the International Union for Conservation of Nature.

It is worth understanding what happens in our water catchment areas. In my time as a Yarra Ranges councillor I had the privilege of going on a tour of the water catchments comprising the Yarra Ranges, and one of them was the Armstrong catchment. The Armstrong catchment is part of the Yarra system. It is very closely located to Cambarville. It is right in the heart of the montane forests of Victoria. It provides an enormous watershed for Victoria. It is an extraordinary forest — damp and dense, full of moss and lichens and with an understorey of ferns and wattles. It was absolutely pristine in that forest until we got to a section of the road and came across the devastation we saw within the Armstrong catchment.

This is a closed water catchment. No-one is allowed in this water catchment. It is closed to protect water; it is closed to create water security for Melburnians. However, in that closed water catchment there were many logging coupes. The forest was completely trashed — all trees were removed and all understorey was removed. It was absolutely razed to the ground — and mostly for woodchip. It is a heartbreaking sight to see at the best of times. It is verging on criminal when it is in a closed water catchment.

I have also toured Starvation Creek, below the Upper Yarra dam, also part of the Yarra catchment area. There

is nothing more devastating than standing on the edge of a logging coupe, looking into the distance at intact forest but before your very eyes are the smoking remains of what was once a pristine forest. It is happening. It continues to happen. It puts at risk water quality. It puts at risk the quantity of water. Perhaps not surprisingly those areas of the Yarra catchment are not included in this bill. Once the Birrarung Council has been formed I would dearly love to have a conversation to seek their views in relation to the absolute devastation of our catchment areas and the mountain ash forests of Victoria.

Along with the damage to the integrity of our watersheds, logging leads to the destruction of carbon stores and the extinction of endangered species. The regeneration burns that are part of logging these areas create haze for months, particularly throughout the central highlands, the Yarra Valley and the Dandenong Ranges. This causes respiratory illness, taints wine grapes and holds back the horticultural industry of the region.

The preamble of the bill states:

> The Yarra River is of great importance to Melbourne and Victoria. It is the intention of the Parliament that the Yarra River is kept alive and healthy for the benefit of future generations.

Native forest logging is incompatible with the ethic, spirit and objectives of this bill. The state government must stop logging native forests and must preserve the forests of the Central Highlands in a new great forest national park.

I think if we are truly going to protect what is a significantly important river to all Melburnians, we really need to broaden the scope to actually include the tributaries, because you cannot ignore them. The tributaries have an enormous impact on water quality health into the future, so in terms of a truly holistic approach you need to take a catchment-wide approach. We hope to see in terms of stewardship and custodianship that the river, as a living being, is extended to all parts of that living being.

I certainly commend the Wurundjeri people for their work on the bill. The Greens support it, and we hope for its speedy passage.

Mr MELHEM (Western Metropolitan) — I also rise to speak on the Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017. I am pleased that both parties are supportive of the bill, even though I was somewhat confused by Mr Davis's contribution because he started off by saying he would be supporting the bill but then spent 45 minutes criticising it and criticising the government for what it was trying to do as part of putting the bill in place. That is despite the fact that when his party were in government for four years they talked about it, put the issue in the drawer to collect dust and basically did not do anything at all. They are now waking up.

This government is actually doing what it said it would do. We went to the election in 2014 and said we would do something about protecting the Yarra and its heritage and would give recognition to the traditional owners and enable them to have a say in how we manage the river. We are actually implementing that, two and a half years after the election. It is amazing.

I am looking forward to the committee stage. Actually I am not looking forward to the committee stage, when Mr Davis might be spending 2 hours on God knows what so we have to listen to all his questions. He was briefed on the bill and raised some of these issues in the briefing, and they were addressed. I think it will be painstaking for the committee to have to go through that again, but anyway, that is the process.

The bill is one of the first pieces of legislation to give Indigenous owners custodianship of the river. It is the first legislation to go before state Parliament with a dual Indigenous language title designed to give the Wurundjeri people a voice in decisions about the river. I think it is very important for us to recognise that.

As previous speakers have said, the purpose of the bill is basically to make sure we protect the Yarra River and parklands and also to acknowledge the importance of the river to the economy, sustainability and livability of Melbourne. It has been declared the most livable city in the world for seven years running.

The bill will build upon work already undertaken by this government to strengthen planning controls along the length of the river, particularly in those areas seeing significant development. It will also enshrine in law the new governance arrangements set out in the *Yarra River Action Plan*, which was released in early 2017 and which puts in place a policy framework that will see the production of the first Yarra strategic plan.

This is a landmark bill. It is the first time in Australia that a river and many hundreds of parcels of land through which it runs will be recognised as one living and integrated entity for protection and improvement. That is important. We can argue, but an important point to make is that the purpose of this bill is to provide protection and to make sure that we do not have overdevelopment around the Yarra River, because

things can easily and very quickly get out of hand and people will not have the access to the river that they currently have. I think it is important that we maintain that.

The other point I want to make is that it was a historic day when the announcement was made in relation to this bill and the Aboriginal people were given the opportunity to come in and address the Victorian Parliament in the Assembly. Among the attendees was Wurundjeri elder Alice Kolasa, who stood at the dispatch box on the floor of the Victorian Parliament and read the name of a new piece of legislation designed to protect the health and safety of the Yarra River — which is known in the Woi-wurrung language as the Birrarung — 'Wilip-gin Birrarung murron', which means 'keep the Birrarung alive'. Excuse my pronunciation, but I think this was an important event to give traditional owners and the original inhabitants of this land, the people who were the first occupants of Australia and Victoria, the recognition and the opportunity in this Parliament to participate in the introduction of this bill. I think it was quite a special event, not just for the traditional owners but for all of us. It is important that we give them that recognition.

As I said, Ms Kolasa was the first Wurundjeri person to speak from the floor of the Parliament in their role as a traditional owner of the land on which Parliament House is built. That is the whole point of the legislation. It is about giving that recognition to Aboriginal people and giving them a say in how we should manage the river, that priceless piece of real estate. Hence the bill establishes the Birrarung Council, which will assist the government in making sure the legislation will deliver the outcome which the government is looking at achieving.

I will go to some of the points Mr Davis raised about some of the recent developments taking place around the river. This bill will basically recognise the need for development and the growth in Melbourne but balance that with the ability to protect our heritage, the landscape and the river from overdevelopment. It is all about getting a balancing act and putting it in place. For the first time we will have legislation put in place to actually deliver that — a balancing act between development and maintaining open space and heritage.

It also gives our Aboriginal people a say, and that is now enshrined in legislation in how we are going to manage that real estate. I think this particular bill gives that balance, and I want to congratulate the Minister for Planning, Mr Wynne, and the Minister for Aboriginal Affairs, Ms Hutchins, for the good work they have done in this space to basically bring all the stakeholders together, the Aboriginal people and the eight local councils that have boundaries along the Yarra River. They have gone through a very extensive consultation period with all the stakeholders over the last couple of years to actually bring together a good piece of legislation to provide that balancing act between protecting the environment and protecting the river while also acknowledging the growth in Melbourne's population. That is what this bill does. With those few words, and in the interest of time and taking into account that Mr Davis might take a few hours in the committee stage, I commend the bill to the house.

Ms BATH (Eastern Victoria) — I rise to make a brief contribution to the Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017, noting that The Nationals will take an unopposed position to this bill, which has many positive aspects to it. Keeping the Yarra alive — or Wilip-gin Birrarung murron — is the core of this bill. As a major meeting place and food source for Indigenous people, the name Birrarung is derived from the Wurundjeri people. The current name, Yarra, is translated from the Wurundjeri term Yarro-Yarro, which means 'ever flowing'. The Wurundjeri people spoke Woi-wurrung language, and their territory extended in an easterly direction to the tributaries into the Yarra which are initiated on Mount Baw Baw, in that beautiful landscape in my electorate of Eastern Victoria Region. Their land bordered the Gunaikurnai people in Gippsland and also the Bunurong people, who have an association and a history in relation to the Yarra River as well.

The main purpose of the bill is to establish Yarra River policy and planning; to establish the Birrarung Council; to provide for the declaration of the Greater Yarra Urban Parklands; to amend various acts in relation to the management of the Yarra River and other Yarra River land; and to make consequential amendments.

When people think of the Yarra they often think of the wonderful play area of the Melbourne city area, with its entertainment, sporting activities and thriving restaurant precinct, but actually the Yarra River extends way up into the western regions of my electorate, and it is 242 kilometres long. It goes through many electorates, it goes through local council boundaries and it has a number of mobs associated with its custodianship; therefore a list of stakeholders that should have been attended to in relation to this bill, discussing this bill and working through this bill needed to be thorough and inclusive. It was very important that there was representation from the Wurundjeri people, and it is pleasing to see that that has happened, but it is disappointing to see that there was a lack of consultation by the Andrews Labor government with

the Bunurong mob. I find that this negates clause 12 of the bill, which says:

> The role of the traditional owners as custodians of Yarra River land should be acknowledged through partnership, representation and involvement in policy planning and decision-making.

They should have been at the table. Clause 1 proposes a 12-member Birrarung Council to be a voice of the river, and I note again the 12-member council is also void of any Bunurong tribal presence.

The bill refers to Aboriginal cultural values, heritage and knowledge of the Yarra River land being acknowledged, reflected, protected and promoted, and it is very important that we keep those traditions alive. Past management practices by Indigenous Australians should not be overlooked when confronted with today's environmental issues. In many respects the incorporation of Indigenous knowledge with regard to the Yarra River draws many parallels to the past practice of the Indigenous firestick regimes. The firestick regime of Aborigines of the past and members of the Wurundjeri tribe was based on the idea that when you look after the land you also look after the water and its tributaries — you look after the Yarra River.

I had the pleasure of meeting and spending a great deal of time recently with Wurundjeri elder Uncle David Wandin as he embraced and furthered his traditional elder knowledge passed down from generation to generation of firestick burning. Recently I was able to attend the Yarra Valley — along with mountain cattlemen; Victor Steffensen, a traditional fire stick practitioner; and Brett Ellis, who is a former Yarra Ranges emergency and community safety council officer — to explore what it is to do a cool burn and to explore and understand the importance of cool burns in relation to the health, survival and thriving nature of the land in and around the Yarra River and in and around the bush and country in the Yarra Valley, and it can extend right across Victoria as well.

I think there is a lot of information that is important culturally for Indigenous people in the firestick practices. I think there are a lot of information and techniques that should be used on a wide scale to promote a healthy and diverse healing of country, and I think that that will, if incorporated into practices within Emergency Management Victoria, promote healthy and sustainable country and healthy ecosystems within and around the Yarra River.

With those few words, I hope this bill passes. I think it has a number of positive attributes, notwithstanding the fact that there should have been more dialogue and consultation with the Bunurong mob in my electorate.

Ms MIKAKOS (Minister for Families and Children) — It is a great pleasure to have an opportunity to contribute to what is a very historic bill debate being conducted in this house today. It is putting in place landmark legislation in Victoria to protect a natural, iconic landmark in our state. For those of us who have grown up in Melbourne, we all can share many stories of wonderment, picnics and walks along the Yarra River. It is really important that we keep those opportunities alive for future generations.

Can I just say how important it is that we are not only debating this landmark legislation in the Parliament today but also creating a bit of history in our Parliament in terms of enshrining an Indigenous group's language into legislation for the first time as well, that being the Woi-wurrung and the use of the traditional owners' name for the Yarra, which is Birrarung, being enshrined not just in the title of the bill — 'Wilip-gin Birrarung murron', meaning 'keep the Birrarung alive' or 'keep the Yarra alive' — but also in the initial part of the legislation as well. I think it is very appropriate, and I have remarked previously that it is really important that we are very genuine in our efforts towards self-determination in this state and that we respect the traditional owners, traditional custodianship and protection of our natural landmarks, including our riverways.

This is going to be a very important piece of legislation into the future. It is seeking to make sure that the Yarra — the Birrarung — is protected for current and future generations. We are legislating for the first time a single lead agency to develop and coordinate the Yarra strategic plan. We are giving the Yarra a voice and traditional owners a seat at the table by appointing the independent Birrarung Council to oversee the development and implementation of the Yarra strategic plan. We know that the Yarra is fundamental to its sustainability, to its livability and to its prosperity. It does give our city life. It provides 70 per cent of our drinking water. It is home to the port of Melbourne, the largest container and general port in Australia. It is a place that we use for everything from the arts to entertainment, festivals, picnicking, rowing and walking our dogs.

I have had an opportunity, like Mr Davis, to witness the expertise and the passion of the Yarra Riverkeeper Association in past discussions and have had the opportunity to get in a little boat and go up and down the Yarra and see for myself the state of our Yarra. Obviously their advocacy has been important as well. I

too acknowledge Ian Penrose's fierce passion and advocacy for the Yarra over many years, as well as that of many others.

This bill is seeking to protect this precious natural asset for future generations, as I said at the outset. It is about making sure there is a long-term strategic plan to monitor and improve upon the health and amenity of the river. There is currently no mechanism to resolve land use conflicts or to bring together the multiple agencies that might be involved in simple projects, but most importantly there is currently no voice for the Yarra, and there is certainly very limited ability for the traditional owners and the broader public to have a role in protecting the Yarra and have a say in planning for its future use.

The bill recognises the significance of the Yarra River and its parklands to Melbourne's identity and to Victoria's economy, sustainability and livability. It fulfils a 2014 Labor election commitment to guard the river from inappropriate development and establishes a trust to be an independent voice for the river and a link to the broader community. It builds upon work already underway by this government to strengthen planning controls along the length of the river, particularly in those areas that have seen intense development. It enshrines in law the new governance arrangements set out in the *Yarra River Action Plan*, released earlier this year, and puts in place a policy framework that will see the production of the first Yarra strategic plan.

It is a landmark bill because it is the first time in Australia that a river and many hundreds of parcels of public land that run along it will be recognised as one living and integrated entity for protection and improvement. It provides for a holistic coordination of the activities of public entities that have an interest in or responsibility for the Yarra and its environs.

It is also really important that we are establishing an independent body, the Birrarung Council, to act as a voice for the Yarra and its land in planning and decision-making. The council will have a maximum of 12 members and must include representation from traditional owners and environmental, advocacy, agricultural, industry and community groups. Importantly one seat will be left vacant for any future declared traditional owner groups. I know there have been some issues raised around these issues, and I am happy to go into more detail around that in the committee stage.

In relation to the Yarra strategic plan, the development of that is quite crucial. The bill provides that the Yarra strategic plan to be developed will guide the management of the river. The Yarra strategic plan will give effect to the community vision for the Yarra and its landscape, providing an overarching spatial and management context for localised planning along the river corridor.

This legislative requirement to develop and report on the implementation of the Yarra strategic plan will be a step change in the management and governance of the Yarra, as multiple agencies, councils, traditional owners, Indigenous groups, environment, water and land stakeholders and the broader community come together to formulate a long-term plan to agree on actions and targets and to be subject to the independent scrutiny of the Birrarung Council and the commissioner for environmental sustainability. The community does have a right to know about the health of their waterways, and the bill requires the commissioner for environmental sustainability to report regularly on the environmental condition of the Yarra River and its parklands and on how that condition has changed since the last report.

I guess the final point that I would like to make is that the bill also sets out principles to which specified public entities must have regard when exercising powers or performing functions. Such entities must not act inconsistently with any part of a Yarra strategic plan that is binding on them when performing functions or duties or exercising powers in relation to Yarra River land. The bill also enables the declaration of the Greater Yarra Urban Parklands. The parklands will include public land, both Crown and freehold, to which members of the public have access for recreational purposes, but this will not apply to private land or land owned by municipal councils except where there is agreement secured with the landowner.

Can I just make the point that in Mr Davis's contribution he did ask about resources for Melbourne Water specifically. I can advise him that there was a budget allocation this year of $6.55 million, and that is to fully implement the actions arising from the Yarra strategic plan. It is funding for both Melbourne Water and other relevant agencies, including the department, so there will be no impact on water rates arising from this particular legislative change.

In relation to other matters, I know that there were some other issues that were raised during the course of the debate. I am happy to address those in the course of the committee stage, but I just indicate the government's appreciation of the fact that all parties have, I believe, indicated their broad support for this piece of legislation. This is going to be a really important piece of legislation in protecting the Yarra in

years to come. I am happy to go into further detail in the committee stage.

Motion agreed to.

Read second time.

Committed.

Committee

Mr Ondarchie — On a point of order, Deputy President, to you, given the matter before the committee now and the ongoing investigation into your capacity, I ask if you think it is appropriate that you chair this committee.

The DEPUTY PRESIDENT — There is no point of order, Mr Ondarchie.

Mr Davis — Further to the point of order, Deputy President —

Ms Shing — It has been ruled on. You would have to base it on a new rule, Mr Davis.

Mr Davis — I am. Deputy President, as I understand it you are the subject of an IBAC investigation, and in that context I think it may be inappropriate for you to sit in this position, and for an excess of caution in terms of the legal standing of the committee —

The DEPUTY PRESIDENT — Sorry, there is no point of order, Mr Davis.

Clause 1

Mr DAVIS (Southern Metropolitan) — Can I begin by just stating that I think it does diminish the committee, Deputy President, for you to remain in the chair. I will leave my comment at that.

Ms Shing — On a point of order, Deputy President, Mr Davis has already tried, as has Mr Ondarchie, to raise this as a point of order in relation to matters which you, Deputy President, have already ruled upon. On that basis, unless Mr Davis has something which is relevant to the matter before the committee, then in fact I would suggest that Mr Davis should get right to the point rather than pontificating on frivolous, vexatious opinions which have no relevance whatsoever.

The DEPUTY PRESIDENT — Ms Shing, I have already ruled on that.

Mr DAVIS — That was my intention, Deputy President. I had made my point, and I intended to proceed to the committee stage and to the first clause, the purposes clause, of the Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017.

I thank the minister. I put on record my thanks to the bureaucrats and also to the minister for responding to a number of points I raised in the second-reading debate. I have got a short list of questions here. The first relates to Indigenous groups. The opposition has had contact with the Bunurong land council, and we understand that not all Indigenous groups who have a relationship to the river have been fully consulted in the process of the development of this bill or in the final stages of development either.

Ms MIKAKOS (Minister for Families and Children) — I think it is really important that the debate of this bill is not used to divide Aboriginal people. I think it is really important that we are respectful of our traditional owners in this state. I feel very proud that as a Parliament we are about to pass a bill into law that will for the first time incorporate an Indigenous group's language into Victorian law. I think we have a long way to go to catch up to other jurisdictions that have recognised the rights of Indigenous peoples many decades — in fact in some countries 100 years — ahead of us in this nation. I do think that we are breaking new ground here as a Parliament.

Can I advise the member and the house that the bill specifically recognises the custodian role of traditional owners of country, with provisions for partnership representation and involvement in policy planning and decision-making in relation to Yarra River land. The Yarra protection principles in part 2 of the bill require responsible public entities to acknowledge the role of traditional owners of Yarra River land as custodians of Yarra River land through partnership representation and involvement in policy planning and decision-making. The bill makes provision for at least two Wurundjeri Council nominees to be members of the Birrarung Council as they are the registered Aboriginal party for Yarra River land upstream of the confluence with the Merri Creek. There is currently no recognised traditional owner of country for Yarra River land downstream of the confluence with the Merri Creek, an area where applications to be the registered Aboriginal party have been contested by several Aboriginal groups.

Successfully submitting an application to the Victorian Aboriginal Heritage Council to become a registered Aboriginal party is an administrative process which does not afford an applicant higher status. Resolving the extent of country between contesting Aboriginal groups is a difficult process, as all ethnohistorical

records and reconstructions may be traced back to what a few white men wrote down before 1900. As has been noted by the Victorian Aboriginal Heritage Council, there are problems with these records based on who wrote them, the author sometimes not knowing where they were, messy handwriting and contradictory information.

The bill is flexible enough to allow for the appointment of a nominee of another traditional owner group, should such a group be recognised for Yarra River land through traditional owner settlement agreement, through native title agreement or by appointment as a registered Aboriginal party in the future. The terms and conditions for the Birrarung Council will require a seat to be left vacant until the traditional owner of country has been recognised for all of the Yarra River land.

Mr DAVIS — I thank the minister for her response, and it is precisely because of those important points that I am asking the question. The decision not to divide is an important one, but at the same time the government's decision not to consult with all groups actually puts a division in place. I accept the government's intent to move forward with this, but I do want to put on record our view that ensuring proper consultation with all groups would not have been an impossibility without conferring any deeper status than a reasonable level of consultation. With that point, I am happy to proceed and thank the minister for her contribution.

Ms MIKAKOS — Thank you, Mr Davis. I think I have put on the record a very detailed explanation about why things have happened in a particular way and the potential opportunities going into the future.

Mr DAVIS — Thank you, and I hope the government avails itself. I want to ask about farming land, particularly further up in the Yarra Valley. This is obviously important into the tributary areas. There are many farming communities who are cautious. I accept the briefing provided and thank the minister and the bureaucrats involved for the briefing. I accept it may not be the government's intention to use this bill to impact on farming land outside the immediate zone of the river, but it seems to me that there are sufficient heads of power in this bill to underpin and drive amendments in planning arrangements and other aspects — noting the need for consulting with the relevant parties in respect of this bill — that controls or reductions in the capacity of farmers to undertake their farming are a legitimate question of a threat.

People have certainly put to me, farmers have put to me, that they are under the view from this act — I am not imputing this to the current government — that a future minister, a future governing body here, may well seek to extend its influence into farming land that is in the catchment along tributaries to the Yarra and restrict the number of land use activities and legitimate farming practices. I just seek your response to those concerns.

Ms MIKAKOS — Thank you, Mr Davis, for your question. I think in my summing up I did refer to the intention to only incorporate private landholdings with the agreement of the owner of that land, but I do also make the point that the Yarra strategic plan is a regional land use framework plan similar to the land use framework plans to be prepared for each of the metropolitan regions under *Plan Melbourne: 2017–2050*. The key differences are that in the Yarra strategic plan the river is at the centre of the map rather than on its edge and hence requires a joined up landscape approach to land use planning for the river valley.

There is also a statutory requirement for it to include a land use framework plan along with a requirement for scrutiny and annual reporting to Parliament on its implementation and for it to be refreshed at least once every 10 years. The impact of the Yarra strategic plan will be entirely dependent on its content, which is required to be developed in collaboration with local government authorities and to include extensive public consultation, complete with submissions and a panel and public hearing process. Obviously there will be opportunities for farmers and others in the agricultural sector to have input into the development of the Yarra strategic plan.

Mr DAVIS — I thank the minister for her response, but actually it sounds to me like it is deeply possible that, as the land use plan is prepared, there may be restrictions on the activities of farmers within the catchment area. It may not be the government's current intention, but I put on record now my caution and my concern that this document and the machinery that surrounds it may well be used to restrict legitimate farming activities.

If I can perhaps move to the issue of funding, I thank the minister for her point that the funding in the budget is sufficient to fund Melbourne Water for its activities and I accept the minister is now ruling out any additional levy on water rates to fund any of these activities. That is a welcome point.

I want to come to the case study that I outlined in my second-reading speech. I only picked that because it is practical and topical; I could have picked many others. The case study in point here is the bridge between

Alphington and Kew along the Chandler Highway, the expansion of that — three lines each way, two massive, and I see the clerks nodding, as they know the geography quite well — and what processes will occur there. People understood it would occur on the east and would not impact on the land use. What would occur in the sense of where a new bridge or a new significant structure is occurring? Would the land use approach that is involved in the bill prevent it, would it allow it or how would this operate?

Ms MIKAKOS — I thank the member for his question. Can I say at the outset that we are obviously talking about a prospective piece of legislation here, and the member in his contribution did refer to a project that is currently underway. Can I make the point, as someone who is one of the local members there and a local resident, how important I believe the duplication of the Chandler Highway bridge is for Melbourne, both for my constituents in Northcote and also for those who live on the other side of the Yarra as well. I think there will be a lot of very ecstatic Melburnians when that project is completed because it is a very significant bottleneck at the moment.

Posing hypotheticals of that nature is really outside the scope of the bill here because this is one that is prospective in nature. What I can say to the member is that obviously there is a process that occurs in relation to competing interests in relation to these matters. The Yarra strategic plan is a regional land use framework plan, and the level of competing interests will be entirely dependent on its content. Decisions on competing land uses will be made through the standard land use planning processes. The Yarra strategic plan is required to be developed in collaboration with local government authorities and include extensive consultation, complete with submissions and panel and public hearing processes. The bill does not alter the responsibilities of organisations under the Victoria planning system.

Mr DAVIS — I understand the point the minister has just made, but it does not fundamentally answer the question. In this case a bridge is being built. It is a needed bridge — I accept that — but the location of the bridge has been decided by government following its own processes, and in this case there has been a significant loss of vegetation and there will be an impact on the Yarra River. What I am actually hearing from you, Minister, is that this bill would make no difference and would not have protected that vegetation or the Yarra. In fact the government, even if the bill were in place, would have simply proceeded and made a decision to put it on the west rather the east. I will leave that as my comment.

Ms MIKAKOS — Thank you. I know Mr Davis has a habit of putting words into ministers' mouths or attempting to anyway. I make the point to the member that there is a net gain principle here in the bill. The bill requires responsible public entities to have regard to the principles outlined in part 2 where the exercise of those powers or performance of those functions may impact on Yarra River land. The net gain principle acknowledges that sometimes building projects will have an impact on the physical factors of the environment of the Yarra River land, such as:

> … the land, waters, atmosphere, climate, sound, odours, tastes, the biological factors of animals and plants and the social factor of aesthetics …

In relation to the example that Mr Davis gave — the cutting of trees — the net gain principle requires consideration to be given to an investment in the physical environment of the Yarra River land to offset the harmful impacts of such a project would have on the Yarra River land environment. This offset could be directed towards investment in the nearby riparian zone, the biodiversity corridor or the planting of trees in the parkland. To follow through on the example given, if trees were cut in one location the net gain principle would require trees to be planted in another location.

Mr DAVIS — I get that the offset is one response. It does not necessarily protect the diversity and the impact on the river at that location. I am conscious of time and I will be brief on this. I want to ask what protections this bill might offer from the government's current densification policies where it is seeking to remove protections that were there previously in the neighbourhood residential zones (NRZs) and the general residential zones in areas like Boroondara and Yarra Ranges, which had significant NRZ protections in the past but have had those protections wound back. Will this bill offer any override, or will that high-density development continue to occur?

Ms MIKAKOS — The member asked questions around residential zones and the neighbourhood residential zones. There is nothing in the bill that relates to these matters. They really are questions that are outside the scope of this bill. This is a bill about protecting the Yarra River, and I find it really interesting that the member is wanting to go down the path of talking about densification. He had a lot to say in his contribution about densification, when in fact it was the now Leader of the Opposition in the Assembly, as Minister for Planning, who led a significant densification of different parts of Melbourne, including in my electorate and places like Northcote and other locations around Melbourne. We certainly are now in a process of having to rectify all the problems in

Fishermans Bend and other locations, but I do make the point to the member that he really is seeking to stray into areas outside the scope of this bill.

Mr DAVIS — Not at all. I will make this my last contribution. I indicate that the Yarra strategic plan is an overarching policy and planning framework in relation to the Yarra River and certain land in its vicinity. So there is that whole strip of land that is close to the river in many of the 10 municipalities that are in the schedule of this bill where at the moment it is open slather under the new planning arrangements to densify and strip out the vegetation under the current arrangements, and that will directly impact on the river. It will impact in terms of canopy, in terms of vegetation more generally, in terms of run-off and in terms of the flow into the actual river itself.

So in the purposes clause it states that one of the main purposes is:

> (b) to provide for the development and implementation of … an overarching policy and planning framework in relation to the Yarra River …

I would have thought that a massive development that occurs on a property that is right on the Yarra River will impact on the river in a whole range of different ways.

Ms MIKAKOS — I can advise the member that the government has already put in place the strongest protections possible in relation to developments along the Yarra River, and in the development of the Yarra strategic plan the government will also consider whether there are any further additional protections required. We have already acted to put in place protections that the previous government had failed to take any action on.

Mr DAVIS — You might do something, but it does not seem to me that you will, so let that stand on the record.

Ms MIKAKOS — The point that I have made is that we have already taken action in this space.

Ms DUNN (Eastern Metropolitan) — My question is framed around the preamble of the bill, which of course is around the intention that the Yarra River is kept alive and healthy for the benefit of future generations. In my contribution I talked about the significant role that the tributaries play in terms of river health of the entire Yarra catchment. I am just wondering, given the intrinsic link between the health of the tributaries and the Yarra River itself, why the bill does not seek to take a broader catchment approach to the Yarra.

Ms MIKAKOS — Ms Dunn referred in her question to the preamble of the bill. The primary role of the preamble is to provide context to the bill by setting out the background to the bill and the reasons for its enactment, and it may be used to help resolve any ambiguity in the body of the act. In relation to issues around catchments I am advised that the issue of catchments is incorporated into regional waterway health strategies that are required under the Water Act 1989.

Ms DUNN — Thank you, Minister, for that answer. Could we envisage at a future time, as the work rolls out on the strategic plan, that there may be an opportunity for a greater focus on perhaps some of those tributaries that are having a detrimental impact on the Yarra? It is probably more the tributaries that are in the urban end of the river rather than the rural end of the river.

Ms MIKAKOS — I can advise Ms Dunn that we have got a bill before the house that has got a particular scope to it, and that is really what we should be focusing on here today rather than engaging in crystal ball gazing about the future.

Ms DUNN — Thank you, Minister. I notice there is a definition in the bill that talks about 'excluded land', and it excludes:

> any land within a special water supply catchment area listed in Schedule 5 to the **Catchment and Land Protection Act 1994** …

That clearly is around the close water catchments of Melbourne. Firstly, I guess I would like to understand why those catchments have been excluded, particularly as logging continues in our closed water catchments and logging has an extraordinarily detrimental effect on water quality and quantity. And of course in terms of flow into the Yarra, that is significantly important in terms of the health of that river.

Ms MIKAKOS — I can advise the member that we already have the strongest possible protections in relation to our water catchments. I am conscious of the time obviously. I am happy to come back to it, perhaps when we resume after question time.

Business interrupted pursuant to sessional orders.

ABSENCE OF MINISTER

Mr JENNINGS (Special Minister of State) — As a courtesy to the house, I have to inform the house that because of a faith-based observance today Mr Dalidakis is not in the chamber, and I will be taking questions on his behalf.

QUESTIONS WITHOUT NOTICE

Forced marriage

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Families and Children. Minister, since the election of the Andrews government there have been 34 forced marriages investigated by the Australian Federal Police (AFP) here in Victoria. Part of the initial referral process to and from the AFP is that your department tries to prevent the forced marriage by intervention and warnings to the affected parties, sometimes by issuing warnings to extended family members. Can you advise how many individual interventions and individual departmental warnings have been issued in Victoria for forced marriages since the election of the Andrews government?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Can I say at the outset that forced marriage is never acceptable. The crime of forced marriage can apply to legally recognised marriages, cultural and religious ceremonies and registered relationships, and it applies to marriages that occur in Australia, including where a person was brought to Australia to get married and where a person is taken overseas to be married.

There has obviously been some focus on this matter in light of recent media coverage of a particular case, and I obviously cannot go into discussing the details of any matter currently before the courts, but what I can advise the member is that my department has been doing some considerable work in relation to this issue for some time now. In May 2016 my department developed guidance for child protection practitioners to support their practice in relation to reports of forced marriage regarding a child, and recording systems are being enhanced to enable careful monitoring.

A meeting that occurred in Sydney late last year, I believe it was in November, of all state and territory community services ministers, that I attended as well, agreed that the issue of under-age forced marriage is an issue of national significance, and we agreed to progress a greater collaborative and evidence-based approach between jurisdictions. So there has been an indication to the commonwealth that we would like them to share with us more information that they might have available to them through the immigration department as well as the Australian Federal Police in relation to these matters. Certainly all of our authorities attempt to work in a cooperative manner in relation to these issues.

There was also a Royal Commission into Family Violence recommendation in relation to these issues, and the Department of Justice and Regulation is amending the Family Violence Protection Act 2008 to include forced marriage as an example of family violence. The department is now working with key stakeholders to actively address the issue of forced marriage and to clarify roles and responsibilities in relation to these matters.

The issue that the member has raised specifically goes to the issue of numbers and data. What I can advise the member, as I have already explained to her, is that from last year there has been work underway to improve recording systems in relation to these issues, because the way these matters get entered into the child protection system it is very difficult to specifically identify issues of concern to child protection, whether it is a forced marriage or any other specific issue.

Ms Crozier — You are refusing to answer the question.

Ms MIKAKOS — You have your ears painted on. Just listen to the answer. I am explaining to you that the department does a lot of work in this area, but as to being able to identify a specific number, it may not be possible to provide the member with a specific number because of the way in which the information is recorded.

Supplementary question

Ms CROZIER (Southern Metropolitan) — Minister, the 34 forced marriages investigated by the Australian Federal Police are a significant increase on previous years. According to your latest advice, what are the reasons for this significant increase in Victoria and therefore the need for interventions and departmental warnings?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her supplementary question. Obviously it is an issue that I have already said is not acceptable. It is important that child protection works with different communities, including recently arrived communities, to explain to them the law of Australia in relation to these matters and to work with those communities to change what might be accepted practices in their own homelands.

It is a positive thing that more cases are being identified — if one can see these things in a positive way — in the sense that matters are now being more clearly identified by authorities and are being acted upon. So I think it is important that these matters are being identified. I do make the point to the member that

in terms of the numbers that the member has referred to they are not all children; some of them are in fact adults. One should not assume that they are all necessarily children.

Aboriginal Victoria

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Leader of the Government. What are the circumstances of the sudden resignation of Mr Jason Mifsud as executive director of Aboriginal Victoria?

Mr JENNINGS (Special Minister of State) — I thank Mr Rich-Phillips for his question. As I understand it the executive in question ended his employment relationship with the Department of Premier and Cabinet within the last week and a half, I believe, and offered his resignation in a conversation that he had with the head of the public service. In relation to the circumstances by which that resignation was transmitted, I have seen public statements to the effect that Mr Mifsud was to pursue other options in terms of alternative employment.

Beyond that in terms of the matters that may have been discussed between the head of the public service and the executive in question, I have not been privy to those conversations and do not know the nature of their consideration. I take it on face value that he is pursuing other options as his employment career. I believe a statement may have been issued to the effect that the public service is grateful for his contribution to public policy, and that has been acknowledged in communication with a number of members of the public service and the community more broadly.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his answer. Minister, was Mr Mifsud encouraged, requested or directed to resign?

Mr JENNINGS (Special Minister of State) — I would have thought that I had just outlined that I was not privy to those conversations. I do not know the absolute circumstances and the pathway on which that conversation took place. All I can say is that on face value I actually believe that what Mr Mifsud has said as to the fact that he resigned is the nature of that separation.

Sheep and goat electronic identification

Mr O'SULLIVAN (Northern Victoria) — My question is to the Minister for Agriculture. Minister, the implementation plan for the electronic identification of sheep and goats required from 1 July 2017 involves the scanning of electronically tagged sheep and goats to begin in saleyards, abattoirs and knackeries, with this information then uploaded to the national livestock identification system (NLIS) database. A recent report from the Australian Livestock Saleyards Association (ALSA) found that NLIS sheep and goat software suitable for use in saleyards has not been tested due to lack of availability. Minister, is the software available for saleyards, knackeries and abattoirs to meet their 2018 regulatory requirements to scan all sheep and goats?

Ms PULFORD (Minister for Agriculture) — I thank Mr O'Sullivan for his question and for his interest in this important reform to transition to electronic tagging for sheep and goats. I can certainly reassure Mr O'Sullivan that we are confident that all participants in the supply chain will be able to meet the regulatory requirements. I am aware of the concerns that Mr O'Sullivan is sharing with us all in the chamber today. I certainly have advice from my department that those concerns are not for ALSA to be overly concerned about. Indeed they will be offered a meeting with my department and my office in the not-too-distant future to go through those issues.

But testing is underway. The transition is going exceptionally well. There are many, many millions of electronic tags that have been sold. There have been dozens and dozens of information sessions. The take-up of this initiative is going really well, and it is an incredibly important one. It will underpin our livestock biosecurity system. It is a move that comes about 12 years after electronic tagging was introduced for cattle. It is something that our government is very pleased to be supporting the industry to transition in for those biosecurity reasons, but also because at each and every point along the supply chain there will be opportunities for people in this industry to improve the productivity and the profitability of their enterprises.

I think it is also worth noting that this is something that was recommended to us by a Victorian Auditor-General's report as well as any number of other sources recommending this move — this important move for Victoria. The Victorian Auditor-General's report also had some concerning findings to make about the cuts that the former government made to our biosecurity capability, but we are both restoring that funding to our frontline

agricultural services and also supporting producers to make this really important change. Those concerns can be, will be and are being addressed.

It is a big change. I understand that for some people there will be lots of questions — for lots of people there will be lots of questions — and we will just continue to address those with everyone, whether they are on a farm, in transport, in a saleyard, in an abattoir or anywhere else, who has an interest in this to make sure that everybody is ready for the transition.

I note also there is a significant transition funding package that supports the program, and the time frames that Mr O'Sullivan talked about came about as a result of extensive consultation with industry about what was achievable by what points in time. We are still very confident that that is all travelling really quite well.

Supplementary question

Mr O'SULLIVAN (Northern Victoria) — Thank you, Minister. Minister, the implementation plan for electronic identification (EID) has also imposed regulatory requirements on producers to tag sheep and goats born in Victoria. In November last year you told the *Weekly Times*:

> We'll be in a position to announce the cost of tags for 2018 and 19 in the first half of next year, following a tender process.

Now that we are well into the second half of that year, when will you announce whether subsidised EID tags will be available for producers to meet their 2018 regulatory requirements?

Ms PULFORD (Minister for Agriculture) — I thank Mr O'Sullivan for his supplementary question on a separate but related matter. The transition package did have a number of components, and a significant one was the subsidy for tags for the first couple of years. The tag tender has now been completed, and I can indicate to Mr O'Sullivan that we will be in a position to announce the tag price for 2018 soon.

Victorian Cladding Taskforce

Mr DAVIS (Southern Metropolitan) — My question is to the Leader of the Government. Minister, the Australian Building Codes Board, chaired by John Thwaites, is a Council of Australian Governments (COAG) standards-writing body that is responsible for the development of the National Construction Code. Given legitimate questions regarding the National Construction Code's ability to prevent inappropriate use of combustible cladding in Victorian apartment building construction, with consequent and unresolved risks to the public safety of Victorians, why has the government chosen Mr Thwaites to co-chair its cladding advisory task force?

Mr JENNINGS (Special Minister of State) — I think that is a very interesting question because in fact probably Mr Davis in his question has outlined elements of the CV of Mr Thwaites in relation to his relevance to dealing with this work. He is a former planning minister and somebody who was actually involved in that national responsibility and has knowledge of, an interest in, experience in and the capability of assessing the relevant matters that have led not only in this jurisdiction in Victoria but around the nation and indeed around the world to concerns about the use of cladding and the circumstances about which all of us would be anxious and in which we would do whatever we can in terms of providing a remedy and protection in the future to make sure that people who live, work and reside in buildings that have cladding products now are safe.

In terms of the way in which you provide for their safety in the future, the way that you remove products from the marketplace that are proven to be unsafe and how you actually try to provide for a plan of restoration of the integrity of the fabric of buildings in Victoria, in Australia and indeed other parts of the world that are considering those matters, you should bring together knowledgeable people. You should bring together those who actually understand the interlocking nature of how the marketplace works, how the construction industry works, how a regulatory environment may assist that and ultimately how you can deliver change practices to ensure that the quality of building fabric is improved in the years to come.

For those reasons I think that the CV, as outlined by Mr Davis himself, would warrant the involvement of Mr Thwaites in this activity and indeed other people who may bring expertise and knowledge of the industry and the relevant facts to bear. I think it is a surprising question in the fact that almost by the very nature of its construction it sort of mitigates the argument or the imputation that Mr Davis is trying to create. But let us just see how he goes subsequently.

Supplementary question

Mr DAVIS (Southern Metropolitan) — Minister, thank you for your answer. Did the government give due consideration to the real or perceived conflict of interest arising from Mr Thwaites chairing both the relevant COAG standards-writing body and its own cladding advisory committee and how this conflict of

interest may taint its committee's advice, and if so, how will that conflict of interest be resolved?

Mr JENNINGS (Special Minister of State) — I think this is probably a better question than the first one because —

Mr Barber — What would you give it out of 10?

Mr JENNINGS — I do not know that my rating of it is relevant. I think the issue is that it is important in terms of the practice, the consideration and the recommendations that come out of the review that the state inquiry has actually been commissioned to conduct needs to be mindful of the issues that Mr Davis has indicated. I am certain that in commissioning this investigation there would be — and I will take some advice from my colleagues in relation to establishing this investigation — ways in which those potential conflicts of interest and the potential for there to be mitigating circumstances against quality outcomes in the investigation should be reduced.

Parole eligibility

Mr O'DONOHUE (Eastern Victoria) — My question is for the Minister for Corrections. Minister, on 7 September in response to a question from me you said recommendation 13 of the Callinan review:

> … was fully implemented in 2015, as Justice Callinan intended in his review …

Minister, can you describe to the house in your own words what recommendation 13 is and how Mr Callinan intended it to be implemented?

Ms TIERNEY (Minister for Corrections) — I thank the member for his question. I am fully aware of what recommendation 13 means, and indeed I repeat what I have said on previous occasions, and that is that the Auditor-General has looked at it and has considered it to be fully consistent with the recommendations of the Callinan report.

Honourable members interjecting.

Ms TIERNEY — We know what it is. It is all about trying to draw me on another question — that will be a supplementary question — in relation to a matter that is subject to an investigation and an inquiry. Good try. Not good enough.

Honourable members interjecting.

The PRESIDENT — Can I just indicate that I felt the way that question was put was quite patronising, and I did not appreciate that. I also indicate that I would not have expected the minister to speculate on what might have been in another person's mind in terms of the recommendation and that her response to that question would have needed to rely on matters that Mr Callinan referred to in the report that supported his particular recommendations. In other words, the minister cannot speculate on what someone else is thinking about, but clearly if there was supportive commentary in the report to the recommendation then of course the minister would be in a position to draw down on that information.

Ms Wooldridge — On a point of order, President, in response to your comments, the question very much quoted what the minister had said herself in regard to the review being fully implemented 'as Justice Callinan intended'. So it was actually taking her exact quote from last sitting week and asking a very specific question — 'What was the recommendation?'; that is a factual issue — and then asking how that was intended. I would just put to you in terms of considering whether the minister answered that question or not that it was actually a very factual question and in the context of a quote directly from the minister herself.

Ms Shing — On the point of order, President, firstly, it is not clear how in fact that may constitute a point of order. Secondly, there is no position for anyone to direct a minister as to how a question might be answered where in fact the minister provided a pretty comprehensive response.

Mr Gepp interjected.

The PRESIDENT — It is not such a good point of order, Mr Gepp, and I will explain why. I actually do have an opportunity to direct a minister to answer a question — not how to answer a question but indeed to provide an answer to a question. I guess there is a difference, and to that extent Ms Shing was probably right in what she was saying. It will be my intention — I am flagging this early — to actually require a written response to this, because certainly the question was a matter of fact in some respects.

I still maintain that two aspects of the question nevertheless did concern me. I still think that it went to the minister trying to understand the intention of another person, unless as I said there is supporting evidence. If there is supporting evidence, of course you would be absolutely right in the point of order that you made, Ms Wooldridge. In terms of what the minister might have said last week, there will be a chance to clarify that in the written response. Certainly the question as to whether or not the minister was aware of

recommendation 13 is a valid question, and I will be seeking a written response.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for her answer. Minister, you failed to release the three reports into the Brighton siege done by the department of justice, which would detail whether Yacqub Khayre was or was not in breach of Callinan review recommendation 13 at that time. Minister, according to your latest advice and since implementation of Callinan review recommendation 13 in 2015, how many instances of parolees have you been made aware of that have also been in breach of this recommendation and have subsequently been released into the community?

The PRESIDENT — My problem is that I personally do not know what recommendation 13 is, and therefore I find it difficult in some ways to judge whether or not the supplementary question is apposite to the substantive question. In other words, does this supplementary question go to new material or to a different area to the first one, which was to actually get the minister to explain what the recommendation was? Irrespective of that, the supplementary question is certainly expansionary.

Ms TIERNEY (Minister for Corrections) — I thank the member for his question. I do not have that level of detail before me. I am not aware of what you are actually trying to drive at, but what I can say is that it is the independent Adult Parole Board of Victoria that makes decisions about parole. What goes before that parole board is the history of the prisoner concerned — the past history of the prisoner — and a range of reports from agencies that feed information to the parole board so they can make the appropriate decision.

Kangaroo control

Mr YOUNG (Northern Victoria) — My question today is for the Minister for Agriculture. Minister, the government has recently announced that aerial surveys are soon to take place to monitor the population and abundance of kangaroos in Victoria. Interestingly the number of permits authorised to control kangaroos has also been rising significantly in recent years in the absence of such surveys and without any subsequent data collection. It is also well accepted in regional Victoria that kangaroo populations are on the rise and are causing problems for farmers and drivers on regional roads, so I ask: is the government, as part of its *Sustainable Hunting Action Plan*, considering the introduction of a game permit to hunt kangaroos in order to assist population control?

Ms PULFORD (Minister for Agriculture) — I thank Mr Young for his question and his interest in the current arrangements for the control of kangaroos, which are of course native wildlife. The way that the permit system works at the moment is that where numbers are a problem for farmers or because of their interaction with urban areas an application can be made to the Department of Environment, Land, Water and Planning for an authorisation to control wildlife permit.

At present kangaroos culled in accordance with the conditions of those permits can then be processed as pet food. In reasonably recent times there was an expansion of that program. We certainly take the approach that where population needs to be controlled for the reasons that I outlined, it needs to be possible for that to occur. But we certainly do not have plans to dramatically change the basis upon which those controls are currently operating.

I imagine Mr Young's interest is in making the hunting of kangaroos more broadly available than in the context of these controlled culls. It is certainly not the government's intention to go down that path. We think the current arrangements are effective in terms of controlling the population and that they are also very responsive to changing seasonal conditions and changes in populations in different areas from time to time.

Supplementary question

Mr YOUNG (Northern Victoria) — I thank the minister for her answer. My supplementary may be along the same lines, but in the interest of absolute, pure clarification, Minister, given that we have other native species hunted in Victoria under game permits with strict parameters on season lengths, bag limits and locations where this can occur, will the government commit to the introduction of a game classification for kangaroos now that we will be in a position to determine their populations and sustainable harvest levels?

Ms PULFORD (Minister for Agriculture) — Yes, it is a bit similar to what we canvassed in the substantive question, but I can confirm for Mr Young, so that there is no doubt for anyone, that the government has no plans whatsoever to reclassify kangaroos from wildlife to game.

Transurban

Ms HARTLAND (Western Metropolitan) — My question is for Minister Pulford for the Minister for Roads and Road Safety. There is a clause in the CityLink contract which allows an early end to the Transurban tolling on CityLink if CityLink is earning super profits. Ending the tolling early is worth an estimated $8 billion to Victoria. If Transurban builds the West Gate tunnel, there is a risk that it will increase its costs enough to miss the super profits opportunity. Clearly we need an independent investigation into this. Last Tuesday in the *Herald Sun* the roads minister was cited as saying:

> Colleen Hartland is wrong. The clause she refers to will not be affected by the West Gate tunnel …

My question is: if the Minister for Roads and Road Safety is so sure I am wrong, will he explain how?

The PRESIDENT — I am advised that a video has been filmed from the public gallery. That is not allowed during the proceedings. I ask the person concerned to delete the video.

Ms PULFORD (Minister for Agriculture) — I thank Ms Hartland, and I will seek a response from Minister Donnellan.

Corrections mental health facilities

Ms PENNICUIK (Southern Metropolitan) — My question is for the Minister for Corrections. Yesterday it was reported that Supreme Court Justice Lex Lasry has joined a growing list of judges who are critical of the shortage of psychiatric treatment for people in custody. He was so concerned about one young man who urgently needed help that he was considering releasing him on bail despite him remaining a risk. He said:

> I am not prepared to simply leave this man at the mercy of the system.
>
> …
>
> This bail application has highlighted and demonstrated the extremely concerning shortage of appropriate psychiatric treatment regimens for those who badly need them and who, for various reasons, need to be kept in custody.

Victoria Legal Aid have said that 25 per cent of their organisation's recipients had mental health issues. Minister, what are you doing to alleviate the crisis of the lack of mental health facilities in corrections facilities?

Ms TIERNEY (Minister for Corrections) — I thank the member for her question. This is a large issue, particularly in the justice system. There is a significant proportion of people in the system who do have significant mental health issues, amongst other issues. We are dealing with an increasing cohort of people who present to the system and indeed to our facilities who do have a range of very complex needs.

This matter has been recognised, and indeed in terms of the last budget there was a historic allocation of moneys directed to mental health issues and mental health facilities. This is work that has been done by Justice Health within Corrections Victoria along with the Minister for Health and the Minister for Mental Health. We have had an across-government approach to dealing with this issue, and part of that proposal also was the increase and the expansion of the Thomas Embling Hospital. We have also made sure that there has been a significant expansion of the work of Forensicare, and there is also a significant increase in the amount of mental health service provision and mental health beds at the Ravenhall facility.

So we actually have injected significant amounts of resources, and I am happy to present that material to you again as a member of the Public Accounts and Estimates Committee. We went through some of this some months ago, but I am happy to take you through that and I am also happy for you to be briefed by Justice Health on the specific programs that we have introduced, the ones that we are extending and the general vision and approach that we have in terms of dealing with mental health issues within the corrections system.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — Thank you for your answer, Minister. Yes, I remember questioning you about this very issue at Public Accounts and Estimates Committee hearings. I acknowledge that some funding has gone to this area, but Justice Elizabeth Hollingworth a couple of months ago said the situation was getting worse and worse. You mentioned the number of people with mental health issues within the corrections system, and I understand it is around a third. What I have always been asking is how many of those people with mental health issues in corrections are actually receiving the treatment they need. What percentage are actually receiving the treatment they need? Also on the Thomas Embling Hospital I understand that is only about 18 beds, and the Supreme Court is saying that that is not going to cover the issues. Do you have further plans for Thomas Embling?

Ms TIERNEY (Minister for Corrections) — I thank the member for her question. As you would be aware, there is an assessment on presentation, and the needs of each and every individual prisoner are assessed, including their mental health needs. That continues to occur, and I think there has been extra effort placed on making sure that we distil the exact mental health needs of each and every prisoner. There is also of course a new 44-bed mental health precinct being built at the Dame Phyllis Frost Centre. This is a purpose-built precinct that will replace Marrmak and provide co-location of bed-based and outpatient mental health services for women at Dame Phyllis Frost. So it is not just in terms of the men's prisons and in terms of Ravenhall, it is a perceived need that has now been backed up with resource allocations that will be provided to the women's system as well. In terms of other specific matters, I am happy to take those matters on notice.

Agricultural shows

Mr PURCELL (Western Victoria) — My question is to the Minister for Regional Development. The Royal Melbourne Agricultural Show starts next week, and this kicks off a series of agricultural shows throughout country Victoria. Many of these shows have been operating continuously for over 100 years. However, many are struggling, with the Penshurst show going into recess this year and even the Warrnambool show struggling to survive. With the government investing in many events in Melbourne, including $50 million per annum going into the grand prix, country Victoria is asking why it is missing out. Therefore my question is: what is the government doing to preserve the agricultural shows in country Victoria?

Ms PULFORD (Minister for Regional Development) — I thank Mr Purcell for his question. If I could just begin by responding to Mr Purcell's observation about government investment in events in Melbourne relative to regional Victoria, I remind Mr Purcell of the government's $20 million Regional Events Fund and the other significant events in regional Victoria that we do support, like the Cadel Evans cycling race; the Sam Miranda tour; White Night, which made its regional Victorian debut this year; and a number of things through the Wine Growth Fund. There is even the Koroit Irish Festival in Mr Purcell's own neighbourhood.

Your question about the role of our agricultural shows is a really important one. It is this Saturday that the Royal Melbourne Show starts, and it will run through over the next 10 days or so, including through the school holidays. It will be a wonderful opportunity for kids in Melbourne to see and learn a little bit more about where their food comes from and a little bit more about rural Victoria. The Royal Melbourne Show has been running continuously since 1848. That is in excess of the 100 years that Mr Purcell referred to. The Royal Melbourne Show and the other shows that occur across regional Victoria make a contribution to the state's economy of around $430 million each year.

What I can indicate to Mr Purcell is that we do support an agricultural and pastoral societies program which provides grants of up to $10 000 to support the provision or upgrade of agricultural and related facilities. In 2016–17 there were 52 projects supported in different parts of regional Victoria.

I would certainly encourage all Victorians, whether they be from the city or the country, to take the opportunity to check out their local show, whether it is in Melbourne in the next couple of weeks or whether it is in regional Victoria throughout the next few months as we roll through show season, and enjoy the rides and the show bags. But that is not what the shows are about; that is very much secondary to their purpose, which is about showcasing the fantastic work of our primary industries.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have seven written responses to the following questions on notice: 11 485, 11 508, 11 530, 11 552, 11 574, 11 718–19.

The PRESIDENT — I indicate that I have received from Mr Rich-Phillips a request for reinstatement of quite a number of questions that were put to various ministers and have not been answered in Mr Rich-Phillips's view. I have had those answers assessed on my behalf, and following that review it is my view that the following questions ought to be reinstated for a more apposite response. These are questions 11 474, 11 477, 11 482–3, 11 488, 11 490, 11 494, 11 496, 11 499, 11 504, 11 506, 11 511, 11 513, 11 517, 11 519, 11 522, 11 527–8, 11 533, 11 535, 11 539, 11 541, 11 544, 11 549–50, 11 555, 11 561, 11 563, 11 566, 11 571, 11 577, 11 579 and 11 583.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — In respect of today's questions, I require written responses to Ms Crozier's questions, substantive and supplementary, to Ms Mikakos, within one day; Mr Rich-Phillips's supplementary question to Mr Jennings, two days; Mr Davis's supplementary question to Mr Jennings, two days; Mr O'Donohue's substantive and supplementary questions to Ms Tierney, one day; Ms Hartland's question to Ms Pulford, two days; and Ms Pennicuik's supplementary question to Ms Tierney, one day.

Mr Morris — On a point of order, President, on Tuesday I asked a question of Mr Jennings in his capacity representing the Premier about the lack of a tender process in awarding the evaluation of the Victorian Aboriginal Justice Agreement. I believe you ordered the substantive and supplementary questions to be responded to in writing. I am yet to receive those. It is now past the two days for the response.

Mr Jennings — On the point of order, President, can I inform the house that I received an answer to that question this morning, and I predetermined that in fact it would be reinstated, so I have sent it back to be redone.

The PRESIDENT — It actually might have been helpful to have conveyed that to the member.

Mr Jennings — It would not have prevented it from occurring.

The PRESIDENT — Maybe not.

Mr Finn — On a point of order, President, it has just come to my attention that the ABC has confirmed that Mr Eideh's office has been closed, the locks have been changed and his staff have been put on leave. I think it is important that those constituents who wish to access the services normally provided by Mr Eideh's office be reassured that those services will be available to them at some stage in the not-too-distant future. The Special Minister of State is still in the house, so I think it might be appropriate for the minister to make a statement on this matter to reassure those constituents that the services will be returned.

The PRESIDENT — It has got nothing to do with the Special Minister of State; it is a parliamentary matter. In that sense I will not call the Leader of the Government to make any comment on that matter. It is true that Mr Eideh's electorate office is closed at the moment and that his staff are currently on leave as a matter of proper process that can give everybody confidence that the matter that is before an external agency is examined appropriately. Indeed those actions were sought by Mr Eideh. In terms of constituency services, Mr Eideh's phone number and email obviously provides ongoing contact with his constituents.

Can I also make comment at this point that it has been drawn to my attention that there were a number of points of order this morning about Mr Eideh's capacity as chair of committees and whether or not he should preside over that process. Can I indicate that Mr Eideh is perfectly entitled to continue in that role and to discharge the duties of Deputy President at this time. The motion that was given notice of this morning I have noted, but that motion might never actually even be put to the house, so it would be wrong in fact to go on a notice of motion, and we have had some interesting ones over the time, some of which, as you know, I have rejected because they were notices of motion that were clearly not designed to proceed. In this case I would expect that this motion may well be proceeded with. However, I cannot anticipate that as an absolute, and the fact is that it would be a most unfortunate situation if we had motions that were put in this place that actually prevented members from fulfilling their duties when in fact there has been no resolution of such a motion. From this point, at this time, Mr Eideh is perfectly entitled to continue to fulfil the role that he has until such time as that motion is determined.

CONSTITUENCY QUESTIONS

Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — I raise a constituency question for the Minister for Energy, Environment and Climate Change. It relates to Labor's bay dredging project, the ongoing impact on the southern peninsula, particularly the Portsea front beach but also Point Nepean and beaches along Point Nepean, and the impact on local jobs following the extensive erosion after Labor's bay dredging project. Following this project a number of reports have been commissioned, the most recent by Advisian in December 2016, which examined six viable options for dealing with the ongoing ocean swells landing at the Portsea front beach. The government has chosen a cheap and dirty fix for this issue, which will see the beach never to return. The solution they have picked is for the replacement of a sand wall with a rock wall. The question I have for the minister is: will the minister reconsider this decision, look to the long term and the

interests of jobs, tourism and the broader community and come up with a solution that will see the beach restored?

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Can I just take this opportunity to welcome a former member of this place who is in the public gallery today. It was remiss of me not to recognise Mr Andrew Elsbury earlier. We have Mr Elsbury with us today, and we accord him recognition.

CONSTITUENCY QUESTIONS

Questions resumed.

Northern Metropolitan Region

Mr ELASMAR (Northern Metropolitan) — My question is for the Minister for Multicultural Affairs, the Honourable Robin Scott. Grant applications for the multicultural festivals and events program 2017–18 have closed. Many community groups and organisations in my electorate would have applied, and I understand that successful applicants will be announced soon. My question for the minister is: can he advise me which of these groups in my electorate of Northern Metropolitan Region were successful in their applications?

Northern Metropolitan Region

Mr ONDARCHIE (Northern Metropolitan) — My constituency question is for the Minister for Education and relates to the fact that the Department of Education and Training has cancelled a number of school cleaning contracts. Despite the contractors being signed until 2020, they have been advised that on 30 June 2018 the number of Victorian government cleaning contractors will be reduced from 150 to eight or less. Many of those school cleaning contractors are very small businesses, and the principals do not want them to go either, because those cleaners do so much more than just cleaning — they put up shelves, they do some painting, they put the school crossing flags out and they have been known to come back from their leave during Christmas time to turn the school alarm off because none of the teachers or principals can be raised. The question I have for the Minister for Education is: what are you going to do to preserve the opportunities for these small cleaning businesses, or are you going to offer them compensation for cancelling their contracts early?

The ACTING PRESIDENT (**Mr Melhem**) — I am afraid I have to rule your question out of order because you made no reference to your electorate.

Mr ONDARCHIE — Yes, I did.

The ACTING PRESIDENT (**Mr Melhem**) — Did you? I did not hear it. I will give you the opportunity to say the question again.

Mr ONDARCHIE — The question I have for the minister is: will he work to ensure that those cleaners in Northern Metropolitan Region, particularly in Thomastown and Reservoir, are either provided with adequate compensation or allowed to continue their contracts through to 2020?

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My question is for Minister D'Ambrosio, the Minister for Energy, Environment and Climate Change. Over the past few months I have been contacted by numerous residents in Yarraville, Seddon and Kingsville over low gas supply. This has meant that in the depths of winter they have regularly found themselves out of hot water or with their heaters not working properly. They have contacted their gas retailers and have been referred to AusNet Services. I wrote to AusNet in July but have had no reply. I have the letter here. The residents are being charged for a service they are not receiving, and AusNet is not adequately responding to their concerns. The residents want the minister to intervene in this matter to have it resolved as soon as possible.

Eastern Victoria Region

Ms SHING (Eastern Victoria) — My question today is for the Minister for Industry and Employment, Minister Noonan, in the other place, and it relates to the initiatives which are being developed and rolled out across the three local government areas of Baw Baw shire, Latrobe City Council and Wellington Shire Council as part of the government's commitment to the Latrobe Valley transition and development initiatives. I ask the minister to provide resources and information that better outline the local benefits, job creation opportunities and investments that are going into specific towns and areas, including but not limited to Moe, Newborough, Morwell, Sale and Churchill, to assist people to understand what is being done in our area.

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — My constituency question is for the attention of the Minister for Energy, Environment and Climate Change and concerns the plight of Westfield Southland employees, who currently pay nothing for car parking. The notification that they will be charged $5 a day or $1200 a year by Westfield is causing some concern, naturally. Mr Tim Richardson, the member for Mordialloc in the Assembly, has started a change.org petition. My problem with those petitions is that they are never tabled anywhere. People do want a resolution — I hope that he has got one — but should they be looking at creating a car park on the Sir William Fry Reserve, I call on the minister to make sure that full public consultation genuinely takes place, not like with level crossing removals and not like with the bay trail on Beach Road.

Eastern Metropolitan Region

Mr LEANE (Eastern Metropolitan) — My constituency question is directed to Jill Hennessy, the Minister for Health. As we know, it has been an awful flu season, a terrible flu season with awful results for a number of families. I noticed there was an announcement by the minister recently that some of the private hospitals and other agencies that do not usually supply flu shots will get involved to help more people get immunised, so the question I have for the minister is whether she can let me know what extra private hospitals and what extra outlets or agencies are involved in the flu shots so I can pass that on.

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My question is to the Minister for Public Transport. Residents in Station Street in Sandringham have just been advised that a 5-by-25-metre substation will be built opposite their homes in their small and narrow street. This community does not typically complain about works regarding the railway line, but this project means removing extensive existing shrubs and trees and replacing them with low-level shrubs and ground cover. I ask the minister to review the substation design to reduce the negative impact it will have on neighbouring homes and others in the vicinity.

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My constituency question is for the Minister for Public Transport and relates to the lack of adequate car parking at Hurstbridge railway station. The Hurstbridge station is at the end of the line and services patrons from Hurstbridge and surrounding areas, including St Andrews, Panton Hill, Smiths Gully, Cottles Bridge and Arthurs Creek. The railway station currently has insufficient car parking available for the amount of passengers using the station each day. For many years patrons have resorted to parking on a nearby rail reserve on the other side of the line, adjacent to the railway station. In response to a patron recently falling and injuring herself, Metro has now erected signs banning patrons from parking their cars on this area of land.

The minister only needs to check Google Maps, which shows the Hurstbridge railway station carpark full and another 48 vehicles parked on the rail reserve, to see the need for additional parking. Will the minister give a commitment to fund the establishment of a car park on the Public Transport Victoria-owned railway reserve, situated on the western side of the railway line, adjacent to Hurstbridge railway station?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is to the Minister for Agriculture and Minister for Regional Development, the Honourable Jaala Pulford. It concerns the fate of the Ballarat Showgrounds site. Under the previous coalition government there was to be an arrangement where the Ballarat Agricultural & Pastoral Society (BAPS) was to be relocated to Victoria Park, given that a lot of the shedding at the current Eureka Stadium site was old and also that the area was being compressed with a whole range of other activities. So it was an agreed position by the city, the council, BAPS and the community that they would be relocated.

Under the new development at Eureka Stadium I am a little unclear about whether in fact that commitment will be honoured by the Andrews government to provide new exhibition space for BAPS and for the relocation, given the development of the Eureka Stadium precinct. So my question to the minister is: is BAPS to be relocated to Victoria Park, and is the government committed to providing exhibition space for the agricultural society in Ballarat?

Sitting suspended 12.59 p.m. until 2.03 p.m.

Mr Davis — On a point of order, Deputy President, notwithstanding the comments of the President before, I wonder whether, in light of the new information of problems with your office that has come to prominence in the lower house — effectively there are very serious concerns — you would consider stepping aside.

Honourable members interjecting.

The DEPUTY PRESIDENT — There is no point of order, Mr Davis.

YARRA RIVER PROTECTION (WILIP-GIN BIRRARUNG MURRON) BILL 2017

Committee

Resumed; further discussion of clause 1.

Ms MIKAKOS (Minister for Families and Children) — I think we were in the middle of a question and answer just before we broke for lunch — actually for question time and lunch.

Honourable members interjecting.

Ms MIKAKOS — If Mr Davis is interested in the bill, I am happy to provide him and Ms Dunn with an answer. Ms Dunn's question earlier did relate to the application of the bill with the water catchments, and she did specifically refer to excluded land. It is important, I guess, for the record, to explain that the bill in clause 3 defines 'excluded land' to mean the port of Melbourne within the meaning of the Port Management Act 1995 or any land within a special water supply catchment area listed in schedule 5 to the Catchment and Land Protection Act 1994.

Further to Ms Dunn's question, I can advise her that the protection of water supply catchment areas is very important for the quality of water supplies for Melburnians and Victoria, and this is well covered as part of an integrated management approach to water catchments under the Catchment and Land Protection Act 1994. I am further advised that Victoria has some of the strongest protections in the world for our water catchments, and Melbourne is in fact one of only five cities in the world that harvests water from protected catchments, and of course we have those protections in place already under the Catchment and Land Protection Act 1994.

Ms DUNN (Eastern Metropolitan) — Thank you, Minister, for that answer. In relation to those closed catchments and those strong protections, can the minister confirm that those strong protections still enable logging of our water catchments? And has there been consideration of the impact on the Yarra River in relation to that?

Ms MIKAKOS — The advice that I have is that the issue of logging activities is not directly relevant to this bill. Strong protections already exist over Victoria's important catchment areas through the framework that I have already explained is established under the Catchment and Land Protection Act 1994. These are very strong protections that are already in place. Therefore it is not necessary that this bill goes into those matters.

Clause agreed to; clauses 2 to 99 agreed to.

Mr Davis — On a point of order, Deputy President, I am aware that you presided over this committee, but I ask —

Honourable members interjecting.

The DEPUTY PRESIDENT — There is no point of order.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank all members for their contributions to this debate. Can I just reiterate the significance of the bill to this Parliament. I understand that when William Barak tried to present to this Parliament a long time ago, he was in fact turned away. It was quite historic that we had members of the Wurundjeri tribe able to come into the Legislative Assembly and address the Parliament about these matters. I think we should really reflect on the significance of the debate we have just had.

Motion agreed to.

Read third time.

DOMESTIC ANIMALS AMENDMENT (RESTRICTED BREED DOGS) BILL 2017

Second reading

Debate resumed from 7 September; motion of Ms PULFORD (Minister for Agriculture).

Mr O'SULLIVAN (Northern Victoria) — It gives me great pleasure to rise this afternoon to speak on the Domestic Animals Amendment (Restricted Breed Dogs) Bill 2017 on behalf of the Liberals and The Nationals. Essentially this bill is in response to an inquiry that was held by the Standing Committee on the Economy and Infrastructure between May 2015 and March 2016. That committee looked into the issue if

restricted breed dogs and came up with a series of recommendations — 31 recommendations in total. This bill in part addresses some of the issues that the inquiry uncovered as it sought detailed information into the aspects of the previous restricted breed dog legislation that was in play in this state under the Domestic Animals Act 1994.

The bill takes into consideration a whole range of things in relation to what is quite a sensitive issue in terms of public policy and public safety within Victoria and the way dangerous dogs are housed and regulated. This bill addresses a range of those issues. Its main purposes are to implement the recommendation to remove the prohibition on the keeping of restricted breed dogs in Victoria, to allow councils to register these dogs and to make other related miscellaneous amendments to the Domestic Animals Act 1994.

I want to go into some of the details in relation to the issue because this bill has got some background in terms of some situations that have occurred within Victoria which brought about a range of additional restrictions to dangerous dogs in this state. At the time, back in 2011, I was the chief of staff to the then Minister for Agriculture and Food Security, Peter Walsh, in another place. One of the horrific issues that we had to deal with during our time in that portfolio was the death of a little girl by the name of Ayen Chol back in 2011. Ayen Chol was just four years of age when some unfortunate circumstances took place in the western suburbs which brought about the end of Ayen Chol's life, which was tragic.

Essentially what happened on that day was a father was looking after a couple of dogs on behalf of his son, and those dogs escaped from the father's house and ran down the street. They forced their way or went through an open gate out the front of Ayen Chol's family home, through an open door and attacked Ayen Chol. As a result of the injuries she sustained at that time, she died — a little four-year-old girl, which is absolutely tragic, who at the time was holding on to her mother's leg when she was attacked. When you are in the sanctity of your own home. that is one place where you should be safe, particularly when you are holding on to your mother's leg. Unfortunately on this occasion because these two pit bull dogs, which had got away from the place where they were meant to be, got into someone else's house, Ayen Chol was killed.

That is the background to essentially where this bill has come from over the last few years, although there has been a long history of restrictions and regulations that have been put in place in Victoria to deal with dangerous dogs and dogs more generally in terms of how they interact with the community here in Victoria.

As we know, pit bull terriers can be quite dangerous. They are animals that by and large were designed or were bred to be fighting dogs. Unfortunately we have all seen reports on the news from time to time where footage has come out of dogfights taking place, and by and large when those dogfights do take place, the preferred dog of choice for fighting is a pit bull terrier out of the United States or a crossbreed which has strong genetic links to pit bull terriers.

As a result of that tragic circumstance back in 2011, Peter Walsh at the time decided that action should be taken. It was not only Peter Walsh who decided that action should be taken, because I remember very clearly in the days preceding it that the then Leader of the Opposition, Daniel Andrews, and his chief of staff came into Peter Walsh's office and offered their full support in terms of any restrictions that we would want to implement in terms of cracking down on these dangerous dogs in our society. That was very welcome at the time, and I think by and large there is bipartisan support in terms of ensuring that dangerous dogs do not harm the people in our community.

There is no doubt that dogs play a very important role in our community, but we do not want a situation where dogs, particularly those dogs that are bred for fighting, have a predetermined mindset to be aggressive in their demeanour — I think people have probably seen that, whether it be in pit bull terriers or other dogs that have an aggressive nature — as we all know that they can be quite intimidating for anyone who is involved, let alone if you are a small child.

What Peter Walsh, as Minister for Agriculture at the time, decided to do was end the moratorium in relation to the restriction of these types of dogs, and that was widely supported. There was an amnesty in place that allowed owners of those dogs to have to, at some stage, register them, and there was an extended time frame I think until the end of 2012 in terms of when that registration had to occur. What Peter Walsh did was immediately end the amnesty. From that time the moratorium in relation to registering these dogs was ceased, which made it illegal to own these types of dogs and not have them registered with the local council.

In terms of those dangerous dogs, it is not just the pit bull terriers. I think there were about five different breeds that were considered to be in the dangerous dog category that also had to be registered by that time, and the former agriculture minister ensured that that took place. There is no doubt there were a number of dogs

that were not registered in that period of time before the amnesty ended, but people had plenty of time to ensure that their dogs were registered, and if they were not registered, there was a view that those dogs had ceased to have the right to live in this society.

Ms Shing — And that went very well for you, didn't it?

Mr O'SULLIVAN — Well, Ms Shing, it was one of those decisions that was taken as a result of a tragic circumstance, and it was done in the view of being able to protect people into the future, so it is certainly not something that we would back away from, because it saved lives.

It is interesting to note that it was not an easy reform to put in place. It was not. As we know, dog lovers absolutely love their dogs and they will do whatever they can to protect them. By and large that is fair enough that they do that, because many people refer to their dogs as their furry children, and I have seen situations where that is very much the case. There is nothing wrong with having a pet dog. While I do not have a pet dog myself, I have certainly been involved in relationships in the past where there have been dogs involved. I very much liked having a dog around. They are good company, and they certainly do serve an enormous purpose in terms of being a companion animal. What we do not want is dogs that are designed to kill. Dogs that are designed to kill do not deserve to be in this society.

What happened was that at the time it was difficult to actually determine the exact breed of these dangerous dogs, and there was a standard put in place by professionals which was the best way we knew in terms of identifying these breeds of dogs. So we were able to put that standard to the test. Many dogs were deemed to be dangerous dogs, either a pit bull terrier or other, and in terms of the implementation of that it was difficult for councils because there is no precise test in terms of what these dogs are. DNA tests are indeterminate in terms of being able to exactly identify what these dogs are, so many of the owners who had these dogs would spend enormous amounts of money defending the rights of their dogs and trying to prove that they were not actually one of those dangerous dog breed types. This put a burden on councils in terms of a lot of time, energy, resources and money spent on defending the classification of these dogs at VCAT.

While this was a difficult reform and it was difficult for councils to prosecute these restricted breed dogs, there is no doubt it has saved lives in terms of getting these dogs out of our society. This government, when it came to power, in line with its election policy, decided to change that system because it did not want to continue with it. That was the right of this government. It went to the election with that policy, and the people voted this government into power, so it was the right of this government to do that.

Some of the things we were able to do as part of putting that legislation in place included ensuring that once those dogs were registered by councils the proper safeguards were put in place. When these dogs had to be outside they had muzzles, they were on leads and they had identifying collars so people would be aware of what sorts of dogs they were. When they were at home there was appropriate signage and appropriate fencing, and appropriate safeguards were put in place to protect the community. I think that is something that we would all agree is a good thing and a good outcome of that legislation, because there is no doubt it has made our community safer.

Going back to the parliamentary inquiry, it looked at this issue in a lot of detail. My colleague Mr Morris was the chair of the committee, and I am sure he will make further comments on what the committee came up with. Some of the recommendations of the inquiry are addressed in this piece of legislation, and we are happy to look at those when considering this piece of legislation.

There is a whole lot more that I could talk about, but I will not go into a lot of detail now. I will take up some of those issues in a bit more detail when we go into the committee stage of this bill. They are the main things I want to say, but we can look at some of the other details of the bill, such as the extra charges that this bill introduces for registration of cats and dogs, later on. I am happy to leave it there for now and take up the debate again during the committee stage.

Mr ELASMAR (Northern Metropolitan) — I rise to contribute to the bill currently before the house, the Domestic Animals Amendment (Restricted Breed Dogs) Bill 2017. Time is of the essence if we are to protect dogs that may be in danger of being euthanased when the moratorium ends on 30 September 2017. While the government is implementing its commitment to allow for the registration of restricted breed dogs in Victoria, including the American pit bull terrier, the Japanese tosa, the fila Brasileiro, the dogo Argentino and the presa Canario, it still needs to retain other protective measures. There is an obvious need to protect the community from dangerous dogs and irresponsible dog owners, but we also have to maintain the balance by supporting the benefits of dog ownership.

The bill follows on from the recommendations of the parliamentary inquiry conducted by the Standing Committee on the Economy and Infrastructure, and it is consistent with the committee's recommendation to keep other restrictions related to the ownership and management of restricted breed dogs. By way of explanation, owners of restricted breed dogs — for example, pit bulls — will still be required to have mandatory signage on their property, to microchip and desex their dogs and to ensure their dog wears a mandatory collar. Restricted breed dogs must also be muzzled and leashed when outside of their properties. These precautions are necessary safeguards to ensure that the community continues to be safe.

However, there appears to be some misunderstanding in the community regarding the retirement of guard dogs and their designated status as dangerous dogs. According to the act, a guard dog refers to a dog kept for the purpose of guarding non-residential premises. It is the intent of the act that having been designated 'dangerous' the dog will always be deemed dangerous. The bill clarifies this by ensuring that owners of guard dogs who have retired their dog from guard duties must continue to register their dog as dangerous for its lifetime. In 2016–17 the government provided the responsible dog and cat ownership and animal welfare programs to around 2200 preschools, 900 schools, 70 hospitals and 500 maternal and child health centres in Victoria.

The bill also increases the existing payments of $4 per annum to the Treasurer, for both dogs and cats. This nominal payment has not been increased since 2010. The payment helps to deliver a world-class program to inform expectant parents and preschool and school-aged children on dog safety and responsible dog ownership, and it is also used for supporting research into domestic animal management and the administration of the act. We all need to be safe around man's best friend, and this act clearly prescribes which dogs are safe and which are not. I commend the bill to the house.

Mr RAMSAY (Western Victoria) — I rise to speak to the Domestic Animals Amendment (Restricted Breed Dogs) Bill 2017. I am pleased to do so because during the last Parliament I had a bit to do with the construction of the bill as we knew it then and also some of the tragic circumstances around why that bill was introduced by the coalition. As Mr O'Sullivan indicated, the bill was the result of a tragic event in which a pit bull terrier attacked and killed Ayen Chol, a young toddler, in 2011. Ms Shing in her interjections indicated that we mucked it up.

The fact is that we introduced a bill as a response to that attack and to that young child being killed, but purposely to start protecting the rest of the community against a breeding program by many dog owners who were breeding dogs purely to attack, maim and kill. There is no reason to have a pit bull terrier other than to scare or intimidate and act as a guard dog. They are bred to attack and kill when needed and encouraged by the owner. I have no regret that Peter Walsh as Minister for Agriculture at the time introduced a bill in response to that tragedy and to put in place restrictions on dangerous breed dogs to protect our community here in Victoria.

I can talk from personal experience. I have a flat in East Melbourne as my second residence. As we know East Melbourne has a lot of dog owners. I remember walking down towards the Melbourne Cricket Ground from Albert Street and at least three dogs coming bounding out of their yards. They were unconstrained —

Mr Morris — Unleashed.

Mr RAMSAY — Unleashed with no muzzles, nothing. They were snapping and yapping at my feet. One actually took a chunk out of my leg. Whether it was a pit bull or a crossbred pit bull or something, it was no doubt a dangerous dog. I managed to grab its collar; it did have a collar. It started to whip its head round to try to claw into my hand. The reason I raise this is that a mother and child were walking very close by. If the circumstance had not been that I was able to restrain this dog, I was afraid that the child and mother would have been attacked. There was no doubt about that. This dog absolutely shot out of the yard. The gate had been left open, it was in attack mode and the owner was not to be seen. As we went back in history in relation to how this came about, we found that the owner was not even on the premises. They had left the front door open — the dog was being housed inside — and it had managed to get outside. The yard gate was open and it just flew out into the common area of East Melbourne.

I am relating that because these experiences can be seen time and time again, where despite the best piece of legislation and despite the best attempts of dog owners to control their dogs you find instances where dogs are not contained and because of the nature of their breeding they will exercise that right to attack, maim and kill. That is the purpose of these dogs; there is no doubt about that.

I do not think we should hear any criticism of the previous government or the minister of the day in

wanting to put in place legislation that both restricted the breeding of these dogs but also put in place mechanisms for greater control of these dogs. The sad fact is that councils were left to collect those unregistered dogs and those that were running free. Unfortunately they had the responsibility then, if the owner could not be found or if they did attack someone, to put them down. They were left in the unfortunate position of having to do that work.

As Ms Shing indicated through her interjections, there was a plethora of legal challenges in relation to councils having the right to do that, and consequently this whole thing got bogged down, to the point where it was costing councils a considerable amount of money and they were holding a considerable number of dogs. I think it was 112, but Mr Morris will know from his parliamentary inquiry. Then a moratorium was put in place.

The fact that we have eight advisers over there looking after Ms Pulford in relation to this bill indicates perhaps that the government are not quite so confident in the legislation themselves. They have even had to drag in Mr Gartland to make sure that things run smoothly and they would not have someone like me challenging some of the bits and pieces of this legislation, although they might well be challenged in the committee stage. Anyway it is good to see Mr Gartland in the advisers box, and the other seven or eight who are behind him, to provide the sort of advice that Ms Pulford might need through the committee stage. I am digressing somewhat and I will get back to the bill, given I have got only about 8 minutes.

The purpose of the bill is to implement the recommendations of the parliamentary inquiry into the legislative and regulatory framework relating to restricted breed dogs, to remove the prohibition on the keeping of restricted breed dogs in Victoria and to allow councils to register these dogs and make other related miscellaneous amendments to the Domestic Animals Act 1994. I might take this opportunity to congratulate the chair of that committee, Mr Josh Morris. I know that his committee's recommendations —

Ms Shing — Would you like some quiet time, gentlemen?

Mr RAMSAY — You know, Ms Shing, that we on this side work very collaboratively in our regions. We are joined at the hip in unity of purpose — and that is to get rid of the government.

The ACTING PRESIDENT (**Mr Melhem**) — Through the Chair, Mr Ramsay. Ms Shing, I ask you desist.

Mr RAMSAY — I am happy to do that, Acting President. I do not apologise for the fact that Mr Morris and I work very closely and very well in a very good partnership representing Western Victoria Region, and we will continue to do so.

Mr Morris interjected.

Mr RAMSAY — Yes, if you want to copy anything, I think you should copy the work that Mr Morris and I are doing in our region. But anyway, I have to move on.

The bill replaces provisions that disallow a council to register restricted breed dogs with a provision that provides for the registration, the renewal of registration, the imposition of conditions on a registration or renewal of registration and the imposition of conditions on a registration or renewal of registration of a restricted breed dog. That would have to be one of the biggest mouthfuls in respect of registration and renewal of registration and what have you. But all it does is mirror pretty well what was the requirement under the old legislation that the coalition introduced.

There is an amendment to section 34A to effect the classification of a guard dog as a dangerous dog even after retirement, and other subsequent amendments relating to notification requirements for owners of guard dogs or retired guard dogs. It introduces an offence that prohibits the transfer of a dangerous dog without the former owner providing written notice that it is a dangerous dog. It repeals the provisions that prohibit the keeping of restricted breed dogs. It increases the amount of dog and cat registrations paid by councils to the Treasurer — a good little move there to boost the coffers of the government in relation to the collection of taxes and fees on dog owners. It requires $4 for the first financial year and then an increasing annual rate thereafter, as approved by the Treasurer in the state budget. Lo and behold, the Treasurer starts to have the right to introduce new taxes and charges on dog owners if they are dangerous dogs, and I suspect that will filter down right through to domestic dogs. I note this will incur an increase in costs of 50 cents for dogs and $1.50 for cats. It also has other consequential amendments to reflect the core changes to the act.

There has been consultation with local councils and the Municipal Association of Victoria, as you would expect, given the concerns they raised and having been the relevant authority to collect, contain and then

euthanase under the previous legislation until a moratorium was put in place. As you would expect, they had significant input into the bill.

As I indicated, the coalition government in the previous Parliament cracked down on pit bulls after the tragedy in 2011, and the coalition government ended an amnesty which the Brumby government had commenced and began enforcing laws which prevented the registration of restricted breed dogs. It was a shame that the coalition had to introduce significant legislation that provided community protection after the Brumby government's term.

Unfortunately, as I have indicated in my contribution, the bill winds back some of the tough laws we introduced in response to pressure by some groups and owners opposed to the prohibition on registering restricted breed dogs and the subsequent destruction of seized, unregistered restricted breed dogs. It would appear that dog owners and their right to breed and own dangerous dogs comes above the rights of community safety, which is a point I made right at the outset of my contribution.

The changes to the amount collected from dog and cat registration will result in an additional $1.2 million. I am not sure how that will be spent; I hope in the committee stage we might get an understanding of where that money might go. Under existing legislative arrangements this funding must be directed to responsible animal ownership programs. We would like to hear from the minister through the committee stage of the bill how she might appropriate that increase, not just the additional $1.2 million but the total moneys and funds collected in relation to the registration of these dangerous dogs.

As I indicated, the parliamentary inquiry into the legislative and regulatory framework relating to restricted-breed dogs, which was chaired by Western Victoria Region MP Josh Morris, made a key finding that the current breed-specific legislation was not working in practice. I do appreciate that there were concerns around the identification particularly of the half-breed and full-breed dangerous dogs, and that change was clearly required. We understand that. The tougher restrictions introduced after the death of Ayen Chol, as I said, produced perverse outcomes where a small number of dog owners generated lengthy and costly legal disputes, and I have already covered that off in a previous contribution. These were very costly to councils and saw councils' authorised officers become reluctant to classify dogs as pit bulls in order to avoid unpredictable, complex and potentially costly and lengthy litigation.

I see that as extremely disappointing because the purpose of the previous legislation, through no fault of councils, was a grey area. I admit there was grey. We have moved to a point now where we are actually defining and changing legislation based really on the legal recourse more than the actual purpose of providing greater community safety for those that live in an environment where there are dangerous dogs being housed.

Substantial consideration was given to the issues during the parliamentary inquiry, and a large number of submissions and stakeholder views were provided. I will not go into any more of that, because I know Mr Morris will provide us with greater detail of the work that his committee did in relation to the witnesses and the submissions that were presented to that committee. Supporters of the measures will argue that these changes will allow councils to keep better track of restricted breed dogs in their areas and that owners will no longer hide the dogs from authorities. We will wait and see about that; I am not yet convinced that will happen.

The Andrews government's proposed amendments in this bill really are an action that results from accepting recommendations made in the parliamentary inquiry's report, and that is the sort of premise that we are not opposing in this bill. Other than that, I am going to hold any further contribution until the committee stage because there are actually some questions I would like a direct response from the minister on in relation to some of the clauses in the bill. I think I have expressed my concern in *Hansard* now on the basis of the previous legislation which was introduced in response to the tragedy of the killing of that young child. I certainly express my concerns about the fact that legalities seem to override community safety.

Mr MORRIS (Western Victoria) — I rise to make my contribution with regard to the Domestic Animals Amendment (Restricted Breed Dogs) Bill 2017. I was very fortunate to be able to share in the Economy and Infrastructure Committee's inquiry into this particular area of legislation. I certainly found out a lot more about dog breeds and the classification of dog breeds than I thought I would ever know or understand. It was certainly brought to my attention that it is quite difficult to classify a dog and a dog breed. Indeed that was one of the issues that made the previous dangerous dog legislation difficult to implement in reality.

I certainly acknowledge the good work of the former Nationals leader in the Assembly, Peter Walsh, and his chief of staff of course, in implementing the previous

legislation, which did respond to an absolutely tragic event.

Mr Ramsay — Who might that be?

Mr MORRIS — I think that is Mr O'Sullivan, Mr Ramsay. The death of Ayen Chol as a result of a dog attack was a tragic event, and I certainly acknowledge the good work of the former government in responding to that and producing legislation to ensure the safety of the community.

As a result of that legislation, however, some perverse outcomes came about due to some dog owners taking extensive legal action against councils to try and retain their dogs, and I was certainly enlightened to the fact that some people will do just about anything to keep their dogs. I was informed reliably by some witnesses that people actually move their families interstate for the sole reason of keeping their dogs. That is something that I had never contemplated myself, but it certainly did show me that people go to extraordinary lengths to keep their dogs.

The committee made various recommendations to the government with regard to what should be done with the new legislation in relation to restricted breed dogs, and I am pleased that the government has taken on board the vast majority of those recommendations that came out of the committee's inquiry. I did want to acknowledge the work of all committee members on this particular report, which helped the government form this legislation, because it was a piece of work that was very collegiate. Everybody came together on this particular inquiry and worked quite closely together. There was presented to us from the witnesses a very clear way forward, and that was reflected in the committee's report. It is also generally reflected in what the government has proposed in this legislation.

There was one recommendation in particular that I was quite disappointed that the government did not take up, and that was recommendation 21 from the committee report, which recommended:

> That the government establish processes to ensure that any dog that kills or seriously injures a person is subject to a thorough medical and behavioural assessment by a veterinary and dog behaviour expert to identify any factors that may have contributed to the attack. The results of these assessments should be publicly available.

I think the reason for that recommendation is quite clear: if a dog has attacked and killed or seriously injured a person, we should get a better understanding from a scientific perspective of what caused that attack and therefore anything that can be done into the future to prevent a similar attack.

Unfortunately the government did not agree with this recommendation and in part said there may be human rights and privacy implications for the publication of assessments. I would have thought that public safety and ensuring the safety of Victorians into the future would outweigh any privacy rights with regard to the owner of a dangerous dog. It is something that has certainly stuck with me since the government responded to the committee's report. As I said, overall I am pleased with what the government has accepted; however, I think the government should reflect upon this particular recommendation and reassess its approach to it into the future.

One of the other pieces of evidence that we heard from many of the witnesses that came before the inquiry was that when we are looking at dangerous dogs sometimes we are looking at the wrong end of the lead. I think it is important that when we are discussing dangerous dogs —

Ms Shing — Nobody would pay that joke. That was a terrible joke.

Mr MORRIS — It was not a joke, Ms Shing; it was something that a witness told us in a hearing. When we are looking at dangerous dogs, in a variety of scenarios any dog can be dangerous. The way they are treated by their owners can have a significant impact upon their behaviour and indeed on what can be expected from them as a result of that relationship with their owner. I think there is an important message in that: we as a community need to make sure that people who own dogs are responsible in their dog ownership and treat their dogs well so that dogs are not going to be doing dangerous things into the future. At that juncture I will end my contribution —

Ms Shing — Can you mention greyhounds and how good they are?

Mr MORRIS — Ms Shing, by way of interjection, said to mention greyhounds. I was brought up with the world view that greyhounds were dangerous, because whenever I saw them they were muzzled. However, from the witnesses at this particular inquiry we heard that dog behavioural experts actually say that greyhounds are one of the more placid and non-dangerous animals. It is a perception in the community that greyhounds are dangerous because they are muzzled. It is one of those things where the cart is put before the horse, or the dog, in some scenarios. That was certainly something that I learned from that inquiry. I believe we may further discuss this issue as we go through the committee stage.

I would say that ensuring that our community is kept safe from dangerous dogs is incredibly important. I must say that I have been very fortunate to have a wonderful dog in Gus the groodle, who not only has been in *Hansard* on a number of occasions now but was also mentioned in a government response to a committee inquiry, which is something I am sure will go down —

Mr Ramsay interjected.

Mr MORRIS — A groodle is a mixture of a golden retriever and a poodle, Mr Ramsay. At that point I will thank the house. I look forward to the committee stage of this bill.

Ms PENNICUIK (Southern Metropolitan) — I am pleased to speak on the Domestic Animals Amendment (Restricted Breed Dogs) Bill 2017. It is in fact a reasonably straightforward and simple bill that deals with a very complicated, complex and contested issue in the community. There have been several bills dealing with this issue over the time that I have been in Parliament, and of course some have been in response to the tragic death of Ayen Chol, who was attacked by what most people would agree was an American pit bull terrier. Some people would contest that. Let us say it was certainly an aggressive dog and certainly an unrestrained and unsupervised dog.

Having read the coroner's report into that dog attack, it was not just the tragic death of a four-year-old child; it was also everybody else in the house who was completely terrorised. Other people were injured as well. Nobody could read that coroner's report and not be terribly upset at what happened on that particular day. And of course that family lives with that tragedy forever, and so do people who know them and their extended family and friends.

Of course we know that the extent of dog attacks is not entirely known, because of course not all of them are reported and not everybody presents to a doctor or a hospital, but reading from the inquiry report into restricted breed dogs, which is really at the basis of the legislation that we are dealing with today, in the chair's foreword, and it is also in the report, the chair mentions that 836 Victorians were hospitalised because they were bitten or struck by a dog in 2013–14 and more than 1855 Victorians were treated in emergency departments as a result of dog attacks.

Of course the vast majority of dogs do not attack people or bite people, but when they do they can cause serious injuries, particularly to children. That is because — and I have mentioned this other times I have spoken on this type of legislation — children can be very friendly to dogs and can put their faces, their hands or other parts of their body very close to a dog. If a dog does choose to attack or bite, the child is at the same level as the dog. Of course that can severely affect a child for the rest of their life.

My own sister was not bitten by a dog but was chased by a dog when she was very young, and perhaps the dog would have bitten her, but my father pulled her up off the footpath. That has left her with a lifelong fear of dogs, which is a shame. I think she is sort of over it now, but certainly for many years she was very frightened of dogs. I think that is something that many people experience. But of course dogs are wonderful animals. They are woman's best friend, not to mention man's best friend and children's best friend. They are part of people's families. They bring much joy into everyone's lives, as we all know.

There are complicated issues that this Parliament has grappled with really over the whole time I have been here and before I was here. But the legislation that we have today that deals with repealing the previous legislation that had already changed earlier legislation is a result of the report of the inquiry into restricted breed dogs that the government agreed to initiate. The report is a very good report, and many people made submissions to it.

Of course part of the issue leading up to the genesis of the report were the practical problems that were experienced in particular by local councils in implementing and enforcing the provisions of the existing legislation. I spoke at length on that, and I will not go through all of that again, but the Greens at the time were very concerned about the ability for councils to euthanase dogs that were not registered within a very quick period of time — I think it was nine days — and we thought that was uncalled for. Of course then we had the moratorium, which expires on the 30th of this month.

Even before the inquiry we were hearing about the issues of dog owners appealing against the decisions of councils about whether or not they were a restricted breed dog. There are very few restricted breed dogs. I have to refer to my notes because I can never remember them all, but they are the dogo Argentino, the fila Brasileiro, the Japanese tosa, the presa Canario and the pit bull terrier, or American pit bull terrier. I have had a look, not just lately but also in the past when we have dealt with this issue, at those dogs and what sort of dogs they are. Let us just take the American pit bull terrier out for a moment. The others are very formidable looking dogs, that is for sure. I probably would be a

little bit nervous if I were to encounter one that was not on a leash. But in some ways it is an academic argument because those dogs cannot be imported into Australia or bred in Australia, so as far as anyone knows they are not in Australia.

This bill, though, in implementing recommendation 22 of the report, theoretically allows those dogs to be registered as restricted breed dogs even though at the commonwealth level they cannot be imported into the country. Of course that is still the case with American pit bull terriers as well. So the bill allows all restricted breed dogs to now be registered as restricted breed dogs and to be kept according to the requirements for restricted breed dogs, which is to have mandatory signage on the property, to microchip and desex the dog, to ensure the dog wears a mandatory collar and to ensure the dog is muzzled and leashed when outside of the property.

In terms of that, the bill allows for American pit bull terriers or pit bull terriers to be registered as restricted breed dogs. That takes away the problem, I think, of councils holding dogs and euthanasing dogs. Because there were guidelines issued by the department to assist councils and other people in identifying pit bull terriers as American pit bull terriers or another type of terrier, not an American pit bull terrier, that is where the problem occurred and that is where the disagreements occurred between dog owners and councils, and that resulted in many councils appearing at the Victorian Civil and Administrative Tribunal and lots of ratepayers money being spent — thousands of dollars — on defending those decisions of councils.

What I would say with this bill is that there is now a requirement on an owner of a restricted breed dog to register it as a restricted breed dog to comply with the requirements that go with that. I am not convinced that people will do that necessarily or that the disputes about what is and what is not a restricted breed dog will lessen, because the ramifications of such a dispute will be different and it will just be about whether the dog is properly registered or not — registered as, I do not know, another breed of terrier which is not a restricted breed dog, and therefore the owner would only have to comply with the normal requirements of the keeping of any dog that is not a restricted breed dog or a dangerous dog. Because of the extra requirements when you own a restricted breed dog and you register it as a restricted breed dog, I just feel that many people may assert that their dog is not a restricted breed dog. So I do not think the problem will necessarily go away, if that is what the intent of the bill is.

If the intent of the bill is to do away with breed-specific legislation, it does not necessarily totally do that, because dogs will still have to be registered as restricted breed dogs, and I think there will still be disputes about the breed of dogs when they go to be registered. I think that will still happen, because I cannot see how this bill will change that.

I note that in subsequent recommendations — that is, recommendations 23, 24 and 25 — the committee recommended that if a restricted breed dog was to commit an offence that is already an offence under section 29 of the Domestic Animals Act 1994, which is to rush at a person, if it was found to be a restricted breed dog and it had not been registered as such there should be an increase in the penalty. Further, if a restricted breed dog was to bite or injure a person and it had not been registered as a restricted breed dog, there should be an extra penalty over and above the penalty that is already there for any dog that does that. Under section 29 there already is a penalty for the owner if a dog bites or injures a person. So I am not sure that problem will totally go away. I think there will still be disputes about the identification of restricted breeds, but the ramifications of that will not be the same.

Some other changes in the bill include clarification that a dangerous dog is a dog that is kept or at any time has been kept as a guard dog for the purpose of guarding a non-residential premises or that it is a dog that has at any time been trained to attack or bite any person or anything attached to a person. And a new section is inserted into the bill to make it an offence to not advise a person acquiring a dangerous dog that it is a dangerous dog, and this must be given in writing.

The bill also removes the registration fee of $2 for cats and $3.50 for dogs and replaces it with a single fee of $4 for animal registration. The fee of $10 for a domestic animal business remains unchanged. That is the amount of money from the registration of a dog or cat that actually goes to the Treasurer or to the government to fund the responsible dog ownership programs and safety programs which are needed in the community to make sure that people are responsible in their pet ownership. As the committee report points out, some people are very cavalier with regard to their ownership of pets.

Ms Shing — King Charles cavalier.

Mr Morris — King Charles — yes, that's what I was thinking.

Ms PENNICUIK — I knew that was going to be taken as a pun as soon as I said it.

Mr Gepp — Who's listening?

Ms PENNICUIK — Ms Shing and Mr Gepp have been listening to me at least, and so has Mr Morris.

Of course, as I said before, many people are very responsible in their dog ownership. Millions of people in Australia love their pets, treat them well and are responsible, but there are some who are not, and that is why we need laws to cover those people who do not take their ownership of a pet, which is a living being, seriously enough or do not take enough care with the safety aspects of owning a pet.

One of the other issues that was raised by the committee, and this is actually recommendation 2 of the committee's report, was the recommendation that non-Greyhound Racing Victoria greyhounds — that is, non-racing greyhounds — that are owned as pets be no longer muzzled. As I said, that was the second recommendation of the report. The committee heard a lot of evidence about that particular issue and made that recommendation on the strength of the evidence.

The government's response to the committee report was released a year ago in September 2016. The government said in its response to that report that it would not do that until the department had undertaken further research and a review into that issue. A year later the research into that issue and the review is still not forthcoming. Nobody really knows — I certainly do not know — what the terms of reference of that review are, but it has been 12 months and we still have no results.

Recently in the Parliament, on 22 August, I tabled an e-petition from the Greyhound Equality Society, with 1908 signatures. It drew to the attention of the Legislative Council the recommendation of the committee that non-racing greyhounds no longer be required to be muzzled. They say in the wording of their petition:

> We would also like to draw to the attention of the house that the following organisations and government offices also fully support ending the requirement for non-racing greyhounds to be muzzled in Victoria: Australian Veterinary Association, RSPCA, NSW Greyhound Industry Reform Panel, the ACT government and Greyhound Racing Victoria.

The petition called for the muzzling requirement to be repealed from the act. Mr Hibbins also tabled a petition, which was signed by 2048 people, in the Legislative Assembly on 7 September, which brings it to a total of 3956 people, or nearly 4000, who have signed those petitions.

The Greyhound Equality Society have also raised with me the fact that all private greyhound rescue groups report that one of the main deterrents to adopting a greyhound is the muzzling legislation and that while it is still in place many unwanted greyhounds continue to be killed while the government procrastinates over the very simple change in the law that could be brought about. On that point I would go on to say that in the most recent report from Greyhound Racing Victoria — and I am not sure if they issued one today; I have not followed that through, but I certainly will be looking, because annual reports are starting to be tabled — there was an admission to more than 3000 greyhounds being euthanased in the state of Victoria. The racing integrity commissioner estimated that more than 4000 greyhounds every year were euthanased in Victoria when they had either finished their racing life or had not been prize-winning greyhounds — that is, greyhounds that were not making money for their owners. While the Greyhound Adoption Program (GAP) does a good job in and of itself, it does not make much of a dent in terms of the number of greyhounds that are euthanased. It does not even reach 10 per cent of the number of greyhounds that are retired from greyhound racing. Ninety per cent of them are euthanased, and that is the sad fact.

That is why the Greens continue to call for greyhound racing to be banned across Australia. Of course it is occurring in less and less countries. In fact nearly all American states have banned it now. Australia and Northern Ireland are the only two countries in the world where greyhound racing operates and where non-racing greyhounds are required to be muzzled. If it is not causing a problem in other countries of the world and if organisations such as the veterinary association, the RSPCA and Greyhound Racing Victoria are behind or supportive of the removal of the requirement for non-racing greyhounds to be muzzled and the committee that looked at all the evidence given during its hearings has made the same recommendation, I am not sure why we are not be following that recommendation — and yet we are following the recommendation to allow restricted breed dogs to be registered. You would have to say that that could have the same set of risks, which the government will no doubt tell me, as removing the requirement for muzzling would have. Any dog that is not on a leash when outside their property could rush someone or bite someone, and that is why we have section 29 in the act — to make it an offence if a dog that is not leashed does that.

I am not sure that this particular amendment I have drawn up to remove this requirement is technically allowed to be circulated, given it is an amendment that

is outside the scope of the bill and I have not moved the motion.

The ACTING PRESIDENT (**Ms Dunn**) — It is fine to circulate that amendment, and it has in fact happened before in the house.

Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan) pursuant to standing orders.

Ms PENNICUIK — In effect it is a very simple amendment to section 27 of the act that would remove the requirement for a non-racing greyhound to be muzzled but keep the requirement for a greyhound that is not a racing greyhound but is a pet greyhound to be on a leash at all times when outside a property, which is basically the requirement for any dog unless in off-leash areas designated by a council. This requirement would still prevail. This amendment would still mean greyhounds would have to be on a leash at all times when outside a property. So it is a fairly simple amendment. It is one that has been called for for a long time, and it is one that has been discussed for a long time.

This bill is enacting recommendations from the inquiry into restricted breeds. This amendment relates to recommendation 2, and we are with this bill implementing recommendation 22, so there are a whole lot of other recommendations that have not been implemented. They are not necessarily legislative recommendations, I should add. I would have thought that this would have been the perfect opportunity to do that, and the government should have sped up its review and had that completed in time for the debate on the bill that is before us now.

Without wanting to put words in the mouth of the minister, who I know wants to make some remarks following my contribution, I have had some discussions with her. The government have concerns about this amendment. They have raised concerns with me, which I am still not sure are supported by the evidence put forward by other parties on this issue, but I will be very interested to hear what the minister has to say about that and what proposals the minister could put forward to move this issue forward to achieve the ends that we want to see.

I think everyone wants to see greyhounds adopted through the Greyhound Adoption Program. I thank the minister's office for pointing out to me that it has been gazetted that greyhounds that have been through the Greyhound Adoption Program successfully do not have to be muzzled. It is only greyhounds that are adopted as pets that have not been through that program that do have to be. I point out to the government that there are other adoption programs responsible for rehoming greyhounds. They should have been covered in that gazettal notice as well, which would probably leave very few greyhounds that have not been through either the GAP or other programs. These issues have been raised with me recently by the government. I have certainly flagged my intention to do this for quite a while, so I will be listening very carefully to what the minister has to say about this issue and during the committee stage.

Ms PULFORD (Minister for Agriculture) — I thank all members for their contributions to this debate. I would also like to join in the spirit of bipartisanship in which many members have made their comments, given the long and really difficult history of this area of legislation and in particular the experiences that Mr O'Sullivan reflected on.

I am not sure there is much doubt about this, but if there is I will say that when we say that the laws introduced by the former government are in part unworkable we do not in any way ascribe any blame for that. It was something that was done very quickly, and it was something that was done in incredibly difficult circumstances. The then opposition did offer full support for the very quick passage of that legislation. Likewise the former Labor government had bipartisan support for the passage of the legislation that preceded that.

Mr Morris reflected on the work of the parliamentary committee, as did Mr Ramsay. I know that that spirit has been carried through in this, because I am quite sure that we are all in furious agreement that community safety needs to come first, and really that is what this is about from our perspective. Mr Ramsay made some comments about the interchanging notion of dangerous dogs and restricted breed dogs, but we know that legally and practically there is a distinction. That is why we thought the best way to go about acquitting the election commitment was a parliamentary committee inquiry where members could receive and consider the evidence and make a series of recommendations to the government, which we have now accepted. We are progressing on the question of the registration of restricted breed dogs, as the committee recommended. All of the safeguards that are in place for restricted breed dogs and for dangerous dogs would apply, but what will be different with the passage of this legislation is that we will know where restricted breed dogs are. At the moment that is not something that we can be that confident about.

Also, in response to a comment Mr Ramsay made about the breeding of the dogs that we are talking about — those five breeds that Ms Pennicuik referred to — there remains a ban on breeding, so what we are talking about is an ever-declining number of dogs. According to the Victorian declared dog registry there are 172 declared restricted breed dogs in known locations of Victoria. This is reduced from 335 restricted breed dogs declared in Victoria in 2010.

What we have at the moment is an arrangement where the laws, through no-one's fault and certainly no intent, have proven to be very difficult for councils to operate under, and indeed the Supreme Court has even made rulings where some of these things have been disputed and appealed and disputed again about some of the features of that legislation being really quite unworkable. What we want is workable legislation that will keep the community safe — that is, knowing where these dogs are and enabling people with these dogs to register them for what they are rather than calling them something else and not registering them at all, which is what we suspect is perhaps the case.

I would like to recognise the work of the parliamentary committee and of course the staff who support it and all of the people in the Victorian community. Indeed the committee heard evidence from international experts as well who assisted the committee in its work. We certainly want to always, I think, proceed very, very carefully on these questions.

If I could just take the opportunity to respond to Ms Pennicuik's amendments, which she has circulated to members, provided to me and spoken to in the debate Ms Pennicuik is seeking to in the debate on this legislation today advance one of the recommendations that was also made by the committee in their work, and that relates to the muzzling of greyhounds. At the moment there are arrangements in place whereby greyhounds that have successfully been through the Greyhound Adoption Program (GAP) are able to be out and about without their muzzles on. Those dogs do not need to be muzzled if they are in public. The committee recommended that the government address that issue to consider, with a view to possible change, those requirements on greyhounds. That is something that the government is doing. We understand that it is something that is supported by many in the community. It is a shame Ms Shing is not here; I think she is the biggest advocate for adopting a greyhound any of us will ever meet in our lifetimes. But there is certainly a view that because greyhounds are muzzled in public there is a perception issue that makes it harder for them to be adopted.

I take the opportunity to congratulate the people involved in the Greyhound Adoption Program and indeed those at Greyhound Racing Victoria, who have been working very, very closely with our government and with the RSPCA to dramatically improve the welfare of racing greyhounds. We are currently developing and finalising a new code of practice. We had two inquiries — one from Sal Perna and one from the chief veterinary officer, Charles Milne — in response to the live baiting scandal, and the changes that have occurred to greyhound racing in Victoria have been incredibly significant. The breeding numbers are vastly lower than they were, and the adoption rates are substantially increased. So there has been a fundamental transformation in greyhound racing in Victoria, and we are very pleased to have been able to work with the industry and also with the RSPCA and others in the community to make a change when change was clearly very desperately needed.

In relation to this recommendation, what I can say is that the government is considering this. We currently have work underway — the development of a risk assessment to understand the public safety risks to removing muzzles from greyhounds. I do not have that back yet. I was told as recently as today that that work is about a month away. I note Ms Pennicuik said there is no evidence to support keeping the muzzles on. There is also as yet no evidence to support taking them off. I understand Ms Pennicuik's motivations, but I would very much like to see and consider that risk assessment before making that decision.

Regarding the amendment that Ms Pennicuik has circulated, I would encourage members to not support it or perhaps Ms Pennicuik to reflect on whether today is the right time and place to pursue something that I know many people would like us to pursue, but we need to properly assess the risk and to move carefully. We absolutely support rehoming; we want it to work, and we want it to work well. I am, however, concerned about dogs that may have failed the Greyhound Adoption Program, may have been poorly treated or may even, given it is not that long ago, been involved in live baiting in recent years that are still, because of their age, around the place and looking for rehoming.

We are keen to act on this issue but in the context of a full assessment of the risk to the community. In doing so we would hope — without having seen the risk assessment or knowing what it said and if we are confident that we can proceed with this change safely — to develop legislation in consultation with stakeholders, including the people who run the Greyhound Adoption Program, and Ms Pennicuik referred to other greyhound behavioural programs as

well, to bring all of that information and knowledge together. There is also the RSPCA and the greyhound racing industry, who are of course very big supporters of GAP and very keen for as close to 100 per cent rehoming as is possible.

Any changes that would be made in that scenario would need to be phased in to minimise community risk. It is the approach that we have taken with this restricted breeds legislation. It is the same approach that we would seek to take in advancing the issue that Ms Pennicuik is seeking to advance today. With those words, I again thank members for their contribution to the debate and look forward to exploring these issues further in committee.

Motion agreed to.

Read second time.

The ACTING PRESIDENT (**Ms Dunn**) — I have considered the amendments circulated by Ms Pennicuik, and in my view they are not within the scope of the bill. Therefore an instruction motion pursuant to standing order 15.07 is required. I remind the house that an instruction to committee is a procedural debate. I call on Ms Pennicuik to move her instruction motion.

Instruction to committee

Ms PENNICUIK (Southern Metropolitan) — I move:

> That it be an instruction to the committee that they have the power to consider amendments and a new clause to amend the Domestic Animals Act 1994 to remove the requirement for a non-racing greyhound to be muzzled when outside the premises of its owner.

As I mentioned in my contribution to the second-reading debate, the Clerk and parliamentary counsel have advised me that my amendment is outside the scope of the bill. However, it does deal with a recommendation from the committee into breed-specific legislation. The bill deals with recommendation 22 of that committee, and my amendment would deal with recommendation 2 of that committee, which is to remove the requirement for non-racing greyhounds to be muzzled when they are outside a property.

I take the opportunity to now respond a little bit to what the minister said in her summing up of the bill with regard to the review that the government is undertaking into this particular issue, as they foreshadowed in their response to the recommendation a year ago. The minister stated that completion of that review is about a month away, and she is encouraging me to not proceed with this amendment. I am choosing to move the motion because I want to take the issue into committee to further discuss the ramifications of this amendment with the minister and to get more advice on those ramifications.

As I said during the second-reading debate, there are organisations like Greyhound Racing Victoria, like the RSPCA, like the Australian Veterinary Association, like any number of vets who deal with greyhounds, like the Greyhound Equality Society and like the other not-for-profit greyhound rehoming organisations who do a wonderful job in the community that all want to see this requirement removed. It has already been removed for those greyhounds that have successfully gone through the Greyhound Adoption Program. I would really like to know how many dogs there are apart from that left looking to be rehomed.

As I say I doubt that the large number of organisations who have overwhelmingly supported the removal of this requirement that is currently in the act would be doing so lightly and would not already have undertaken extensive research into the area. I think there are still more issues to be explored in committee on this issue. I do not think everything was necessarily covered in the minister's response, so that is why I would like to move the motion to allow us to at least get into committee to consider the amendments.

Ms PULFORD (Minister for Agriculture) — The government will not oppose Ms Pennicuik's motion to expand the scope of the bill, because I certainly believe Ms Pennicuik to be well intentioned, but I just make the point that we are talking about bolting something reasonably unrelated onto a narrow bill. What these two things have in common is that they were recommendations from the parliamentary committee inquiry. The parliamentary committee sought to add reference to the questions around greyhounds and greyhound muzzling. They were not in the original terms of reference of the inquiry, and at the time I remember expressing to the chair of the committee that if it was the committee's desire to go down the path of adding new content, then we would be happy to present the government's view on that.

In that same spirit I am happy to answer questions on this, but I would hope that in doing so there would also be some recognition that this is beyond the scope of the bill and it is beyond the scope of the terms of reference that were sent to the committee. I take the opportunity also to advise the house, as I have indicated to Ms Pennicuik and Mr O'Sullivan informally, that if Ms Pennicuik's amendments are successful today, then

we would not be confident to proceed with the legislation any further, which would mean that the moratorium would be lifted and the status quo would remain. So the problems that I think everybody has acknowledged need to be resolved would continue, and that is a less than desirable outcome, but right now I do not have confidence that we have properly acquitted the concerns and questions around how to achieve what Ms Pennicuik and others are seeking to achieve while maintaining our obligation to community safety, which is, above all else, what this bill is about.

Motion agreed to.

Committed.

Committee

Clause 1

Mr O'SULLIVAN (Northern Victoria) — I have a couple of questions I would certainly like to run past the minister. My first one, Minister, is just to confirm some of the numbers you mentioned earlier in terms of the number of registered restricted breed dogs that we have in Victoria at the present time.

Ms PULFORD (Minister for Agriculture) — According to the Victorian dangerous dogs register there are 172 declared restricted breed dogs in known locations, and that has reduced from 335 restricted breed dogs declared in Victoria in 2010. As indicated in summing up the second-reading debate, this is a number that we expect will get smaller and smaller until it is zero.

Mr O'SULLIVAN — The reason for their reduction is essentially that they are breeding themselves out of existence.

Ms PULFORD — That is correct.

Mr O'SULLIVAN — Minister, can you give us a breakdown on that 172 number in terms of which breeds they fit into?

Ms PULFORD — There is one dogo Argentino and there are therefore 171 American pit bull terriers.

Mr O'SULLIVAN — Thank you, Minister. I expected that pit bulls would have been the majority of that, and it is good to see that number coming down. Minister, how many restricted breed dogs are councils and the government aware of that are currently unregistered but covered by the amnesty which expires at the end of September this year?

Ms PULFORD — Because they are not registered, that information is not known. There was one held by the Wyndham City Council, but that dog has since died.

Mr O'SULLIVAN — Does the government have any estimates? While you might not know the exact number, through the intelligence of the department and so forth do you have estimates as to how many of these dogs might be unregistered and undeclared?

Ms PULFORD — No.

Mr O'SULLIVAN — Minister, the second-reading speech in the other place states that restricted breed dogs will be now permitted to be registered and these dogs will be subject to conditions, including that there must be mandatory signage on the property where restricted breed dogs are kept, restricted breed dog animals need to be microchipped and desexed and will have to wear mandatory collars, and restricted breed dogs must be muzzled and leashed when outside of their properties. What restriction is there on the breeding of restricted breed dogs?

Ms PULFORD — It is prohibited.

Mr O'SULLIVAN — If they are bred outside of the law, what are the penalties that are implied for anyone who does go down that course of action?

Ms PULFORD — Yes, I am advised that the penalty is 60 penalty units or six months imprisonment.

Mr O'SULLIVAN — Can you give us an outline of what the enforcement is in relation to those penalties when they are prescribed?

Ms PULFORD — These provisions are enforced by council local laws officers.

Mr RAMSAY (Western Victoria) — Minister, can I just have a clarification in relation to a question response that you gave to Mr O'Sullivan? In a departmental briefing councils indicated there are probably over 120 unregistered pit bulls in Victoria. You have six days; you have left it very tight to have this legislation come before the chamber to be passed when in effect the moratorium will finish on 30 September. Is it your expectation, assuming this does not get passed today, and obviously we are not sitting again until October, that in fact councils will then have to make the decision to collect those 120-odd unregistered pit bulls, as indicated by your own department — some are out there in the nether land — and actually euthanase them and put them down?

Ms PULFORD — I will take at face value Mr Ramsay's assertion about the numbers of those dogs. What I can indicate is that the legislation as it currently stands says that councils may seize those dogs and then may destroy those dogs, so that is a matter for the councils in each instance. Different councils may take different approaches, but as the legislation currently stands they are not compelled to seize or compelled to destroy.

Mr RAMSAY — Minister, I suppose my point is that under the old legislation we can take it at face value that the numbers are somewhere around what I indicated. I cannot validate that, but there is a large pool of unregistered pit bull terriers here in Victoria, and my understanding is that under the new legislation they would be illegal, would they not? It is illegal to have unregistered dangerous dogs such as pit bull terriers here in this state, so councils presumably would then have a responsibility to make some attempt at least to find and destroy those dogs.

Under the proposed new legislation what sort of confidence do we get that in fact there will not be those sorts of numbers of unregistered dangerous dogs, despite the fact that they are not allowed to breed, and that they will not be missed in the collection of data on who owns what and where they are? I just think it seems to be a large amount of unregistered pit bulls, taking the numbers on face value. I do not get any degree of confidence that in fact the new legislation will harness some of those that are unregistered. Can I just get some confidence from you about how that might occur?

Ms PULFORD — I am not sure I heard accurately the source of your claim about 120, but the department certainly cannot confidently assess or assert how many there are, as I indicated in response to Mr O'Sullivan. We can call it a hypothetical 120 for the purposes of this discussion. But at the moment the arrangements that exist in each local government area are requirements for people to register their dogs with the local council. At the moment they are not allowed to be registered. What we are proposing to change is to enable them to be registered.

Subject to the passage of this bill, there will be communications materials provided to councils advising them of changes, and if, as you assert, Mr Ramsay, councils are aware of those kinds of numbers of unregistered pit bulls, then councils would be more than able to go and seek from their owners their registration. As I indicated, this is a responsibility for local councils, and we would certainly expect them to do their part to uphold the laws of the state. Also, Mr Ramsay, you referred to dangerous dogs, but I think you were meaning to refer to restricted breed dogs. I am answering on the basis that you were talking about restricted breed dogs rather than dangerous dogs.

Mr RAMSAY — Thank you, Minister. I have to say I would view a restricted dog as being potentially a dangerous dog. We can separate the terminology for legislative purposes, but from my experience they are one and the same in many cases. Just for brevity, I flag that I have no further questions until clause 10.

Ms PENNICUIK (Southern Metropolitan) — Minister, I wonder if I could ask you some questions about the review. I just wonder if you could clarify or provide the committee with some more detail about what the review is looking at and specifically how it is looking at it. How is it going to come to a decision about whether or not muzzling is required, and how is it practically going about that?

Ms PULFORD — What I can confirm for Ms Pennicuik is that the review is underway. It is being undertaken by my department. It is canvassing a range of options, including everything from keeping the situation as it is right through to really what Ms Pennicuik is proposing — the prospect of further expanding the Greyhound Adoption Program — and a range of things in-between.

Contemplating benefit and risk, the review has recently involved the surveying of all local councils to canvass their views, and we are also seeking the view of Greyhound Racing Victoria. I can confirm that my department advises that I will have this review by mid-October, so I can indicate to Ms Pennicuik that I have every reason to believe I would be in a position to provide some kind of public indication about my response to that review, at least in a preliminary sense, by the end of the year.

Ms PENNICUIK — Thank you very much, Minister, for that answer. Is the department consulting with the RSPCA and all of the other organisations I mentioned, including the not-for-profit volunteer adoption agencies and Animals Australia, and also is it looking at the overseas experience, where non-racing greyhounds are not required to be muzzled?

Ms PULFORD — Yes, I can confirm that the views of all of those organisations will be sought as part of the review, including the overseas experience and the views of people who are involved in our very big volunteer welfare animal adoption community.

Ms PENNICUIK — That is good. Thank you, Minister. In relation to groups such as the Coalition for

the Protection of Greyhounds and the Greyhound Equality Society, has the department been consulting with them, or will it consult with them?

Ms PULFORD — Not yet, but we will.

Ms PENNICUIK — Minister, I heard your answers to Mr Ramsay's question, so I will not repeat those questions. Are any councils actually holding dogs that they have deemed as restricted breed dogs?

Ms PULFORD — Not at the moment. There were three or four reasonably famous dogs that were caught up in this, which have all moved through the scheme one way or the other, so right now there are none.

Ms PENNICUIK — Thank you, Minister. I received a lot of email correspondence about those dogs. I am sure I could name them all, but I will not. In response to my motion to allow the committee to consider the amendment that I have circulated with regard to removing the requirement for non-racing greyhounds to be muzzled — and I am accepting that it is outside the scope of the bill — you said that the only thing they had in common was that they both came as recommendations from the inquiry but my proposal was not in the terms of reference. But I would say that this bill is making amendments to the act, and this is part of the act.

Ms PULFORD — It is accurate.

Ms PENNICUIK — I accept the ruling of the parliamentary counsel and the clerks that it is outside the scope of the bill. But you also said that if the amendment were to proceed and be successful, the government would not proceed with the bill in the lower house. Could you just clarify what you mean by that and how that would play out?

Ms PULFORD — As I indicated, we have got some real concerns around unanswered questions around public safety. We are currently undertaking a review of these arrangements. We are very conscious of the recommendations that were made by the committee, and you referred to getting lots of letters from people. I get a few letters from people on this as well. This is something that we are having a good look at and that we want to respond to properly and carefully, but right now I am not in a position where I can be confident about those safety considerations.

If Ms Pennicuik's amendment is successful, I would not be confident to have the bill proceed on that basis in that form because I would err on the side of caution in relation to public safety. As we discussed earlier in the debate in the committee stage there is no evidence one way or the other in terms of the relationship between muzzling and safety. That is why we are undertaking the review, because we want to give this due and careful consideration.

That amendment would be very regrettable. It is important that this legislation proceeds. It has an operative date that is not very many days away. The passage of this legislation was inadvertently delayed a week, and so we acknowledge that we are up against the clock. But, yes, the status quo would be retained and the moratorium would expire.

It would be a very regrettable situation, but again I offer our undertaking to Ms Pennicuik, Mr O'Sullivan and others in the community and in the Parliament who have an interest in this that we want to have a really good look at and consideration of those recommendations from the parliamentary committee that go to the question of greyhounds and greyhound muzzling. We have done an enormous amount of work in support of the changes that the greyhound racing industry has needed to make, and we want to get those adoption numbers up as high as possible. I just am not confident that this is the way to do it and this is the week to do it.

Ms PENNICUIK — Thank you, Minister. Yes, you mentioned the large amount of support that there is in the community for the removal of this requirement. I know there are people in the chamber who also support it, not to mention the 4000 petitioners who have tabled petitions in the Parliament in the last month with regard to this issue.

The minister would agree that the ultimatum that I suppose she has issued me with was only issued to me in the last little while, in the last hour or so — 2 hours maybe at the most. I am very keen to see this requirement removed from the act and for non-racing greyhounds to not be muzzled.

But the minister has put me in an invidious position. I do not want to be responsible for the possible deaths of family pets that are not registered as restricted breeds. That would be a terrible outcome for me. So reluctantly I agree not to proceed with the amendment, because I would not want to be responsible for the deaths of dogs. I accept what the minister has said about her undertaking to move ahead with this issue, and I have told the minister that I will hold her to that. I do expect to see this review. I do expect her to consult with the Coalition for the Protection of Greyhounds and the Greyhound Equality Society, because this is an issue that should not go on and on. I am agreeing to not

proceed because I do not want to be responsible for dogs being put down.

Ms PULFORD — I would like to thank Ms Pennicuik. I know this is not easy. I do not intentionally put Ms Pennicuik in the very difficult position that she is in. I feel that I am in a similarly difficult position, when actually what we are seeking to achieve is very much in alignment.

Ms Pennicuik indicated that she had not had very much time to consider the position that I put to her — that the government would not feel confident to proceed with the legislation if it were amended in the terms that Ms Pennicuik was proposing. I received advice from my department on the consequences of the proposed amendment immediately before question time. I got further advice during the lunch break and had time to consider it. I explained our position to Ms Pennicuik in real time. It is unfortunate that we are up against that hard deadline of 30 September, but again I absolutely undertake on behalf of the government to ensure that that review is concluded and to ensure that we respond to it quickly for those members of the community who want to see some change here and that we will continue to put community safety first.

We now have a recommendation from the parliamentary committee that has considered the evidence. We will proceed to make whatever change is possible in the context of keeping the community safe. I know it is not an easy decision. I thank Ms Pennicuik for that, because being able to proceed with the legislation as intended is important. We are unfortunately up against the clock, more than we had planned to be. I think we have had a really good discussion around the greyhound muzzling issue, and I am sure that we will be back talking about it again before long.

Ms PENNICUIK — I apologise for getting a bit emotional, but I do tend to when we are talking about animal welfare issues. I thank the minister for all her commitments and her remarks. I also thank those members who indicated that they were supportive of the amendment going forward. I repeat that I will keep on at the minister with this issue. I would just like to say that on the record to all those people who have been pursuing this issue out in the community — the Coalition for the Protection of Greyhounds, the Greyhound Equality Society and all the animal welfare groups and Animals Australia et cetera who want to see this happen. For the minister to consult with them on their views and the evidence they have would be very helpful I think in moving this issue forward.

So in the spirit of moving the issue forward and also moving the bill forward so that the bill can pass, we do not miss the moratorium and we do not have an unhappy outcome as a result of that, I will not be proceeding with my amendment.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Mr O'SULLIVAN — Minister, clause 4 talks about guard dogs. The question I have in relation to this clause is: can you give me a rundown on the number of registered guard dogs in Victoria that are relevant to this clause?

Ms PULFORD — That information is not immediately to hand, but I am told that it can be with us in 5 or 10 minutes. Maybe Mr O'Sullivan has another question and we can come back to that.

Mr O'SULLIVAN — Thank you, Minister. While that information is being sought, can you get a breakdown on the breeds of dogs that fit into the guard dog category as well as the numbers?

Ms PULFORD — It is possible. We can ask for that too. People are quickly making phone calls and chasing that up as we speak.

Mr O'SULLIVAN — Just one last question on this clause: how many retired guard dogs are currently on the dangerous dogs register?

Ms PULFORD — I can indicate that all guard dogs are on the dangerous dogs register, so we will be able to answer that question when we can answer that other one.

Clause agreed to.

Clause 5

Mr O'SULLIVAN — Minister, how many dogs are expected to now become registered as a result of the adoption of this clause?

Ms PULFORD — I thank Mr O'Sullivan for his question. As I indicated in response to Mr Ramsay's question on this, because there is no record of the dogs that are unregistered, that is not something that we can put a number on.

Mr O'SULLIVAN — I am not sure you will be able to answer this one, but in terms of those dogs requiring to be desexed, is there any way that you can ensure they can be desexed or implanted with some sort of device? I guess it might be difficult for you to answer

that one if you are not actually sure how many there are.

Ms PULFORD — Yes, that is right. This is the challenge we have. Mr Ramsay made some comments earlier suggesting some anecdotal evidence about the numbers of unregistered dogs. Because the registration system is the basis of all of our information, when they are not registered we do not have that. If indeed it is the case that there are unregistered dogs or dogs that are deliberately registered incorrectly, then we would hope that this legislation would bring about some change there and then we would have that information about whether they were desexed, but they are certainly not permitted to be bred from.

Mr O'SULLIVAN — In terms of the devices I referred to, are they the same sort of identification — microchips or whatever it is — as vets use?

Ms PULFORD — Yes, that is correct.

Clause agreed to.

Clause 6

Mr O'SULLIVAN — Minister, this clause is relevant to a dog that has been kept for the purposes of guarding non-residential properties or has been trained to attack or bite any person or any thing when attached to or worn by a person. Can you clarify which dogs you are referring to? And with the last part of the clause, is it presumed that dogs used by the police would be included? Can you explain exactly the intent of the clause and which types of dogs it will apply to?

Ms PULFORD — If I can just explain the origins of clause 6, it is really about overcoming a possible loophole. The principal act provides that a dog is a dangerous dog if it is kept as a guard dog for the purpose of guarding non-residential premises or if it has been trained to attack or bite any person or thing when attached to or worn by a person, as you indicated.

Because these dogs retain the traits of guard dogs when they are retired, they are still considered dangerous, and so this part of the bill seeks to ensure, for the avoidance of doubt, that dogs that are no longer working as guard dogs but are retired guard dogs retain their dangerous dog status. The change simply, as you can see, inserts the words 'at any time' so we can all be confident and everybody is clear that we mean guard dogs, whether they are still performing their duties or whether they have retired.

In relation to your question on police dogs, they are exempt under section 8.

Clause agreed to.

Clause 7

Mr O'SULLIVAN — Minister, what steps will be taken to educate people and ensure that people who take ownership of such dogs are aware of their obligation to report to council within 24 hours?

Ms PULFORD — That information is provided directly to councils and is also available on the department's website. There are fact sheets and resources that councils can use to ensure that people are aware of their obligations. That really is the usual way of conveying such information.

Clause agreed to; clauses 8 and 9 agreed to.

Clause 10

Mr RAMSAY — I have a question not so much in relation to the detail of clause 10, even though I noticed that subclause 10(2) inserts new subsection 69(1A) to require each council to pay an amount to the Treasurer in respect of each registration fee it collects in respect of each financial year. I indicated in the second-reading debate that there was a suggested increase of $1.2 million in additional fees and charges. I have had some experience that not only can restricted dogs be somewhat dangerous but also their owners can be dangerous. Of course education, awareness and responsibility come with having animals, particularly restricted breed dogs, so I am looking for a guarantee from you that all the new and additional taxes and charges incorporated in this bill in relation to animal ownership will actually be directed back to dog owner responsibility, particularly in respect of restricted dogs, rather than just going into the Treasurer's coffers to be spent on totally unrelated matters.

Ms PULFORD — I thank Mr Ramsay for his question. Section 29 of the act requires that those levies go straight to the department for the responsible pet ownership program, so I can confirm that the Treasurer will not be spending this money on level crossing removals, schools or hospitals or any of the things that he likes to invest in. The purpose of this is to ensure the effective running of the responsible pet ownership program, which I think all members would be familiar with. It is not specifically related to dangerous dogs. It would support community information around the measures that are otherwise included in this bill, but it would also support the program that we run in primary schools and in kindergartens as well, which is a wonderful, wonderful program that is very successful and reaches many young people in Victoria.

I just indicate for the benefit of the committee that the payment to the Treasurer, as referred to, has not

increased since 2010. Of course the cost of running the responsible pet ownership program has increased over time. A number of schools have expressed interest in receiving this resource, and it has become increasingly challenging to be able to meet demand for this fabulous program. This is about ensuring strong financial underpinning for all our responsible pet ownership initiatives and programs going forward.

Mr RAMSAY — Just on a related matter, I am pleased that the minister has indicated a total commitment to those funds generated going back into responsible animal ownership. I raise this issue particularly, Minister, because a lot of non-English-speaking animal owners actually hold registration licences for some of these restricted dogs, so there is a need for a significant education program for those that are not quite acquainted with our laws of the land in relation to dog ownership. I am pleased to see that that money will be solely committed to animal ownership programs.

While I am on my feet — and it is the last time — I want to commend the government on supporting the recommendations of the parliamentary inquiry. My hope is that they will take a similar position in relation to the fire services bill inquiry that the upper house has just conducted and the recommendations it has put to this Council as well.

Ms PULFORD — Mr Ramsay headed right out of the scope of the bill just there, but I think the point he makes around the range of experiences of different parts of the Victorian community in relation to ensuring safe interaction with dogs in particular is really important. It is a point well made, and we certainly ensure that the materials that are made available are made available in a way that is sensitive to those cultural differences and sensitive to the need for people to have this information communicated to them in a variety of languages.

Clause agreed to; clauses 11 to 22 agreed to.

Ms PULFORD — By leave, I have just been provided with the information that Mr O'Sullivan sought earlier. There are 228 known guard dogs, and I will take on notice the further question about breed information. We will track that down, and we will get that to you in due course.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

WORKSAFE LEGISLATION AMENDMENT BILL 2017

Second reading

Debate resumed from 23 June; motion of Ms PULFORD (Minister for Agriculture).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to make some remarks this afternoon on this latest WorkCover bill, which is an omnibus bill that seeks to amend the Accident Compensation Act 1985, the Dangerous Goods Act 1985, the Occupational Health and Safety Act 2004 and the Workplace Injury Rehabilitation and Compensation Act 2013.

The suite of WorkCover legislation has been subject to many amendments over the course of the last 30 years. Of course the most significant reform and restructure of the WorkCover system took place in 2013, when the coalition government introduced the Workplace Injury Rehabilitation and Compensation Act, which was a rewrite and consolidation of the existing WorkCover accident compensation legislation. The intent of that rewrite was to update and clarify what was incredibly complex legislation whilst also preserving critical elements of the 1985 act, given that many of those aspects were subject to litigation. It was important in framing the new act that those provisions were preserved because they had been subject to and tested by way of litigation, and it was important to retain in many instances the effect of existing provisions.

Likewise the WorkCover scheme in its various iterations back to the 1970s and earlier had taken a number of different forms, and while the numbers of parties involved in many of those older schemes are very small, it was nonetheless important that those earlier schemes were preserved and continued to apply in respect of people who were claimants under those schemes. For that reason the Accident Compensation Act 1985 remains on the statute as the vessel which holds the redundant schemes for those people who are still receiving support under those schemes, while the current scheme and new claims are handled under the Workplace Injury Rehabilitation and Compensation Act 2013.

The other two pieces of legislation which are amended by this bill are the Dangerous Goods Act 1985 and the

Occupational Health and Safety Act 2004, which sets down the framework for OHS in Victoria.

Just in relation to the OHS act I can say it is a welcome development that we still have the OHS act in force here in Victoria. When the previous government came to office in 2010 it was in an environment where the previous Brumby government, as other governments around Australia had done in their jurisdictions, committed Victoria to signing up to the national scheme which had been developed through the Council of Australian Governments (COAG) process to implement a harmonised model of workplace safety regulation. Now, the fundamental flaw with that harmonised national model was that it was developed through a process which required compromise across the states and territories.

Victoria, going into that COAG process in 2008–09 which resulted in the national model, was recognised as having the best OHS framework in Australia. Many of the other states and territories that were coming to the table as part of that OHS harmonisation model had legislation which was in many respects deficient, relative to the Victorian model, with some quite substantial differences relative to the Victorian model, which nonetheless have been incorporated having regard to what I will politely call local sensitivities in those various jurisdictions. That meant that in adopting and agreeing to a national model, the starting place being the Victorian model, a number of compromises were built into the national model to reflect local features of in particular the New South Wales and Queensland models. The consequence was that when the previous Brumby government committed Victoria to the national model, the model Work Health and Safety Act, they were in fact committing Victoria to a model which meant Victoria took 10 steps backwards so that states like New South Wales and Queensland could take 20 steps forward.

It was the view of the subsequent coalition government of the day that that was not the way for Victoria to proceed, so we took the decision not to participate in the national model and to exit the Victorian obligations under the COAG agreement, which was part of the seamless national economy stream of COAG reforms. That was not without cost to Victoria in terms of competition payments under the COAG model, but nonetheless it was a good decision for Victoria, and it is good to see that the current government has maintained that position in respect of the Victorian framework.

Just to turn to some of the specifics of this bill, which I will go through fairly quickly and then get to a couple of issues that the coalition has concerns with, the bill updates the entitlement to payments for travel and accommodation by the family of people who are killed in workplace accidents. Of course that is something that the scheme and the entire WorkCover system are designed to prevent and avoid, but nonetheless from time to time fatalities do occur, and it is a feature of both the WorkCover scheme and the Transport Accident Commission (TAC) scheme that support is provided to the families of people who are injured or killed in workplace or transport accidents. This amendment seeks to put in place a similar level of support for people attending funerals of a deceased relative, as is currently available under the TAC scheme as a result of changes introduced by the previous coalition government. Likewise the bill provides for travel and accommodation expenses for family members to visit people who are hospitalised or severely injured in the course of a workplace injury.

In relation to the Dangerous Goods Act, the bill rewrites certain provisions regarding the clean-up, removal and transport of asbestos in emergency situations. With respect to the OHS act — and this is where the coalition does have some concerns — the bill seeks to change the framework with respect to bringing prosecutions under the OHS act. Currently the act provides that a prosecution must be brought within two years of an offence occurring or within two years of the authority, the Victorian WorkCover Authority (VWA), becoming aware of the offence, and any exceptions to those provisions require the consent of the Director of Public Prosecutions (DPP) to bring a prosecution.

What the bill seeks to do is to insert additional exceptions which will allow the VWA to undertake prosecution without receiving the consent of the DPP. It is not clear as to why those additional exceptions are being inserted in the legislation and the current mechanism — which has a two-year window from the incident or the authority becoming aware of it, with the rider that the DPP can provide consent outside that framework — is being changed or why the government is seeking to move from that model to having a range of additional exceptions which would allow the authority to undertake its own-motion prosecutions.

The other matters which the bill deals with in respect of the OHS act relate to extending the scope of notifiable incidents under section 37 of the OHS act, and this is given effect by clause 11 of the bill to include incidents where nurses and midwives are required to provide treatment in addition to the current requirement that where a doctor provides treatment an event is a notifiable incident. Of course a consequence of expanding the basis of notifiable incidents is that there

will be more notifiable incidents given that the criteria is now broadened.

Therefore one of the things we need to be mindful of in future in comparing statistics on the level of notifiable incidents — and there is often a degree of debate around the level of notifiable incidents and what those trends mean — is that the fact that the criteria for defining notifiable incidents is being broadened, leading to more notifiable incidents, needs to be a central consideration in any future debate or discussion around trends on notifiable incidents, noting that with this change we will no longer be comparing like and like for some period of time.

The bill also clarifies the powers of inspectors with respect to asking questions and seeking documents in relation to occurrences in workplaces, and the key provisions that the coalition seeks to explore in committee and indeed will be seeking to amend relate to some new penalty provisions, offence provisions, which are being inserted or modified in relation to the OHS act. I would ask at this time if the coalition's proposed amendments can be circulated.

Opposition amendments circulated by Mr RICH-PHILLIPS (South Eastern Metropolitan) pursuant to standing orders.

Mr RICH-PHILLIPS — With respect to the offence provisions the bill seeks to do a number of things. The first is to create a new offence for the contravention of an enforceable undertaking under the OHS act. It is important to put on the record what an enforceable undertaking is. The provision of the OHS act, which provides for enforceable undertakings, is a civil provision which allows for an agreement to be entered into between an employer and the VWA — the Victorian WorkCover Authority — providing that the employer will undertake to do certain things. This will typically arise where deficiencies in a workplace have been identified, possibly through an incident, possibly just through an inspection. An agreement is reached between the authority and the relevant employer to typically undertake certain changes to that workplace. There are not a lot of enforceable undertakings which are entered into by the VWA. They tend to be listed in the VWA's annual report when such enforceable undertakings are entered into.

Current legislation provides a mechanism by which, by definition, an enforceable undertaking can be enforced where the party to that undertaking has not performed that undertaking. There is a mechanism in the legislation that allows for the enforcement of that undertaking. So it is not clear why the government is now seeking to muddy the waters with respect to the issue of enforceable undertakings by inserting a criminal provision creating a new offence for failing to deliver on an enforceable undertaking.

This provision does seek to move from what has been well recognised as a useful mechanism in the legislation, to have a civil arrangement between the authority and an employer to get an outcome, to muddying the waters by introducing a criminal element with the new offence of contravening an undertaking. This is something the coalition believes is a retrograde step for the operation of enforceable undertakings. Accordingly we will be seeking to amend the relevant provision in the bill, which is clause 10, to omit those penalty provisions and essentially to allow for enforceable undertakings to continue on in their current civil basis with the current mechanism which exists for those undertakings to be enforced where the counterparty has not in the first instance met their obligations.

The second area where the coalition has concerns is in relation to section 38 of the act — clause 12 of the bill — which is headed 'Duty to notify of incidents'. What the bill is seeking to do, for reasons which have not been explained in the second-reading speech from the government, is change the current obligation for an employer to notify the VWA of an incident to now make the failure of an employer to do that an indictable offence and to increase the current penalties in the act by a factor of four. In the case of a natural person this increases the penalty to a maximum of 240 penalty units, and in the case of a body corporate it increases the penalty to a maximum of 1200 penalty units. As I said, this is an increase by a factor of four. No justification has been given as to why the government is seeking to increase the penalties by that magnitude. I am advised that when this provision has been used, where prosecutions have been brought under this provision, penalties have been imposed by the court at the lower end of the current maximum. So there seems to be no basis for the government to now be seeking to increase those penalties by a factor of four when current prosecutions have not rubbed up against the maximum that is currently in place.

In a similar vein, proposed section 13 of the bill seeks to amend section 39 of the act, which is headed 'Duty to preserve incident sites'. The intent of clause 13 of the bill is similar to clause 12 in the sense that it seeks to make the failure to preserve an incident site an indictable offence, where currently it is not, and it seeks to increase the penalties for failure to preserve an incident site by a factor of four — again to 240 penalty units for a natural person and 1200 penalty units for a

body corporate. Again there seems to be no evidence to suggest that the current level of penalty is preventing the courts imposing appropriate penalties when these offences occur. There is only a very small number of offences which have been prosecuted against this provision, and where that has occurred, it has not resulted in the courts being constrained by the current level of maximum penalties. So the reason for increasing penalties by a factor of four is not at all clear from the second-reading speech and is not clear from any of the commentary that the government has made to date. So that is a matter that we will be seeking to explore in the committee stage of the bill.

It is the intention of the coalition parties to propose amendments which will, in relation to clause 10 — enforceable undertakings — omit the proposal to introduce a penalty, an offence, for failing to complete an enforceable undertaking, and it is our intention at clauses 12 and 13 to omit the changing of those offences to indictable offences and to omit the intention to increase the penalties by a factor of four. We believe that the current penalty frameworks are appropriate. The current prosecution history of these offences demonstrates that there is no deficiency in the level of penalties that are available to the court, and we believe that the current level of maximum penalties is an appropriate way for the legislation to go forward. With those few words, we look forward to exploring those matters and those amendments in committee. The coalition will not be opposing the rest of the bill.

Mr MELHEM (Western Metropolitan) — I rise to speak on the WorkSafe Legislation Amendment Bill 2017. In doing so I want to remind the house that the purpose of this bill is to give some teeth to WorkSafe and the Health and Safety Authority to be able to enforce current legislation. I should not be surprised at the amendments circulated by the opposition in relation to this bill. If these amendments were accepted, it would defeat the whole purpose of the bill and we basically may as well not have the bill.

Very briefly, this bill proposes to ensure that if an employer gives an undertaking to fix a health and safety issue in the workplace, then that employer must live up to his or her commitment. That is basically what we are saying with this bill. If he or she fails to do so, then a significant penalty will be attached to it, and what would be wrong with that? If you do not breach the Occupational Health and Safety Act 2004, you will not have anything to worry about.

Over my 23 years in previous jobs, I have seen employers breach the health and safety act, some of them by ignorance, some of them by design and some of them by accident and not design. This bill is not trying to penalise employers who actually do the right thing. It is basically saying to the employers who do the wrong thing and then give an undertaking that they are going to rectify whatever breach there may be that WorkSafe or the authorities will be able to issue fines if the employers do not rectify the breach.

This avoids spending time in the courts, because as I understand it, WorkSafe currently has enough on its hands in trying to enforce the current legislation in relation to, for example, the right of entry for union officials in relation to health and safety inspections when they are invited in by the health and safety representative on a job site under the authorised representatives of registered employee organisations provisions. Now the federal government is using the federal industrial relations legislation to prevent these people from attempting to go in to assist health and safety representatives. My understanding is that WorkSafe has gone to the courts to try and get some orders from the court to be able to enforce that.

Mr Rich-Phillips in talking about his amendments was basically saying, 'It's okay. We should be able to trust these employers to self-regulate. We'll trust them to do the right thing all the time and comply'. Well, I am sorry, but that does not work. Unfortunately from time to time we need to be able to give WorkSafe the tools it needs to force an employer in breach of their obligations under the health and safety act to give an undertaking.

Mr Rich-Phillips talked about the year 2010. At one stage there was talk about putting in place a national framework for health and safety regulations across the country. I think that would have been a great thing. The Victorian legislation at the time was going to be used as the benchmark. The reason that did not go ahead was that New South Wales had some issues with some of our regulations and the Liberal government there did not want it to happen. When the government changed, there was an issue about whether or not unions could prosecute employers over a breach of the health and safety act. Anyway, the whole thing fell over, but Victoria was definitely the benchmark. We had good legislation once, and we still do.

The reason we are putting in these further changes is because, let me remind the house, last year 26 people were killed in Victoria — they lost their lives on worksites. That is 26 too many. If we can do anything to avoid further fatalities in the workplace, I think we should. We should try to do everything we can to avoid that. Of the 26 fatalities, 13 were in Melbourne and 14 in regional Victoria; eight were in the agricultural

industry, seven in construction, five involved tractors and four were caused by falling from height.

We do have reasons and arguments for why we need to send a message to employers. This is not about the employers who are doing the right thing. Employers are doing the right thing; the vast majority of employers in this state do the right thing. There are employers who may accidentally injure or kill people — and these sorts of accidents can happen from time to time — but we are talking about situations where there is clear negligence, and when employers fail to live up to their commitments that penalty will now be increased.

We are talking specifically about situations where a WorkSafe inspector inspects a workplace, finds a breach and reaches an agreement with the employer to rectify a particular problem within a particular time frame. That may be modifying a piece of equipment like, for example, putting a guard on a conveyor belt. When the inspector comes back in, say, three months and the employer has failed to do so without any proper excuse, what will they do? The employer again gives an undertaking to fix it within three months, then that three months pass and the inspector comes back and nothing has happened. So they come back in another three months.

The system will be designed to recognise that employers have given an undertaking. These sorts of things normally happen after an injury. A trigger point can be when an injury has occurred, or in some cases a fatality. The intention will be to avoid all injuries and fatalities. That is why there will be an agreement in place to rectify the situation. What this bill provides is that if an undertaking is breached and there is no excuse, reason or explanation as to why it was breached, then WorkSafe can apply a penalty. To me that is fair. There is nothing unfair about that. It is not unreasonable to actually have that penalty apply in the particular example I have given. To just simply leave it to the employers to resolve compliance in these instances, I think, will not work. As I said earlier, it is not about the 99 per cent of employers in this state who do the right thing.

I think credit goes to WorkSafe and the job they have been doing over the years. Things are improving in this state. Notwithstanding that, I talked about the 26 fatalities we had last financial year. The rate of WorkCover injury claims in Victoria is falling, which is good news; it has fallen from 8.23 claims per million hours worked in 2011–12 to 6.95 claims per million hours worked. So we are making some improvement. But I think putting the proposed legislation into action will further send the message out to some employers that in Victoria the state government is giving WorkSafe the tools and equipment to basically say, 'If you don't comply with your own undertaking, a heavy penalty will apply'.

Some of the cases we are talking about here which we are currently facing, for example, include the prosecution of a lighting business for failing to notify WorkSafe after an employee suffered a serious laceration when a steel beam fell and struck him on the head. The employer pleaded guilty and was fined $750 without conviction. I will give you the name of the employer. It is Tambo Ash Pty Ltd. Mr Rich-Phillips talks about how, if an employer fails to notify, we should not increase the penalty because the current penalty is enough. It is $750! The question is: has that employer made the decision to say, 'I don't need to do that. If I'm caught, it's just $750, so I'll just do that'?

I will cite a second example. WorkSafe prosecuted an employer for failing to notify WorkSafe after an employee fell 2 metres off a ladder while undertaking maintenance works. The employee required immediate treatment as an inpatient in hospital. The employer pleaded guilty and was fined $1000 without conviction. The employer is Pickles Auctions Pty Ltd.

The other thing is in relation to the two-year limit on prosecutions. This goes to an example where a heavy rigid fuel tanker decoupled and hit two vehicles travelling in the opposite direction, killing three people — we all know about that — I think on the Tullamarine Freeway. A WorkSafe inspector attended the scene of the accident. However, the matter was initially investigated by Victoria Police. In the course of the Victoria Police investigation evidence came to light that the servicing of the tanker had not been conducted correctly. This allowed its condition to deteriorate to the point of catastrophic failure. The matter was referred to WorkSafe to investigate the responsible mechanic for a possible breach of the Occupational Health and Safety Act 2004. By this time more than 21 months had passed and there was insufficient time remaining for WorkSafe to undertake an investigation into the matter and bring a prosecution within the current two-year limitation period. WorkSafe's normal time frame for undertaking investigations and bringing prosecutions is 12 months. The employer was Heavy Mechanics Pty Ltd. That is another example. That is why we are making some changes to the current legislation: to give the ability to WorkSafe to basically deal with this. That was quite a serious incident. I can go on; there are a number of examples I can go through.

The government did not wake up one day and say, 'Look, we just want to impose additional penalties on

employers who actually fail to live up to their commitments and undertakings because we feel like doing that'. That is not the case. It is based on hard evidence, stakeholders, industry, employers, unions and WorkSafe basically saying, 'We need to do something to actually improve the current regime and make sure that WorkSafe have been given additional tools to be able to enforce undertakings and to enforce and improve health and safety regulation in the state'. This will make sure that we do not have people killed and that people who are found negligent simply do not get away with it lightly, like in some of the examples I have just given. The whole purpose of it is to make sure that when Victorian workers go to work they have got confidence that there is a law in place and that the authorities will have the tools and the means to basically enforce the law to make sure that after they go to work in one piece they will go home to their loved ones in one piece. With these comments, I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — I am pleased to speak this evening on the WorkSafe Legislation Amendment Bill 2017, which is a bill that the Greens fully support. It is a good bill that brings in provisions that will benefit workers and families of workers and will increase penalties for employers who are responsible for deaths and/or injuries in the workplace but also for perhaps tampering with the scene where a worker has been injured or killed and not notifying the authority of what they are required to notify them of under the act.

The bill makes amendments to the Accident Compensation Act 1985, the Dangerous Goods Act 1985, the Occupational Health and Safety Act 2004 and the Workplace Injury Rehabilitation and Compensation Act 2013. Amendments to the Accident Compensation Act create compensation of up to $5000 for family members of a person who has died at work, to be used for reasonable travelling and accommodation expenses, or for burial or cremation services for the worker. Of course that is a very tragic circumstance that would be facing any family of a worker in those circumstances, and of course not only would they be dealing with the emotional outcomes of such an event but also maybe dealing with the financial outcomes of such an event. So this is a very welcome provision in the bill.

We know that on average 25 000 workers are injured at work every year. There are anywhere between 90 000 and 100 000 workers receiving compensation at any one time in the system, and in the last financial year 21 people lost their lives in Victorian workplaces. In the debate on the previous bill I got a little emotional. I can get quite emotional when it comes to workplace deaths and injuries as well, having worked in that area myself for a decade and having seen some very terrible things happen to workers in terms of tragic deaths and also injuries in the workplace, serious injuries that people have to live with for the rest of their lives, psychiatric injuries — they can also occur in a workplace — or long-term chronic illness that may eventually result in death that is caused by exposure to hazards, particularly chemical hazards in the workplace.

This is a very serious issue that affects all workers in all industries to different degrees depending on what they are working with. It is the responsibility of employers to create a safe workplace, to be proactive in that regard and to also be cooperative if such an incident occurs that results in the injury or death of a worker or workers.

The bill also amends the Dangerous Goods Act 1985 to give the Governor in Council further powers to make an order to regulate the clean-up, removal and transport of asbestos, asbestos-containing material, asbestos-contaminated dust or asbestos waste. This covers asbestos of all types, including chrysotile, crocidolite, grunerite and tremolite asbestos. We often hear people in the community saying that some forms of asbestos are less lethal than others, but that is not the case. There is no safe level of exposure to any type of asbestos. We have, very sadly, a continuing toll of workers who have been exposed to asbestos dying from asbestos-related disease and mesothelioma, and we have a growing number of people in the community who are also contracting asbestos-related diseases from exposure in the general community, including in houses, in public buildings and by exposure to demolition sites et cetera. We still have an ongoing problem with asbestos.

On several occasions in this Parliament I have raised with the Minister for Consumer Affairs, Gaming and Liquor Regulation the need to do more work in the community, because since the import, use and manufacture of asbestos were banned in Australia in 2001, 16 years ago — the use of asbestos in building materials was banned about 15 to 20 years before that — we have a cohort of younger people, many of whom are buying and renovating homes, who have no real knowledge of asbestos and who do not necessarily understand that when they are pulling out their sink, ripping up the lino in the kitchen or pulling out lining in a garage, a laundry or a bathroom in a home built prior to the 1980s and 1990s they could be exposing themselves to asbestos. We are seeing this growing

cohort of people who are actually contracting asbestos-related diseases, and I am very concerned about that because it is so preventable.

It could be prevented by more information being provided to the community. I have called for action such as that on the sale of a house that contains asbestos, or could contain asbestos, because it was built before the time when asbestos was banned in the building of houses. I have asked that a statement be provided to the new owner that either the asbestos has been removed or the asbestos is still there so people actually know if they are buying a property that contains asbestos. Nevertheless this is a good provision in this bill, but more work needs to be done, and I do encourage the government to do more to become more active in this space.

The amendments to the Occupational Health and Safety Act 2004 are probably the major amendments to the bill. They create a separate offence in clause 10 of the bill for the contravention of an enforceable undertaking. Enforceable undertakings are actions that can be required of an employer after a workplace injury incident where the employer is found to be negligent or responsible for not providing a safe workplace and for in fact being the cause of the incident by not providing the safety equipment, such as guards on machinery, but it could be any type of incident that occurs in a workplace where the employer has not provided a safe workplace.

The enforceable undertaking is in place of a prosecution. I can recall when these provisions came in; I was in two minds about it because I could see on one hand the benefit of the enforceable undertaking actually having the effect of the problem that caused the injury being solved and the workplace being made safer but on the other hand negligent employers would escape prosecution for not providing a safe workplace. This provision creates an offence for contravention of an enforceable undertaking or not carrying out the enforceable undertaking, and I think that is a good thing. Currently under the act, where an undertaking is agreed to, the employer cannot be prosecuted, and when an employer fails to comply with the undertaking there are no penalties for such behaviour, which really is a loophole that has been in the act for too long. It is good to see that being fixed.

The amendments to the OHS act would also introduce a reasonable excuse element for the offence of failing to notify the authority of a notifiable incident and significantly increasing the penalty for that offence, making it an indictable offence where it is currently a summary offence. This element provides an appropriate defence to the increase in the penalty — that is, the reasonable excuse offence. I think that failing to notify the authority of a notifiable incident is a serious thing, so there needs to be an appropriate penalty attached to that. I note that the Liberals have circulated an amendment to completely remove this provision from the bill, which we will not be able to support, because we believe it is a good provision to introduce in the bill.

The bill also introduces a reasonable excuse element for the offence of failing to preserve a site where a notifiable incident has occurred and makes that an indictable rather than a summary offence as well. I note that the Liberal Party have circulated an amendment — Mr Rich-Phillips has circulated an amendment — to remove that section from the bill. Again, we will not be able to support that.

I would have to say that failing to preserve a site where a notifiable incident has occurred and/or an injury has occurred and a person has been killed is a very serious thing to do — to not preserve the site so that the WorkSafe investigators and/or the police who may also be in attendance can ascertain what occurred at the site without it having been tampered with. It would be a very serious thing to actually interfere or tamper with the site and to fail to preserve the site before the authority has been on site to an incident. We think these are much-needed changes to the act.

The bill also amends section 76 to clarify that it is an offence for an employer to discriminate against someone for raising an OHS issue directly with the authority. This is a very important provision as well. It is already an offence to discriminate against an employee for raising an OHS issue with the employer, particularly if they are a health and safety representative. Victoria has a long history and a proud tradition of occupational health and safety representatives in workplaces, who play a very important role in maintaining the safety of workplaces and raising issues with employers about unsafe practices or occupational health and safety hazards in the workplace. If a person wants to raise an issue with the authority, I think it is very important that it is clarified that it will be an offence for an employer to discriminate against someone for doing so, because they are clearly doing so to make sure that their workplace is safe for them and other workers and indeed anybody else who may attend that workplace.

The bill clarifies under section 100 that an inspector who enters a workplace to investigate a breach of the act may require a person at the place to answer questions. These would not be restricted to matters concerning documents they are required to produce

under this section. The bill makes some amendments to the act to add the ability to serve provisional improvement notices electronically, as well as non-electronically, and also provides that non-disturbance notices can be delivered electronically in addition to the current method.

The bill also amends the act to allow prosecutions outside the two-year limit in limited circumstances for indictable offences and amends section 153 to change the breach of the provision from a summary to an indictable offence of knowingly providing false or misleading information or documents. Again, in terms of a situation where an incident has occurred and a worker has been injured or killed, to knowingly provide false or misleading information or documents must be regarded as a very serious matter.

The Greens are very supportive of the provisions in this bill. They do improve the operation of the act in terms of actions taken by employers which are either negligent or wilfully and deliberately misleading or attempting to cover up something or attempting to tamper with a site where an incident has occurred.

As I did back in June last year, I would like to take the opportunity to say that, while this bill is one that we are supporting, there are still some leftover problems in the Accident Compensation Act that go back to the Accident Compensation Amendment Act 2010. The previous Labor government made changes in that area to tighten up the eligibility of workers to claim for stress-related or psychiatric injuries by extending the definition of 'management action' under that act, watering down an employer's responsibility to assist workers to return to work but not creating an unjustifiable hardship, and also to reduce the benefits if workers are unable to return to work after 52 weeks.

These are changes that I think the government still needs to address. The fact that the provision remains in the act that a worker who is unable to return to work after 52 weeks can have their benefits reduced is of much concern to me. I know of people to whom this has happened. It is unfair to people who have been injured in the workplace through no fault of their own and are unable to return due to the extent of their injuries, be they physical or psychiatric or both.

Of course we know that the report of the Ombudsman that was tabled last year — and that report of the Ombudsman was *Investigation into the Management of Complex Workers Compensation Claims and WorkSafe Oversight* — was a very disturbing report to read. The Ombudsman said in her foreword to the report that when she decided to look into WorkSafe and its agents she had received 500 complaints from the previous year from people who had contacted her office to ask for help. She wrote:

> These included not only injured workers … but healthcare professionals horrified by what was happening to their patients.

I say that because they are usually the longer term injured patients with the more complex injuries and more complex needs and who have been going through the actual compensation system dealing with the five insurance agencies. If they do not have a stress-related and psychological injury before that, they often end up with one as a result of being through the system.

The Ombudsman said:

> We found agents cherrypicking evidence to support a decision to reject or terminate a claim — as little as one line in a medical report — while disregarding overwhelming evidence to the contrary. We found independent medical examiners (IMEs) — whose opinions agents use to support their decision-making on compensation — receiving selective, incomplete or inaccurate information. We also saw evidence that some IMEs were used selectively to advantage the insurers — including those described by agent staff as 'good for terminations'.

The Ombudsman found many things happening in terms of the workers compensation system and the activities of some of the agents, such as 'unreasonable decision-making by … agents'. Agents were also found to have:

> unreasonably used evidence in decision-making;
>
> maintained unreasonable decisions at conciliation;
>
> made decisions contrary to binding medical panel opinions;
>
> allowed employers to improperly influence their decision-making;
>
> provided inadequate internal review processes.

The Ombudsman also found that WorkSafe's oversight was 'deficient in some areas' and that the incentives given to the insurance agents to terminate employers were tipping the balance away from fairness to workers.

The Ombudsman said WorkSafe is working towards improving that. We are a year since the report was tabled. Certainly there was a lot needing to be done to work towards that. I personally know of people who have gone through that system. I know of one person who is one of those complainants to the Ombudsman about what happened to a person close to them and how they were actually worn down and completely destroyed by the process that they were forced to go through in trying to get justice in terms of their compensation. So there was a lot of work for WorkSafe

to do; let us hope that they have been doing it. Even the agents were all shamed into saying they were going to fix up their processes as well, but in the meantime many workers have been very damaged by what was going on.

It is now 20 years since the ACTU occupational health and safety national campaign 'Stress at work — Not what we bargained for' was launched in 1997 by the then secretary of the ACTU, Mr Kelty, and ran in September and October of that year. I raise that because I was very proud to be very involved in that campaign, and it started with a survey. When I was working there in the national OHS unit we decided to send out a survey to unions, and we had no idea we were going to be bombarded with more than 10 000 responses to that survey. People talked about stress at work and what the causes of it were: excessive working hours, lack of control, unreasonable management actions and occupational health and safety issues not being addressed.

I raise it today because I have noticed in the press of late that Beyondblue has been talking about stress at work and several organisations have been raising just recently the rise in stress at work. People are again talking about it; not that I think they ever stopped talking about it, but it has risen to prominence again. I raise it because I think all employers need to be making sure that their employees are not suffering from stress at work and ensuring that they are removing the hazards and work practices that are leading to it, because it has such an effect on people's lives and on the lives of their family members.

Back in 1997 we were looking at the evidence that stress can lead to anxiety and depression, and I think that is why an organisation like Beyondblue has been talking about it. That 20 years has gone fast but the issue still remains to be dealt with, and I think it is something the government should be looking at in terms of workers who have had their claims of psychiatric injury caused by stress at work accepted by WorkSafe. They have a struggle to have it accepted by WorkSafe under the changed provisions in the Accident Compensation Conciliation Service, and they then have to struggle with being able to continue on benefits, as I have just mentioned, so we still have a lot of work to do to make life bearable for those who suffer workplace injuries. But with those comments, the Greens are very supportive of the bill put forward by the government.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 9 agreed to.

Clause 10

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

1. Clause 10, lines 13 to 16, omit all words and expressions on these lines.

This amendment seeks to remove the penalty provisions that the government is inserting with respect to a person contravening an enforceable undertaking. I would like to ask the minister: what is the government's reason for seeking to insert this criminal provision, in the sense of creating a penalty for contravening an enforceable undertaking, given that it is the nature of an enforceable undertaking that it is a civil agreement between the authority and employer? There is already a mechanism of enforcing an enforceable undertaking if the employer does not carry out their duties. There is a mechanism for it to be enforced — that is why it is called an enforceable undertaking. Why is the government now seeking to insert a criminal provision with respect to enforceable undertakings?

Mr JENNINGS (Special Minister of State) — I thank Mr Rich-Phillips for his question. If anybody from the community has just joined this committee —

An honourable member — They haven't.

Mr JENNINGS — They may not have, but just in case they have just joined, the issue that we are discussing in this clause and the amendment that Mr Rich-Phillips is seeking to introduce relates to provisions that provide for safe workplaces in circumstances where the WorkSafe authority has provided effectively a direction to an employer to make a work location safe under the provisions of the act to make sure that there are not adverse occupational health and safety risks to workers or people who come into that location. In fact there are specific recommendations made by which the employer remedies the workplace over time in terms of taking action to make sure that those risks reduce.

This clause in the government's bill has been designed to provide for absolute certainty in cases where an ongoing risk exists in the workplace and the employer may have failed to complete what has been sought from the enforceable undertaking. There may be potential for a loophole in the statute that creates a time frame which enables the employer to sit out the life of this enforceable undertaking without completing the work.

This brings the effectiveness of those provisions into sharp focus, particularly if there is the wilful act of an employer not completing that work.

The reason why the government is introducing a sanction is to ensure that there is a greater ability to enforce that works are undertaken and completed and that there is not this potential blind spot or loophole that exists in the current provisions, which allows an employer not to undertake that work and to wilfully ignore the original intention of the undertaking.

Mr RICH-PHILLIPS — Thank you, Minister. Minister, section 17 of the Occupational Health and Safety Act 2004 currently provides that where an enforceable undertaking is not being carried out by the employer the authority can seek an order in the Magistrates Court. There are relatively few enforceable undertakings in place, and they are generally listed in the Victorian WorkCover Authority annual report. Are you able to inform the committee if there are any instances where an order has been made and the undertaking has still not been carried out?

Mr JENNINGS — One case has been provided to me, but I am going to go and talk to my advisers in the box about the pathway through the court process that led to this concern rather than just indicate the case law without clarifying the form about which Mr Rich-Phillips has asked me.

Mr Rich-Phillips, I am going to be subsequently advised about whether specifically a matter has been brought before the Magistrates Court which has actually failed to escalate or reinstate the enforceable undertaking, which is in fact the logic of your question, and in fact whether it is based upon precedent. I have been given precedents in relation to concerns where enforceable undertakings have not been able to be concluded by WorkSafe, but I will await further advice in relation to whether the Magistrates Court had failed to provide appropriate cover from WorkSafe's perspective.

However, what I can say pending that outcome is that the logic that WorkSafe is concerned about and the logic that underpins this change to the law is that it could well be that under the provisions of the existing act the best that the Magistrates Court could do would be to reinstate rather than escalate or provide a sanction for ultimately failure to deliver on the enforceable undertaking.

So ultimately it is the lack of sanction at the very end point, regardless of how many times you go back to the Magistrates Court and how many times this may be considered by the courts, and what ultimately could be the punitive element that may be brought to bear that ultimately, even though the intention is to have a compliant regime, relies on the goodwill and the authority of such an order but may never have a sanction to be complied with. So the idea that it is enforceable could almost be argued to be a misnomer in relation to ultimately it not being associated with a sanction.

Mr RICH-PHILLIPS — Thank you, Minister. Can I just clarify that the information that I was seeking was not where the Magistrates Court had decided not to make an order but rather where an order had been made but then the enforceable undertaking was still not completed — so where the court has actually provided an order but that did not have the effect of getting the desired outcome.

Mr JENNINGS — That is the other side of my inability to be able to answer that question, whether in fact there had been failure by the Magistrates Court or alternatively the Magistrates Court acted in a way in which you would anticipate them acting and then failed to deliver the result of that undertaking. I understand that.

Mr RICH-PHILLIPS — Thank you, Minister. I guess the other point I would just make in respect of the minister's comment that you can go back to the Magistrates Court and the Magistrates Court will make an order to carry out the enforceable undertaking is that that in and of itself does not advance it very far. I guess I just draw attention to clause 17 of the act, which provides that the court may make an order that the person must comply with the undertaking or take specified action to comply with the undertaking or any other order that it considers appropriate. So there is actually very broad capacity for the Magistrates Court to make any order that leads to the completion of the undertaking, including of course escalating that to a contempt matter where the party does not comply with the order of the court.

I am taking the minister's point that there is a very broad capacity for the court to make any order that would lead to the undertaking being carried out or contempt-related matters proceeding against the party.

Mr JENNINGS — I think Mr Rich-Phillips is in a generous mood because he has augmented my argument. He has built on it and he has indicated that in fact in probably logical terms, given that there is huge discretion within the court without it actually being guided, we are now providing guidance with this amendment.

Ms PENNICUIK (Southern Metropolitan) — The Greens will not be supporting the amendment put forward by Mr Rich-Phillips. I find it quite interesting that Mr Rich-Phillips is talking about the power of the court being very broad. It is true that the court can theoretically enforce the enforceable undertaking and perhaps invoke contempt proceedings, but I would say that I do not know that that would be the appropriate way to proceed, really. In fact the better way to proceed would be for the court to be able to issue penalties for non-compliance or to reinstate prosecutions for offences that were the subject of an enforceable undertaking.

Currently where an employer agrees to an undertaking but does not undertake it WorkSafe cannot prosecute the employer for the original breach. That I think is something that needs to be fixed. It needs to be remembered that an enforceable undertaking is entered into to avoid a prosecution for an offence that has been committed and where someone has been injured, or potentially injured. I do not know of any enforceable undertakings where someone has been killed. The government could enlighten me on that, but I think not. But where an offence has been committed and the employer has agreed to undertake an enforceable undertaking then they can no longer be prosecuted. WorkSafe should be able to penalise an employer who has broken a promise made in order to avoid a prosecution. I would also say that this will not affect any employer who has not committed an offence.

Mr JENNINGS — I confirm that there has been no action brought to the Magistrates Court.

Amendment negatived.

Mr RICH-PHILLIPS — Just before we move on from clause 10, I indicate that I propose to test my first amendment in a substantive way by opposing the clause, given that the intent of the proposed textual changes was effectively to omit the clause. I intend to actually test the amendment more substantially by opposing the clause with a division.

Committee divided on clause:

Ayes, 22

Barber, Mr	Mikakos, Ms
Bourman, Mr	Mulino, Mr
Carling-Jenkins, Dr	Patten, Ms
Dunn, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Shing, Ms
Gepp, Mr	Somyurek, Mr *(Teller)*
Hartland, Ms	Springle, Ms
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Melhem, Mr	Young, Mr *(Teller)*

Noes, 16

Atkinson, Mr	Morris, Mr *(Teller)*
Bath, Ms	Ondarchie, Mr
Crozier, Ms	O'Sullivan, Mr
Dalla-Riva, Mr	Peulich, Mrs
Davis, Mr *(Teller)*	Purcell, Mr
Finn, Mr	Ramsay, Mr
Fitzherbert, Ms	Rich-Phillips, Mr
Lovell, Ms	Wooldridge, Ms

Pairs

Dalidakis, Mr	O'Donohue, Mr

Clause agreed to.

Clause 11 agreed to.

Clause 12

Mr RICH-PHILLIPS — I move:

2. Clause 12, page 11, lines 1 to 15, omit subclauses (2) and (3).

The intent of amendment 2 is to preserve the existing level of penalties that exists for the offence of failing to notify of an incident. This is already a criminal offence under the Occupational Health and Safety Act 2004, with substantial penalties provided for natural persons and bodies corporate. What the bill proposes to do is make what is currently a summary offence an indictable offence and to increase the penalties by a factor of four. It is the coalition's view that the current penalties are adequate for this offence, and we are informed that notwithstanding the current level of penalties courts have not elected to impose penalties which reach the current maximum. Therefore it is not clear why the government is seeking to increase the maximum penalties by a factor of four. It is also not clear why the government is seeking to make what is currently a summary offence an indictable offence.

In moving this amendment I would ask the minister firstly if he could clarify why the government is seeking to make this an indictable offence and secondly whether the government is aware of any instances where findings of guilt have been made for this offence and a penalty has been imposed at the current maximum penalty, which would justify an increase of the current maximum penalty.

Mr JENNINGS — I have two examples of case law that WorkSafe are concerned about that are indicative of why WorkSafe believes these penalties should be increased. The first example is the prosecution of Tambo Ash Pty Ltd, a lighting business, for failing to notify WorkSafe after an employee suffered a laceration to his head when a steel beam fell and struck him. The incident was not reported immediately to the

WorkCover authority, and the incident scene was not preserved. The employer pleaded guilty —

Ms Pennicuik — Deputy President, I am sorry to interrupt the minister but I cannot hear a word he is saying.

The DEPUTY PRESIDENT — Please, members, can I have some quiet?

Mr JENNINGS — I am not certain how far I should go back. We are talking about the case of an employer whose employee suffered an injury. The incident was not reported. The scene was not preserved. The employer pleaded guilty and was fined $750 without conviction. That was a concern in relation to the gravity of the situation of the case in question.

The second example I have got is where WorkSafe prosecuted Pickles Auctions Pty Ltd for failing to notify WorkSafe after an employee fell 2 metres from a ladder while undertaking maintenance work. The employee required immediate treatment as an inpatient in hospital. The incident was not reported to WorkSafe. The employer pleaded guilty and was fined $1000 without conviction.

Whilst I have not outlined the degree of injury and impairment to the workers in question, there are a couple of elements that link both those stories. One is that when an incident which causes injury has occurred there is a requirement to notify, which did not occur. In one instance the scene was not preserved, which is another significant matter and relates to a subsequent consideration in this committee about the next clause and the requirement to preserve the incident scene and to make sure that the appropriate investigation can take place without contamination of evidence in relation to occupational health and safety. Those two issues come together in this clause and the next clause.

WorkSafe believes that the penalties that have been provided by the courts are not seen as a sufficient incentive to make sure that there is appropriate compliance with those provisions by employers who may act in a way that falls short of expectation or requirement. There is an assumption that the increase in penalties would be more likely to create safe workplaces and a greater degree of compliance with the requirement of provision of information, reporting in the first instance and, very importantly, preserving the workplace to be considered and properly assessed.

Mr RICH-PHILLIPS — Thank you, Minister, for that answer. There are a couple of things I would like to follow up on. Firstly, I will go back to the second question I asked with respect to the reason the government has elected to go from a summary offence to an indictable offence. In relation to the two cases that the minister mentioned, the penalty imposed, whether it was for failure to notify of an incident or failure to preserve the scene — it does not really matter for the purposes of the debate which they were — was $750 in the first case and $1000 in the second case. Neither of those penalties was anywhere near the maximum that is currently allowed for in legislation, which is 60 penalty units in the case of a natural person and 300 penalty units in the case of a body corporate. I assume each of those cases related to a body corporate. The court had the discretion to impose a penalty far greater than it did. Given that the court is not using the maximum penalty now, why does the government believe tripling the maximum penalty is going to have any deterrent effect?

Mr JENNINGS — I look forward to Mr Rich-Phillips and his colleagues applying the same logic when we are dealing with other criminal matters and the political argument that is put forward by his party on any number of occasions in relation to the logic about sentencing arrangements in other matters of criminal law.

Mr RICH-PHILLIPS — I thank the minister for that answer. I thought that perhaps in view of the government's position on other sentencing matters this particular legislation was somewhat inconsistent.

Mr JENNINGS — That is not the government's view, but we may volley back and forth over the net for quite some time.

Mr RICH-PHILLIPS — I think the minister is probably right on that point. Going to the point of why the government is seeking to shift from what is currently a summary offence to an indictable offence, is the minister able to indicate why that change is being made?

Mr JENNINGS — It is consistent with the issue of the gravity that applies to the circumstances, but it also means that there are limitations under the Occupational Health and Safety Act 2004 and there are limitations under the Criminal Procedure Act 2009, which would mean that time constraints in relation to dealing with summary offences would not apply here.

Ms PENNICUIK — The Greens will not be supporting amendment 2 moved by Mr Rich-Phillips, which goes to the increase in penalties for failure to notify of an incident, particularly if that failure to notify is deliberate and is in order to avoid WorkSafe being able to attend the site immediately or to try to avoid a prosecution. I think these are very serious offences, and

they should be indictable offences, but I note that the bill says:

> However, the offence may be heard and determined summarily …

under section 28 of the Criminal Procedure Act 2009. Nevertheless, I think they should be indictable offences. Currently the penalties are very small: for a natural person it is 60 penalty units, or around $9000, for failing to notify; and for a body corporate it is 300 penalty units, or around $45 000, for failing to notify. This is a very serious matter. If someone has been seriously injured or killed and somebody wilfully fails to notify the authority of that offence, I take that very seriously. I would say that this would not apply to an employer who did not do that, who did not commit that offence, and it is a serious offence.

Day after day we hear in this place about being tough on crime and the need for harsher sentences, and I would have to say in regard to raising these penalties from 60 to 240 penalty units for a natural person, and from 300 to 1200 for a body corporate — which in effect is $36 000 for a natural person and $180 000 for a body corporate — that some body corporates would not find that to be much of a penalty. I would even want to mount an argument that the maximum penalties could be higher and in fact should include time in prison if it is a very serious breach in a very serious incident. So I am fully supportive of some rise in the penalties for these incidents.

We know that in terms of prosecutions under the OHS act it is very difficult to get anywhere near the maximum penalty for any offence under that act. I would like to encourage the judiciary to hand out sentences more towards the maximum sentence, because we are talking about employers who have failed to provide a safe workplace — an incident has happened, somebody has been seriously injured or killed and they have failed to notify the authority. That is a serious matter.

Amendment negatived.

Committee divided on clause:

Ayes, 22

Barber, Mr	Mikakos, Ms
Bourman, Mr	Mulino, Mr
Carling-Jenkins, Dr	Patten, Ms
Dunn, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Shing, Ms
Gepp, Mr (*Teller*)	Somyurek, Mr
Hartland, Ms (*Teller*)	Springle, Ms
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Melhem, Mr	Young, Mr

Noes, 15

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

Pairs

Dalidakis, Mr	O'Donohue, Mr

Clause agreed to.

Clause 13

Mr RICH-PHILLIPS — I move:

3. Clause 13, lines 20 to 33, omit subclauses (2) and (3).

Similar to amendment 2, this amendment deals with the existing duty to preserve incident sites. The bill in clause 13 seeks to make the offence of failing to preserve an incident site into an indictable offence and seeks to increase the penalties by a factor of four. As with our amendment 2, amendment 3 seeks to preserve the current level of penalty, and we will seek to preserve that offence as a summary offence, noting the policy discussion that we had before and the answers the minister gave effectively in respect of the provisions of clauses 12 and 13. I do not intend to ask the minister further questions in respect of those matters — I think they were covered in the discussion on clause 12 — but I indicate that our amendment seeks to preserve the offence in its current form, with its current level of penalty, and if the amendment is not successful, we will seek to oppose clause 13.

Mr JENNINGS — I thank Mr Rich-Phillips for indicating very clearly to the committee that it is the same argument that we had for the previous clause. He has graciously acknowledged that in fact I had outlined the reasons why the government was of the view — because of the gravity of the situation and the outcome that the government is wanting to seek. We want to increase the penalties for those reasons. I thank Ms Pennicuik for her contribution in relation to supporting the government in its argument in relation to the last clause, so I will leave it there. We will oppose this amendment.

Ms PENNICUIK — The Greens will not be supporting this amendment, which is to increase the penalties for failing to preserve an incident site where a worker has been seriously injured or killed. The penalties have the same differences as I mentioned before, so I will not mention that again, but again I

would say this is a very serious matter. Where an incident occurs and an employer, be that a natural person or a body corporate, fails to preserve the site for the investigation — and particularly wilfully does that and moves items or removes documents or items in order to change an aspect of the site to avoid a prosecution or to disrupt the investigation — I take that as a serious matter.

Amendment negatived.

Committee divided on clause:

Ayes, 23

Barber, Mr	Mulino, Mr
Bourman, Mr	Patten, Ms (*Teller*)
Carling-Jenkins, Dr	Pennicuik, Ms
Dunn, Ms	Pulford, Ms
Eideh, Mr	Purcell, Mr
Elasmar, Mr	Shing, Ms
Gepp, Mr	Somyurek, Mr
Hartland, Ms	Springle, Ms
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Melhem, Mr (*Teller*)	Young, Mr
Mikakos, Ms	

Noes, 15

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

Pairs

Dalidakis, Mr	O'Donohue, Mr

Clause agreed to.

Clauses 14 to 41 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

CAULFIELD RACECOURSE RESERVE 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 Caulfield Racecourse Reserve Bill 2017 (the bill).

In my opinion, the bill, as introduced to the Legislative Council, is compatible with the human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill will:

revoke the existing restricted Crown grant and provide that the trustees under the Crown grant go out of office;

establish a trust to manage the Caulfield Racecourse Reserve for racing, recreation and public park purposes;

provide for the functions, powers and duties of the trust in relation to the management of the Caulfield Racecourse Reserve, including leasing and licensing powers;

enable the minister to appoint, suspend and remove members of the trust;

enable the minister to give directions to the trust in relation to the carrying out of its functions, duties and powers;

provide mechanisms to define areas that may be used for each of the purposes for which the land is permanently reserved, being 'racing, recreation and public park', including ensuring public access to certain areas of the Caulfield Racecourse Reserve;

provide for other related matters in relation to the management of the Caulfield Racecourse Reserve including to enable the making of regulations for the control, management and use of the reserve.

Human rights protected by the charter that are relevant to the bill

Section 12 — freedom of movement

Section 12 of the charter provides for the right for every person to move freely within Victoria and to enter and leave it and to have the freedom to choose where to live. It includes the freedom from physical barriers and procedural impediments. This right is relevant to clauses 33 and 34 of the bill.

Clause 33 of the bill provides the trust with the power to declare an event to be a Caulfield Racecourse Reserve event. It is intended that this power will be used to enable a person or body to exclusively control a wider area of the reserve for an event (e.g. a race day). It is intended to facilitate the smooth running of race days on the reserve by enabling a person or body to take control of part of the reserve on event days and to suspend the operation of any regulations applicable to the reserve during the event. However, it is limited to declared event days so it also allows for such areas of the reserve to be used by the trust or the public on non-event days.

The minister administering the bill and the minister administering the Racing Act 1958 will be provided with the power to request the trust to vary an annual event declaration for race days in exceptional circumstances. This may include the cancellation or transfer of a racing event at the reserve.

Clause 34 of the bill provides the trust with an explicit power to set aside an area of the Caulfield Racecourse Reserve for management purposes. The set aside will be made by written determination and will outline any terms and conditions associated with the set aside, including if access is prohibited or restricted and the duration of the set aside. This will allow the trust to restrict public access to an area within the Caulfield Racecourse Reserve. For example, the trust may wish to restrict access to a certain area of the reserve to mitigate a risk to public safety such as that posed by a building works program. In most cases, public access to a set aside area is likely to be prohibited or restricted on a temporary basis.

The bill itself does not purport to set aside any areas of land or restrict or prohibit access to areas within the reserve. It enables the trust to declare an event (except for an annual event declaration related to racing) or set aside an area of land within the reserve for specific purposes, consistent with the purposes for which the land is reserved, as and when required. A subsequent decision to declare an event or set aside an area of the reserve may interfere with the right to freedom of movement, to the extent that a person can move freely around Victoria by passing across that part of the reserve subject to an event declaration or set aside determination. When making an event declaration or a set aside determination, the trust will need to consider the human rights set out in the charter in accordance with its obligations under that act. Any limits on people's movements would only be imposed to the extent necessary to fulfil the purpose of declaring an event or setting aside the area of land. All event declarations and set aside determinations will be published.

These powers are appropriate management tools which would only be imposed by the trust to the extent necessary to fulfil the purposes for which they are intended. It is a permissible interference with a person's right to pass across that part of the reserve to which access is restricted. As a result, clauses 33 and 34 of the bill do not limit the rights under section 12 of the charter.

Section 13 — right to privacy

A person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The touchstone for the right is a reasonable expectation of privacy.

Clause 13 of the bill requires a member of the trust to declare in a meeting of the trust any pecuniary interest or conflict of interest in relation to a matter being considered or about to be considered by the trust. Insofar as the provision requires disclosure of personal information about which a person might have a reasonable expectation of privacy, I consider that any interference with privacy is lawful and not arbitrary. It is clearly set out in the bill and prescribes the circumstances in which any disclosure would occur. It is essential for the maintenance of the integrity of the trust that conflicts of interest are declared; this can be balanced against any interference with a member's privacy.

I consider that the bill is compatible with section 13 of the charter.

Section 18 — taking part in public life

Section 18 of the charter provides that every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives. It further provides that every eligible person has the right, and is to have the opportunity, without discrimination, to have access, on general terms of equality, to public office.

Clause 44 of the bill revokes the restricted Crown grant and clause 45 dissolves the Caulfield Racecourse Reserve Trust thereby removing the trustees appointed under the grant from office. The trustees have been consulted on the proposed new governance arrangements and have agreed to go out of office to enable the new management body to be established. The provisions of the bill do not prohibit the trustees from applying for reappointment to the trust, should they so desire. The revocation of the Crown grant and removal of trustees is necessary to establish the new governance framework and transition the trust to an independent public entity.

Clause 7 of the bill provides for the appointment of members to the newly established trust. In determining appointments, the minister is to consider a person's capacity to perform the functions of the trust and any qualifications, skills or experience relevant to the management of the reserve. These requirements do not engage any attribute protected against discrimination, or conduct constituting discrimination, under the Equal Opportunity Act 2010 that is also discrimination under the charter.

Clauses 9 and 10 of the bill provide for the circumstances in which a member of the trust can resign, be removed or the office becomes vacant. These clauses may engage and limit the right in section 18. However, the provisions are justified to facilitate good corporate governance and to hold members to account for their responsibilities as members of the trust.

Clauses 7, 9, 10, 44 and 45 of the bill are necessary to give effect to certain government commitments following the Attorney-General's investigation and report in 2014 and the subsequent recommendations of the bipartisan working group

in 2016. Therefore, I consider that to the extent that these clauses are seen to impose a restriction on a person's right to take part in public life, they are reasonable limitations that can be demonstrably justified in a democratic society.

Section 19 — cultural rights

Section 19 of the charter provides for the rights of Aboriginal persons to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

This right is relevant to clauses 33 and 34 of the bill. Clause 33 of the bill provides that the trust can make an event declaration to enable a person or body to exclusively control a wider area of the reserve for an event. Clause 34 provides that the trust can make a determination to set aside an area on the reserve to restrict or prohibit access. For the same reasons as those mentioned above in relation to section 12 (regarding freedom of movement), the bill does not limit the rights under section 19 of the charter because the bill does not purport to make the event declaration or set aside any area of land to prohibit or restrict access to such areas.

However, as a result of the bill, an event declaration or a set aside determination may be made in the future that provides a lessee with exclusive control over land in the reserve or restricts or prohibits public access to set aside areas in the reserve. When making an event declaration or set aside determination, the trust will need to consider the human rights set out in the charter in accordance with their obligations under that act.

Making an event declaration or a set aside determination are valuable tools to provide for better management of race days and to protect public safety. They are most likely to have temporary application only and will be published. A decision to make an event declaration or set aside a prohibited access area in accordance with the bill may limit the ability of Aboriginal persons to continue to enjoy their distinct relationship with the land or to continue to take part in cultural practices within those areas to which the declaration or determination apply.

Any matters relating to cultural rights would be considered at the time that the declaration or determination are made. Consideration would be given to ways to mitigate potential impacts on cultural rights, for example, by assessing whether an exemption for the exercise of Aboriginal cultural practices could be applied or limiting the duration of the prohibition on access without compromising the purpose of the restriction or prohibition. This would be up to the trust to assess in determining the terms and conditions of the event declaration or set aside determination. Any limits on cultural rights would only be imposed if they were reasonable and justified in order to protect the area of land to be set aside or to prevent risks to public safety.

Section 20 — property rights

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law.

Clauses 36 to 38 of the bill provide the trust with leasing, licensing and permit granting powers in respect of Caulfield Racecourse Reserve. It is expected that the trust may enter into leases and licences with third parties and grant permits in order to manage the reserve for the purposes of racing, recreation and a public park.

In addition, clause 33 provides that the trust may declare an event for the purposes of granting a person or body permission to exclusively use an area of the reserve on an event day or any days before or after an event day necessary to hold an event. The purpose of declaring an event is to enable event holders to effectively manage and control the part of the reserve upon which the event is being held consistently with the purposes for which the land is reserved. Clause 33(2) provides that, upon request from the Melbourne Racing Club, the trust must make an event declaration to declare any race days allocated by Racing Victoria each year to the Melbourne Racing Club to be conducted at the Caulfield Racecourse Reserve.

In these circumstances, there may be temporary restrictions of another person's ability under their lease or licence to hold other events in the relevant areas on those days and to access or use that land consistent with the terms of their lease or licence.

In addition, clause 33(10) of the bill provides for an urgent event declaration to be made in exceptional circumstances, meaning that an event declaration could be made with less than seven days notice of the event. This is to provide for unforeseen circumstances where an event at another racecourse cannot be held and the event is to be moved to the reserve at short notice. As a result, a leaseholder or licence-holder may receive less notice of any temporary restrictions on their ability to use the land. However, to reduce any potential impacts, it is intended that any urgent event declaration will be made in consultation with any leaseholder or licence-holder.

In my opinion, clause 33 is a reasonable and necessary provision to enable the trust to facilitate the racing purpose for which the land is reserved and appropriate event management, including safe and efficient traffic management, parking and pedestrian movement. Where an annual event declaration is made for race days, this will provide a mechanism for early notification to any leaseholder or licence-holder in relation to upcoming racing events.

To the extent that a future lessee or licensee could be regarded as having a property right that is deprived by an event declaration, that deprivation will be in accordance with law. It will be authorised under the bill and subject to the restrictions and procedures set out therein, including that the declaration must be in the public interest.

The minister administering the bill and the minister administering the Racing Act 1958 will be provided with the power to request the trust to vary an annual event declaration for race days in exceptional circumstances. This may include the cancellation or transfer of a racing event at the reserve. In this situation, any leaseholder or licence-holder will be notified and any temporary restrictions on their property rights will be removed in respect of the particular event.

In the interests of clarity, the bill further provides for the preservation of existing leases to the Melbourne Racing Club, and equitable interests of third parties arising therefrom. This will ensure that these rights and interests are not adversely affected by the change in land tenure and management arising from the revocation of the Crown grant and dissolution of the old trustee arrangements.

Clause 48 provides the minister with the power to grant a lease to the Melbourne Racing Club before the trust is established. If the minister exercises this power and a lease is granted, the lease will be saved upon the establishment of the trust and the trust will become the lessor.

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:

The Caulfield Racecourse Reserve is one of Australia's most famous racecourses. It has been the venue for the Caulfield Cup and other premier racing events for more than 130 years and racing will continue as the primary use to make a critical contribution to Victoria's $2.1 billion thoroughbred racing industry and cultural life of the state.

The reserve is also a significant public asset, and is used for walking, picnics and other public recreation activities.

The land was permanently reserved during the 19th century for three purposes — a racecourse, public recreation ground and public park. The governance arrangements for the reserve are provided for in the restricted Crown grant issued in 1949, which replaced two earlier grants.

Under the Crown grant, 15 trustees are appointed by the Governor in Council to manage the reserve — six each representing government and the Melbourne Racing Club and three representing Glen Eira City Council. The appointment is for life or until resignation and cannot be revoked.

Key elements of the Crown grant include that the land must be used for the three designated reservation purposes, that the Melbourne Racing Club is permitted to hold race meetings on the reserve and on race days the reserve is placed under the control of the Melbourne Racing Club. Except for very minor changes made to the grant, these arrangements have remained the same since their inception.

Over recent years, community groups and other stakeholders have raised concerns about a range of issues regarding the administration of the reserve by the trustees. These concerns were investigated in 2014 by the Victorian Auditor-General.

The Auditor-General concluded that the reserve trustees have not been effective in their management of the reserve and that their decisions have disproportionately favoured racing interests without sufficient attention being given to the community-related purposes of the reserve.

The Auditor-General found that the trustees have not articulated a purpose, priorities and vision for the reserve. This, along with a lack of adequate management systems and processes, and the absence of a formal governance framework have compromised the trustees' ability to effectively manage the reserve. As an example, the trustees and the principal tenant, the Melbourne Racing Club, have been unable over several years to negotiate a lease covering the main grandstand complex and both parties have acknowledged that there is no prospect of agreement being reached.

In addition to the Auditor-General's report, representations from the community and the City of Glen Eira concerning public access to the reserve continue to be raised with government and local members of Parliament. This feedback has mirrored the findings in the Auditor-General's report; the main concern being that there is a disproportionate emphasis on racing which has led to inadequate space being made available for non-racing recreation use.

The Auditor-General's report contained recommendations to modernise governance practices and improve public access arrangements at the reserve to be implemented by the trustees and the Department of Environment, Land, Water and Planning. These recommendations included the department developing a performance monitoring and reporting framework to be used by the trustees to address the recommendations in the Auditor-General's report and enable management of the reserve in accordance with contemporary public sector governance standards.

In March 2016 the former Minister for Environment, Climate Change and Water, the Hon. Lisa Neville, MP, established an independent bipartisan working group to report on the recommendations in the Auditor-General's report and to identify options for accelerating their implementation where necessary. The working group was also asked to provide recommendations on possible alternative management arrangements for the reserve based on those at similar mixed-purpose facilities on Crown land elsewhere in Victoria.

The bipartisan working group consisted of the chair, Mr Ken Ryan, Mr David Southwick, MP, member for Caulfield, and Mr Steve Dimopoulos, MP, member for Oakleigh. I would like to thank the members of the working group for their contribution to establishing the new management arrangements.

The working group met with the trustees and conducted a series of meetings with interested parties, to determine the extent the trustees and the department had implemented the Auditor-General's recommendations. It also examined governance structures at the State Sports Centre Trust, the Melbourne and Olympic Parks Trust, and the Melbourne Cricket Ground Trust and submitted its report to me in August 2016.

The working group found, that while there had been some progress, the trustees had not taken sufficient action to address the Auditor-General's recommendations. After considering a range of alternative management options, including the appointment of a skills-based committee of management appointed under the Crown Land (Reserves) Act 1978, the working group recommended that the most appropriate land manager for the reserve is an independent trust created under legislation with specific accountabilities and functions. It formed the view that this model is best placed to address the historic management challenges at the reserve and successfully implement the Auditor-General's recommendations.

This bill delivers on those recommendations.

The bill provides for the future use and management of the Caulfield Racecourse Reserve through the establishment of a new independent body, the Caulfield Racecourse Reserve Trust, which will replace the trustee model under the Crown grant. The legislative framework is like those established for other major public land management bodies in Victoria, including the Melbourne and Olympic Parks Trust, the State Sports Centre Trust and the newly established Kardinia Park Stadium Trust. The purpose of the bill is to establish a modern and transparent governance framework which provides the new reserve trust with the necessary powers to manage the Caulfield Racecourse Reserve for the purposes it has been reserved — a racecourse with public recreation.

I now turn to the detail of the bill to highlight some key points.

Part 2 of the bill establishes the Caulfield Racecourse Reserve Trust. The functions of the trust are broadly to be responsible for the planning, development, management, operation, care and use of Caulfield Racecourse Reserve for the purposes of racing, recreation and a public park. The trust may also accept appointment and act as committee of management of Crown lands.

The trust will consist of between five and seven members appointed by the minister on a part-time basis. The minister must appoint one of the members as chairperson. The trust may appoint a chief executive officer to assist the trust to perform its functions and duties and exercise its powers under the act.

The bill provides that the minister may give directions to the trust in relation to the performance of its functions and duties and the exercise of its powers under the bill. These powers extend to directions in relation to the expenditure of funds.

Part 3 of the bill sets out the reporting obligations of the trust. The trust, if requested by the minister, must prepare corporate or business plans in a form and by a date specified by the minister. In the event the trust becomes aware of matters that may prevent or significantly affect the achievement of the objectives of a corporate or business planning document, the trust must notify the minister.

To support the recommendations of the Auditor-General's report, the bill provides that the minister may issue a statement of obligations to the trust specifying obligations of the trust in performing its functions and exercising duties. Also in support of the recommendations of the Auditor-General's report, the bill provides that the trust, in consultation with the minister and the minister responsible for the Racing Act 1958, prepare a strategic management plan for the reserve setting out long-term planning for the promotion, development, management and use of the reserve.

The trust will also be required to prepare an annual report under part 7 of the Financial Management Act 1994.

Part 4 of the bill provides for the management of the Caulfield Racecourse Reserve.

A key concern of the local community has been a lack of clarity over how the reserve is to be used for each of its three reservation purposes — racecourse, public recreation and public park.

The bill provides that the minister may make an order containing a plan, which defines those areas of the reserve that may be used for racing purposes, and those that may be used for recreation and as a public park. The trust will advise the minister on the making of the order and the plan contained in the order must be signed by the surveyor-general. The order will come into effect on the day it is published in the *Government Gazette*.

The land use order is for the purposes of improving transparency, but will also provide clarity regarding which areas of the reserve are to be used for each of the three reservation purposes. It is important to note that an order will not revoke the reservations or reserve the land for other purposes.

The bill provides for event management declarations for Caulfield Racecourse Reserve. This element of the bill is to ensure that all aspects of major events held at the reserve can be delivered in an integrated and efficient manner. In practice, the main purpose will be to enable the Melbourne Racing Club to control parts of the reserve additional to the land it occupies under lease on major race days.

Under this provision the trust, by notice published in the *Government Gazette*, may declare an event to be held at the reserve — a Caulfield Racecourse Reserve event. Except for annual event declarations made for racing, the trust can make an event declaration providing it is satisfied that the purpose of the proposed event is not detrimental to purposes for which the land is reserved and is in the public interest.

In terms of racing, these events may include ordinary designated race days as outlined by the Racing Victoria calendar of race days and, where extraordinary circumstances dictate, additional racing events relocated from other racing venues in Victoria.

The new governance arrangements will not affect the setting of the Victorian thoroughbred racing calendar or the conduct of race meetings at the reserve. Racing Victoria will continue to be responsible for the setting of race dates following consultation with racing clubs. There will be a requirement for the trust to publish in the *Government Gazette* an annual event declaration that specifies the racing events to be held at the reserve for the upcoming year. The minister and the Minister for Racing may request the trust to vary the annual event declaration in exceptional circumstances, for example, to cancel or relocate a racing event to another venue. The trust must make the requested variation and publish it in the *Government Gazette*.

A range of information must be specified in the event declaration, including the title of the event, the times and dates when the event is to take place, the part of the reserve to which the declaration applies, the name of person or body who takes control of the reserve and any regulations made under the act that are suspended during the event.

The trust will be able to grant a lease of the reserve up to a maximum term of 65 years providing the minister is satisfied that the proposed purpose is not detrimental to the purposes of the reserve. Where the trust is seeking approval to grant a lease for a term greater than 21 years the minister must be satisfied that the proposed use, development, improvements or works to be carried out under the lease are of a substantial nature and value which justifies the longer term.

The trust will also be able to issue licences over any part of the reserve for a term of up to 10 years providing the licence purpose is not detrimental to the reserve purposes. The minister's approval will be required where the term of the licence is greater than three years. For short-term uses, the trust will be able to issue permits up to six months.

Part 5 of the bill sets out the financial provisions for the trust, including a requirement to establish and maintain a Caulfield Racecourse Reserve Trust Fund.

Part 6 of the bill enables the Governor in Council to make regulations for planning, development, management, care and use of the reserve.

Part 7 of the bill will revoke the restricted Crown grant held by the trustees and provide that trustees under the grant go out of office. Upon revocation of the restricted Crown grant it will be necessary to have a short-term interim land management arrangement in place while the process to appoint the inaugural members of the new trust is finalised. During this period, it is intended that the land revert to the control of the minister responsible for the Crown Land (Reserves) Act 1978 to be managed by the minister under that act and by the minister's delegates as required.

The minister will have a power to grant a lease up to 65 years to the Melbourne Racing Club before the trust is established. If a lease is granted, the bill provides that the lease will be saved upon the establishment of the trust and the trust will become the lessor. This will help support the smooth transition from current arrangements for racing on the reserve to the new governance framework.

Part 7 of the bill also includes transitional provisions which preserve two existing leases issued by the trust to the Melbourne Racing Club together with consequential amendments made to other acts.

Conclusion

I would like to thank the outgoing trustees for their work managing the reserve over the years, particularly during the difficult period of transition to the new management arrangements. The new management structure will greatly enhance the reserve's management ensuring it can continue to host some of Australia's best racing and provide accessible open space for the local community to enjoy.

I commend the bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 28 September.

CORRECTIONS LEGISLATION FURTHER AMENDMENT 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 Corrections Legislation Further Amendment Bill 2017.

In my opinion, the Corrections Legislation Further Amendment Bill 2017, as introduced to the Legislative Council, is compatible with the human rights set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The Corrections Legislation Further Amendment Bill 2017 (the bill) makes a range of amendments to the Corrections Act 1986 (the Corrections Act) to increase security at premises where the adult parole board meets or where relevant employees are located; clarify powers in relation to the removal of electronic monitoring devices from offenders, and the use of firearms during prison emergencies; introduce new offences in relation to certain forms of prison contraband, provide for certain officers to supervise or conduct tests of prisoners on parole and community-based offenders for alcohol or drug use; and amend and clarify provisions relating to the adult parole board.

The bill also amends the Major Crime (Investigative Powers) Act 2004 to clarify the arrangements for supervision of prisoners appearing before the chief examiner, and contains consequential amendments to the Bail Act 1977 and the Victoria Police Act 2013.

Powers of security officers

Clause 9 of the bill inserts a new division 1B in part 8 of the Corrections Act to create a new class of officer under the act. The functions of 'security officers' are to provide security functions at premises where the adult parole board meets (board premises) or at premises where employees who are assisting the board to perform its functions are located. Security officers will also have functions to provide security in relation to any risk posed by a prisoner on parole who is attending in person at board premises, and, if required, to assist a police officer at board premises. These new powers are being introduced to address concerns raised by the adult parole board about incidents of violence or threats of violence by prisoners where the board is considering cancelling parole, or has advised the prisoner of the board's decision to cancel their parole, and is awaiting police attendance. This period of time before police attendance raises increased security risks that may require immediate action, such as detaining an agitated or aggressive prisoner who suspects or is aware that they may be returning to prison, and taking measures to ensure the prisoner does not attempt to leave the premises before police can execute a warrant to re-imprison.

New section 55L sets out the powers that security officers may exercise in performing their functions. These powers are tailored to the specific needs of the adult parole board, and include the power to:

carry out a garment search, pat-down search or a scanning search of a prisoner on parole and anything in their possession or under their control;

seize anything found during a search of a prisoner on parole, if the security officer believes on reasonable grounds that seizure is necessary for the safety of any person;

supervise, escort or accompany a prisoner on parole who is attending board premises;

direct a prisoner on parole to do or not to do anything that the security officer believes on reasonable grounds is necessary for the safety of any person;

if necessary, use reasonable force (including use of a weapon other than a firearm) to compel a prisoner on parole to obey a direction given by a security officer or a police officer;

apply an instrument of restraint to the prisoner on parole if the security officer believes on reasonable grounds that its application is necessary to prevent injury to any person;

arrest without a warrant a prisoner on parole if the security officer believes on reasonable grounds that the prisoner has committed an indictable offence, or the board cancels the prisoner's parole, and detain the prisoner until the prisoner is delivered into the custody of a police officer.

New section 55O provides that a security officer is not liable for injury or damage caused by the use of force, or the application of an instrument of restraint, in accordance with the relevant provisions of section 55L.

Search and seizure powers — privacy (section 13) and property (section 20)

Section 13(a) of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with. The concept of 'privacy' encompasses notions of personal autonomy and dignity. The power for security officers to conduct searches of prisoners on parole will constitute a potential interference with the right to privacy. However, an interference with privacy will only limit the right in section 13(a) of the charter if it amounts to an unlawful or arbitrary interference.

In my view, the power of a security officer to conduct a pat-down, garment or scanning search of a prisoner on parole as provided for in new section 55L will not constitute an arbitrary or unlawful interference with privacy. The limited circumstances in which a search may be conducted are clearly set out in the relevant provisions and any interference with a person's privacy that occurs will therefore be permitted by law. Further, the search powers are not arbitrary as they may only be exercised by security officers in the performance of their functions, which are in turn limited to providing security at board premises and other related functions. These powers strike an appropriate balance between upholding privacy and protecting the security of board premises. For these reasons, I am satisfied that the search and seizure powers in new section 55L introduced by the bill do not limit the right to privacy.

The property right as protected by section 20 of the charter is also relevant to the power of security officers to seize anything found during a search of a prisoner on parole where the security officer believes on reasonable grounds that seizure is necessary for the safety of any person. That right protects against the deprivation of property other than in accordance with law. In my view, due to the clear and confined circumstances in which this power may be exercised, any deprivation of property will be in accordance with law. I note also that, under new section 55M, if a security officer seizes anything under new section 55L, they must deal with the thing in accordance with the regulations, report the seizure to the secretary and record the details of the seizure in a register established and kept by the secretary.

Use of reasonable force and powers of arrest — rights to life (section 9), freedom of movement (section 12), bodily privacy (section 13), security of person (section 21), humane treatment when deprived of liberty (section 21) and protection from cruel, inhuman or degrading treatment (section 10)

The powers of security officers in new section 55L to use reasonable force (including use of a weapon other than a firearm) to compel a prisoner on parole to obey a direction and apply instruments of restraint will necessarily involve the physical restraint or apprehension of a prisoner on parole, which may constitute an interference with that person's rights to life (section 9), freedom of movement (section 12), bodily privacy (section 13), security of person (section 21), humane treatment when deprived of liberty (section 21) and protection from cruel, inhuman or degrading treatment (section 10).

The use of force may reasonably limit these rights provided it occurs within the framework of the law and with the objective of protecting public order, people's lives or property. Human rights principles require that the law and policies governing the use of force protect life to the greatest extent possible and include safeguards to confine the circumstances in which force is used. Any use of force must be no more than absolutely necessary and strictly proportionate to achieving a clearly defined lawful purpose.

The use of force under new section 55L must be reasonable, and may only be used if necessary to compel a prisoner to follow a direction believed to be necessary for the safety of any person. Where a prisoner on parole obeys a lawful order from a security officer or a police officer, it will not be necessary to use force. Further, a security officer may only apply an instrument of restraint to a prisoner on parole if the security officer believes on reasonable grounds that it is necessary to prevent injury to any person. Any instrument of restraint must be approved by the secretary, and can only be used in the manner determined by the secretary. As further oversight, section 55N requires a security officer who has used force or applied an instrument of restraint in accordance with new section 55L to report this to the secretary as soon as possible.

Having regard to the important purpose of ensuring the security of adult parole board premises and the safety of staff and other persons present, I am satisfied that the powers in respect of the use of reasonable force and application of instruments of restraint are reasonable and proportionate in the circumstances. Some of these incidents have arisen before police officers have arrived at the premises where the adult parole board is sitting. In light of the concerns raised by the board regarding the security risks raised by prisoners on parole who are or have been interviewed by the board becoming agitated and violent at the prospect of being

returned to prison, I am satisfied that there are no less restrictive means available to achieve the purpose of these provisions. The powers are appropriately limited and accompanied by adequate oversight and safeguards, to protect against the risk of inappropriate use of force.

Accordingly, in my opinion any limits to the rights of prisoners on parole to life, freedom of movement, bodily privacy, security of person, humane treatment when deprived of liberty and protection from cruel, inhuman or degrading treatment, occasioned by these powers, are demonstrably justified in accordance with section 7(2) of the charter and can be balanced against the need to protect the safety and lives of the board's staff.

The power of security officers to arrest and detain a prisoner on parole without warrant in certain circumstances may also particularly engage the liberty rights in section 21 of the charter. The right in section 21(2) of the charter provides that a person must not be subjected to arbitrary arrest or detention. Section 21(3) provides that a person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law.

In my opinion, the grounds for arrest under new section 55L are clear and appropriate, and cannot be regarded as arbitrary. The power of arrest requires the officer to reasonably believe the prisoner on parole has committed an indictable offence, or that the adult parole board has cancelled the prisoner's parole. Further, pursuant to new section 55L(4), after arresting a prisoner a security officer must deliver the prisoner into the custody of a police officer as soon as practicable, to be dealt with according to law or to be returned to prison. The arrest power, therefore, is appropriately confined so as not to allow a deprivation of liberty for longer than necessary or otherwise than in accordance with the law.

For these reasons, I consider that the arrest and detention powers contained in new section 55L do not limit the right to liberty.

Immunity of security officers for use of force — fair hearing (section 24(1))

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding determined by a competent, independent and impartial court or tribunal after a fair and public hearing. In the context of civil proceedings, the fair hearing right in section 24(1) of the charter might encompass an implied right to access to the courts.

The right in section 24(1) may appear to be relevant to new section 55O in the bill, to the extent that it affects the circumstances in which a person may bring legal proceedings in relation to particular matters or against certain people. New section 55O, inserted by clause 9 of the bill, provides an immunity for a security officer for damage caused by the use of force, or the application of an instrument of restraint, in accordance with the relevant provisions of section 55L.

In my opinion, new section 55O does not limit the right to a fair hearing as protected by the charter. It does not provide the security officer or the Crown with a blanket immunity from suit. Rather, it provides for an immunity in limited circumstances, which affects the substantive content of legal rights which may otherwise exist. Further, it neither impedes access to the courts, nor does it repeal, alter or vary the courts' jurisdiction.

For these reasons, I am satisfied that the bill does not limit and is compatible with the right in section 24(1) of the charter.

Removal of electronic monitoring devices or equipment worn by prisoners and offenders — privacy (section 13)

A number of provisions of the bill create express powers for Victoria Police and Corrections Victoria to remove electronic monitoring devices or equipment from prisoners in custody, prisoners on parole and offenders subject to community correction orders in certain circumstances. For example, if an offender is arrested and taken into custody an electronic monitoring device will be removed to prevent tampering, misuse, stigmatisation or self-harm. The device or equipment may be evidence of an offence, such as entry into an exclusion zone or breach of a curfew.

Clause 7 of the bill inserts a new subsection into section 30 of the Corrections Act, relating to electronic monitoring of prisoners, to provide that on a direction given by the governor, a prison officer may remove, for any purpose, an electronic monitoring device worn by a prisoner who is subject to an order under section 30.

Clause 18 of the bill inserts a new division 8 of part 8 into the Corrections Act, to create an express power for police officers, police custody officers, prison officers, escort officers, security officers, specified officers under the Serious Sex Offenders (Detention and Supervision) Act 2009 and authorised employees of the department, to remove electronic monitoring devices or equipment from prisoners on parole in certain circumstances. The power, contained in new section 79L, will apply following the variation or revocation of a term or condition of a parole order, or the cancellation or elapsing of a prisoner's parole, or where a prisoner with an electronic monitoring term or condition is under arrest on suspicion of having committed an offence.

Clause 21 of the bill inserts a new division 6A of part 9 into the Corrections Act, to create an express power for police officers, police custody officers, prison officers, escort officers, community corrections officers and authorised employees of the department, to remove electronic monitoring devices or equipment from offenders who are subject to community correction orders, on certain circumstances. The power, contained in new section 104AAA of the act, will apply where an electronic monitoring condition of a community correction order is varied to remove the requirement, suspended or cancelled, or the community correction order is cancelled or expires.

In most cases it is likely that prisoners and offenders will generally agree to the removal of the electronic monitoring devices and equipment. Each of these express powers confirms the lawful authority to remove the electronic monitoring devices without requiring the express consent of the prisoner, prisoner on parole or other offender. However, in the case of prisoners on parole and offenders subject to community correction orders, new sections 79L and 104AAA require the officer, if practicable, to inform the prisoner that removal of the device is to occur, that they may consent to the removal, and that if they do not consent, reasonable force may be used. If consent is not given, the officer may use reasonable force to remove the device or equipment from the prisoner, and may enter a place where the prisoner resides in

order to remove the device or equipment and reasonable force would be used as a last resort.

The removal of an electronic monitoring device from a prisoner or an offender will, in most cases, result in a lessening of interference with their human rights. However, I acknowledge that the physical act of removing the device or equipment from a person's body, as provided for under these new provisions, and entering their home to do so if required, may constitute a limited interference with the right to privacy, through interference with a person's personal privacy and physical integrity and privacy of the home. Any such interference will be, in my view, neither unlawful nor arbitrary. The circumstances in which the device or equipment may be removed, and who may remove it, are clearly set out in the provisions. The removal will occur for a particular reason; for example, due to a change to the prisoner or offender's order where it is no longer necessary for them to wear the device or equipment, where it is necessary to ensure the integrity of the device or equipment, or where it is necessary to retain it as evidence for an offence. Further, the provisions seek to ensure that, where practicable, the prisoner or offender's consent be obtained prior to the removal. In the case of prisoners in custody, the removal may only occur on the direction of the governor.

Where it becomes necessary to use reasonable force to remove the device or equipment because the person does not consent to the removal, this may raise additional charter rights, including the rights to life (section 9), freedom of movement (section 12), security of person (section 21), humane treatment when deprived of liberty (section 21) and protection from cruel, inhuman or degrading treatment (section 10). However, I am satisfied that any limit to these rights will be reasonable and proportionate, having regard to the matters referred to above and the important objectives of ensuring the effective operation of the electronic monitoring schemes (which are based on preventing the risk of reoffending) and the protection of property through the relevant officer taking possession of the device or equipment to return it to the secretary of the department or to Corrections Victoria staff. In the case of persons not in custody, reasonable force will only be used where the person has refused to provide their consent to the removal and where they have been previously warned, if practicable, that force would be used as a last resort. Further, reasonable force will only be used to the extent and for the length of time necessary to remove the device or equipment from the prisoner.

For these reasons, I am satisfied that the provisions contained in clauses 7, 18 and 21 of the bill are not limited and are compatible with the rights contained in the charter.

Use of firearms by police exercising powers of a prison officer — right to life (section 9), and to humane treatment when deprived of liberty (section 22)

Clause 6 of the bill inserts a new section 23A into the Corrections Act to confirm the powers of police officers who have been authorised to exercise the powers of a prison officer in the case of an emergency, in relation to the use of firearms. New section 23A provides that a police officer who is authorised under section 15 to exercise all or any of the powers of a prisoner officer is, when exercising those powers, subject to certain specified conditions on the use of firearms. The powers and conditions contained in new section 23A mirror the provisions in existing sections 55EB and 55E of the Corrections Act, which apply to the use of firearms by escort officers.

Section 23A(2) provides that a police officer may only discharge a firearm at a prisoner if the prisoner escapes or attempts to escape from custody and the officer reasonably believes that discharging the firearm is the only practicable way to prevent the escape of the prisoner from custody. Sections 23A(3) and (4) provide that a police officer may also discharge a firearm at a person (not necessarily being a prisoner) only if the officer reasonably believes that the person is aiding a prisoner in escaping or attempting to escape from custody and discharging the firearm is the only practicable way to prevent the escape of the prisoner from custody; or the person is using force or threatening force against certain specified individuals and the police officer reasonably believes that discharging the firearm is the only practicable way to prevent that person causing death or serious injury.

Section 23A(5)(a) provides that before discharging a firearm at a person under section 23A, a police officer must, if it is practicable to do so, give an oral warning that the person will be shot at if they do not cease engaging in the relevant conduct. Section 23A(5)(b) also provides that a police officer must be satisfied that discharging the firearm at the person does not create an unnecessary risk to any other person.

The right to life in section 9 of the charter is relevant to new section 23A of the Corrections Act. Section 9 provides that every person has a right not to be arbitrarily deprived of life. The effect of new section 23A is to confirm the authorisation of the discharge of a firearm in circumstances involving serious threats posed to prison security or the safety of others, and as a method of last resort following the issuing of a warning (which has been ineffective). Any interference with the right to life that may occur as a result of the authorised discharge of a firearm in these circumstances will therefore not be arbitrary.

New section 23A relates to the discharge of a firearm of a type that is prescribed by regulation to be a non-lethal firearm. It provides that a police officer may discharge a prescribed non-lethal firearm at a person if the police officer reasonably believes that discharging the firearm is the only practicable way to prevent, control or stop a riot in a prison or to prevent a serious threat to the security or good order of the prison.

The right to humane treatment when deprived of liberty in section 22 of the charter is relevant to new section 23A. However, to the extent that these human rights may be limited by the use of a non-lethal firearm, I consider that any such limitation would be reasonable and demonstrably justified pursuant to section 7(2) of the charter. The circumstances in which section 23A authorises a police officer to use a prescribed non-lethal firearm are limited, such that it must be the only practicable means of maintaining or restoring security or good order within a prison.

For completeness, I note that I am of the view that the powers contained in new section 23A do not amount to cruel, inhuman or degrading treatment within the meaning of section 10(b) of the charter, because they do not facilitate the deliberate imposition of severe suffering nor do they permit intentional conduct to harm, humiliate or debase a prisoner. However, even if the right in s 10(b) of the charter was relevant, I am satisfied that any limitation would be demonstrably justified for the reasons identified above.

Alcohol and drug testing of prisoners and offenders — privacy (section 13(a)) and medical treatment without consent (section 10(c))

A number of provisions in the bill make amendments to the Corrections Act to provide Corrections Victoria officers to supervise prisoners on parole and offenders who are subject to community correction orders who are undergoing alcohol or drug tests, or to conduct the tests themselves (rather than, for example, to be conducted at a pathology clinic). The purpose of these amendments is to ensure that prisoners and offenders who are directed to undergo testing for alcohol, drugs of dependence or certain poisons are prevented from undermining or 'cheating' the system by providing fake samples. The amendments will also ensure that the drug and alcohol arrangements for prisoners on parole or community-based offenders are consistent with what occurs in the prison environment, where section 29A of the Corrections Act permits testing to be conducted by a prison officer.

Clause 14 of the bill amends section 76A of the Corrections Act, which provides for the secretary to direct a prisoner on parole, who is subject to a parole order containing an abstinence, treatment or testing condition, to submit to tests to assess whether the prisoner has consumed or used alcohol, any drug of dependence or a schedule 8 poison or schedule 9 poison. New subparagraph 76A(2)(c), inserted by clause 14, will provide for the test to be conducted or supervised by an officer within the meaning of part 9 of the Corrections Act, if the secretary so directs. To the extent practicable, a urine test must be conducted or supervised by an officer who is the same gender as that with which the person being tested identifies or, if the person so requests, a different gender, which accords with the right to non-discrimination under section 8 of the charter.

Clause 17 of the bill amends section 78P of the Corrections Act which requires prisoners on parole to submit, at the direction of a specified officer, to breath testing, urinalysis, or other test procedures approved by the secretary for detecting alcohol or drug use. Under section 78P, a specified officer may give a direction if the officer has reasonable grounds to suspect that the prisoner on parole has breached a condition of the parole order by consuming alcohol or drugs. Clause 17 inserts a new subsection 78P(3) to provide that a test or procedure may be conducted or supervised by a specified officer, if a specified officer reasonably believes that the direction is necessary to ensure the reliability and accuracy of the test or procedure.

Clause 20 of the bill amends section 99A of the Corrections Act, which enables the secretary to direct an offender taking part in a community correction program under the act, to submit to tests to assess whether the offender is under the influence of alcohol, any drug of dependence, or any schedule 8 or schedule 9 poison. The secretary may only give a direction under this section if the secretary considers it necessary to do so for the management, good order or security of a location (i.e. a community corrections centre, or a place which an offender must attend for any purpose), for the safety and welfare of offenders at a location, or in order for an offender to perform unpaid community work at a location. Clause 20 inserts a new subparagraph 99A(2)(c), providing that the tests may be conducted or supervised by an officer within the meaning of part 9 of the Corrections Act, if the secretary so directs. The secretary may only give a direction where there is a reasonable belief that the direction is necessary to ensure the reliability and accuracy of the test or procedure, and, to the extent practicable a urine test must be conducted or supervised by an officer who is the same gender as that with which the person being tested identifies or, if the person so requests, a different gender.

Compelling a prisoner on parole or an offender who is subject to a community correction order to submit to alcohol or drug tests, and supervising the conduct of the tests, engage the right to privacy in section 13(a) of the charter. Privacy covers the physical and personal integrity of a person, and therefore includes the freedom from compulsory blood, breath or urine tests. However, as the tests will not be unlawful or arbitrary, I do not consider that the right to privacy is limited by the powers in sections 76A, 78P or 99A. This is because the powers are appropriately tailored to their purpose and confined to specific circumstances. In the case of section 76A, the relevant prisoner will be subject to a parole order containing an abstinence, treatment or testing condition, and the testing is therefore essential to ensure compliance with that order. Section 78P will only apply to high-risk prisoners on parole, and a specified officer may only direct a prisoner on parole to undergo testing if they have reasonable grounds to suspect the prisoner has breached a condition of the parole order by consuming alcohol or drugs. Similarly, the power in section 99A will only arise and is balanced against where it is considered necessary for the management, good order or security of a location or for the safety and welfare of offenders at an unpaid community work location.

Section 10(c) of the charter provides that a person has the right not to be subjected to medical treatment without his or her full, free and informed consent. In my view, it is unlikely that the forensic procedures permitted under these provisions would constitute 'medical treatment' within the meaning of the charter. In any event, even if such procedures did constitute medical treatment, any limitation would be reasonable and demonstrably justified under s 7(2) of the charter because such tests are conducted in limited circumstances, and for the important public purposes of ensuring that the person is complying with any relevant parole conditions or the conditions of participation in a community corrections program, or to ensure the management, good order, and security of an unpaid community work site and the safety and welfare of offenders. These measures, in turn, lessen the risk of the prisoner or offender reoffending or posing a danger to the community. The interference caused, if any, with the right not to be subject to medical treatment without consent is relatively minor, appropriately circumscribed, and proportionate to the end sought to be achieved.

For these reasons, I am satisfied that the provisions relating to alcohol and drug testing contained in the bill are compatible with the human rights protected by the charter.

Amendments to parole scheme — privacy (s 13(a)) and liberty of the person (s 21)

The bill makes various amendments to confirm existing arrangements or improve the operation of the parole scheme.

For example, clause 10 inserts a new subsection into section 70 of the Corrections Act, relating to the obligations of the secretary to provide assistance to the adult parole board. New section 70(3) will provide that when so required by the board in the performance of its functions, the secretary must report to the board on any matter concerning an offender. This will facilitate the secretary supplying to the board a parole suitability report

for the purposes of the board making a decision to grant parole, continue parole, or cancel parole.

To the extent that the requirement for the secretary to report to the adult parole board may involve the disclosure of prisoner's personal information, in my view, any such disclosure will not constitute an arbitrary or unlawful interference with privacy. The limited circumstances in which personal or confidential information may be shared are clearly set out in the relevant provisions and are appropriately circumscribed. I am satisfied that any interference with a prisoner's privacy that occurs will therefore be permitted by law. Further, the ability of the adult parole board to gather relevant information about a prisoner, for the purpose of assessing their suitability to be released on parole, is not arbitrary as it is for legitimate purposes that are relevant to and necessary for the performance of the duties and functions of the board, and to reduce the risk of a person being inappropriately released on parole or having their parole continued. For these reasons, I am satisfied that clause 10 of the bill does not limit the right to privacy under section 13 of the charter.

Clauses 12, 15 and 16 of the bill insert new subsections into sections 74, 77 and 78 of the Corrections Act, to provide that, when the adult parole board is determining whether to release prisoners on parole after service of non-parole period, the board must have regard to the record of the court in relation to the offending, including the judgement and the reasons for the sentence. These amendments will ensure consistency with existing sections 74AAA and 74AABA, and will confirm existing practices of the board. The liberty rights contained in section 21 of the charter can be relevant to decisions by the adult parole board in respect of whether or not a prisoner who has served their non-parole period should be released on parole. Section 21(1) of the charter provides that every person has the right to liberty. Section 21(2) provides that a person must not be subjected to arbitrary detention. Section 21(3) provides that a person must not be deprived of his or her liberty except on the grounds and in accordance with procedures established by law.

In my view, however, sections 74, 77 and 78 of the Corrections Act (as amended by clauses 12, 15 and 16 of the bill) engage but do not limit the right to liberty of the person. It is well established that the right to liberty of the person is reasonably and justifiably limited where a person is deprived of their liberty under a sentence of imprisonment, after conviction for a criminal offence by an independent court following a fair hearing. These provisions affect the granting and cancellation of parole. They do not increase the limitation on the right to liberty caused by the original sentence. Where parole is refused or cancelled, the person is ultimately required to serve the full sentence imposed by the court as punishment for the offence and for the protection of the community. There is no right or entitlement to release on parole, nor to the continuation of a particular legislative scheme for release on parole for the duration of a person's sentence.

Further rights that may appear relevant to decisions about parole include section 25(1) of the charter, which provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law; section 26, which states that a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law; and section 27(2) that provides that a penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

In my opinion, neither a refusal to make an order for parole, nor cancellation of parole, can be characterised as punishment. In both cases, the prisoner is merely required to serve the full sentence imposed by the court for the original offence.

Accordingly, I am satisfied that these amendments relating to parole are compatible with the human rights protected by the charter.

Offences relating to contraband — presumption of innocence (section 25(1)) and protection against double punishment (section 26)

Presumption of innocence (reverse onus)

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. This right is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that he or she is not guilty of an offence.

The right to be presumed innocent may be considered relevant to clause 8 of the bill, which contains provisions which place an evidential burden on a defendant.

The purpose of clause 8 of the bill is to ensure an appropriate penalty and sufficient deterrence for the possession or use of certain contraband items that pose the most significant risks in Victorian prisons. This would address an issue with the existing criminal offence in section 32(1)(c) of the Corrections Act, which is confined to prohibiting the entry of contraband into a prison and carries a maximum of two years imprisonment. The possession and use of contraband is currently a prison offence which is managed by each governor using internal disciplinary processes, rather than referred to prosecution (unless the contraband relates to an existing criminal offence under other legislation, such as the use of illicit drugs).

Currently, some types of contraband as a prison offence are only punishable by a fine under the Corrections Act and constitute a prison offence within the meaning of section 48 of the Corrections Act because it is a contravention of the Corrections Act or Corrections Regulations 2009. The possession of unauthorised items is a prison offence in accordance with regulation 50 of the Corrections Regulations 2009. The disciplinary proceedings for a prison offence are set out in section 50 of the Corrections Act. These disciplinary proceedings include a reprimand, withdrawal of privileges or being charged with a prison offence to be dealt with at a governor's hearing. If the governor's hearing finds a prisoner guilty of the prison offence, the governor may impose a reprimand, withdrawal of privileges or a fine up to one penalty point (one penalty point is $155.46 from 1 July 2016 to 30 June 2017 and $158.57 from 1 July 2017).

Under clause 8 of the bill, the most serious types of contraband will now be punishable by imprisonment. The new criminal offence is for possession or use of certain types of contraband in prisons with levels of penalty based on the gravity and seriousness of the contraband. This will address contraband that poses the most serious security risk to prison security, cause harm or death or is a conduit for engaging in

further criminal activity, such as mobile phones or other electronic communication devices.

Clause 8 of the bill inserts new section 31A(1) into the Corrections Act to create an offence for prisoners to possess, make, use, control, conceal, give or supply certain contraband items inside a prison without a reasonable excuse. The offence carries graduated levels of penalty, based on the seriousness of the threat posed by the item. Under this provision, category 1 items will include items that relate to existing criminal offences, such as drugs, explosive substances, child abuse material and weapons, as well as electronic communication devices. Category 2 items include drug paraphernalia, unauthorised prescription drugs, electronic storage or recording devices and electronic devices capable of processing information. 'Possession' is interpreted as not just actual or physical possession, but would extend to custody or control of the item.

Further, new section 31A(3) provides that in a proceeding for an offence against section 31A, evidence that a category 1 or a category 2 item is found in a room occupied solely by a prisoner or on the person of a prisoner is evidence that the item is in the possession of the prisoner.

New section 31A(1) requires the accused to raise evidence as to their knowledge or belief in respect of certain matters in order to avoid conviction. Section 31A(1) requires an accused to raise evidence that they have 'a reasonable excuse'. This imposes an evidential onus on the accused. However, it does not transfer the legal burden of proof because, once they have adduced or pointed to some evidence that would establish the excuse on balance, the burden then shifts back to the prosecution to prove beyond reasonable doubt the absence of the excuse raised, as well as each element of the offence.

Similarly, section 31A(3) does not create a reverse legal onus, as it only requires an accused to raise reasonable doubt that contradicts the presumption that they possessed the item in contravention of section 31A(1), after which the prosecution would still be required to prove the essential elements of the offence. The evidential onus in section 31A(3) recognises that the presence of a contraband item in a room occupied solely by a prisoner, or on the person of the prisoner, is a prima facie indication that the person has unlawfully possessed the item. Further, the presumption is necessary to address the difficulties in proving such offences in the prison environment; there are no less restrictive options available in these circumstances.

Courts in other jurisdictions have generally taken the approach that an evidential onus on an accused person to raise a defence does not limit the presumption of innocence. The defences and excuses provided in new section 31A relate to matters that will be peculiarly within the knowledge of the defendant. Further, I note that the defences are included in the bill to enable a defendant to escape liability in circumstances of genuinely having a reasonable excuse or where there is evidence that a contraband item was not in their possession despite appearances. This reflects the need to minimise the risk that a person may be convicted of an offence when they are innocent of the conduct at which the offences are aimed.

For the above reasons, I am satisfied that the provisions of the bill do not limit the right to be presumed innocent in section 25(1) of the charter.

Double punishment

Section 26 of the charter provides that a person must not be tried or punished more than once for an offence in respect of which they have already been finally convicted or acquitted in accordance with law.

In addition to being prohibited under new section 31A in clause 8 of the bill, it may be a separate criminal offence for a prisoner to possess or use a category 1 or 2 item. A prisoner may therefore be charged with both the contraband offence and the substantive criminal offence. As noted above, this aligns with the existing criminal offence in section 32 of the Corrections Act, which prohibits the entry of contraband into a prison and carries a maximum of two years imprisonment, including entry of contraband that may be a separate criminal offence under the criminal law, such as illicit drugs. A prisoner who introduces, possesses or uses contraband into a prison may therefore be charged with both the contraband offence and the substantive criminal offence.

As noted above, the new criminal offence for possession or use of certain types of contraband in prisons with levels of penalty based on the gravity and seriousness of the contraband. This will address contraband that poses the most serious security risk to prison security, cause harm or death or is a conduit for engaging in further criminal activity, such as mobile phones or other electronic communication devices.

The new offence contained in section 31A reflects an existing prohibition on contraband that forms part of the conditions of the sentence of imprisonment under the administration of that sentence under the Corrections Act. Section 48 of the Corrections Act defines a prison offence to mean a contravention of that act or the regulations, and hence includes the existing contraband offence in section 32 of that act and would apply to the new offence in clause 8 of the bill. The contraband offence is a separate offence from any other criminal offence that may apply. The rationale for imposing discrete criminal liability for these offences is that possessing, making, using, controlling, concealing, giving or supplying these items constitutes a breach of the prisoner's sentence of imprisonment, being a breach of the condition of the prisoner's confinement under the administration of that sentence under the Corrections Act (see *Lecornu v. R* [2012] VSCA 137).

Existing section 16 of the Sentencing Act 1991 provides that every term of imprisonment imposed on a prisoner by a court in respect of a prison offence must, unless otherwise directed by the court because of the existence of exceptional circumstances, be served cumulatively on any uncompleted sentence or sentences of imprisonment imposed on that prisoner, whether before or at the same time as that term.

Accordingly, new section 31A does not constitute double punishment and the right in section 26 of the charter is not limited by the bill.

Clarification of conditions on whether or not to make a parole order for prisoner who murdered police officer

Clause 24 of the bill also inserts a new transitional provision, new section 127A, into the Corrections Act relating to section 74AAA. Section 74AAA came into operation on 14 December 2016 to provide for additional conditions governing the decision about whether or not to grant parole to a prisoner who is serving a sentence for murder of a police

officer. The provision applies in respect of a prisoner convicted and sentenced to a term of imprisonment with a non-parole period for the murder of a person, where the prisoner knew, or was reckless as to whether the person was, a police officer.

As outlined in the statement of compatibility for the Justice Legislation Amendment (Parole Reform and Other Matters) Bill 2016, section 74AAA applies to all prisoners sentenced for such offending, and all existing applications for parole from such prisoners, including those lodged but not yet determined. That statement of compatibility acknowledged that section 74AA was potentially incompatible with the rights in sections 10(b) and 22(1) of the charter, in light of the effect the limitation will have on certain individual sentenced prisoners and the potential availability of less restrictive alternative measures.

The new transitional provision inserted by the bill provides that, to avoid doubt, the amendments referred to above apply to a prisoner convicted and sentenced as mentioned in section 74AAA(1), regardless of whether, before the commencement of those amendments, the prisoner had become eligible for parole, the prisoner had taken any steps to ask the board to grant the prisoner parole, or the board had begun any consideration of whether the prisoner should be granted parole. The board may, in its discretion, treat any steps taken by a prisoner to ask the board to grant the prisoner parole, being steps taken before the commencement of those amendments, as being an application lodged with the secretary under section 74AAA(2). This amendment is intended to put beyond doubt that section 74AAA applies to all prisoners who meet the description in section 74AAA(1), even if they became eligible for parole, took any steps before that date to ask the board to grant parole, or the board had begun any consideration of whether the prisoner should be granted parole before 14 December 2016.

The amendment only operates to clarify the point from which section 74AAA of the Corrections Act operates, spelling out more clearly what was always the intended position in relation to that provision. It does not extend the operation of the provision. As such, it does not raise any new charter issues that would alter the charter analysis contained in the statement of compatibility for the Justice Legislation Amendment (Parole Reform and Other Matters) Bill 2016.

Amendment of the Major Crime (Investigative Powers) Act 2004

Clause 25 of the bill amends section 18 of the Major Crime (Investigative Powers) Act 2004 (major crime act) to provide statutory basis for established practices relating to the custody of prisoners ordered to attend examinations of the chief examiner.

Section 18 of the major crime act provides for an application to be made to the Supreme Court or the chief examiner for an order that a proposed witness held in custody be delivered into the custody of a police officer for the purpose of bringing the person before the chief examiner to give evidence at an examination. After they have given their evidence, section 18 requires that the police officer delivers the prisoner to the place of detention at which the prisoner was held or detained at the time of the application for the order. Clause 25 of the bill amends section 18(7) to provide that any police officer (rather than the specifically named police officer) may deliver the prisoner to the place of detention. Further, the amendments enable the prisoner to be returned to another place of detention determined by the secretary (if it is a prison) or by the Chief Commissioner of Police (if it is a police gaol).

The bill also provides for police custody officers and escort officers to supervise the person, whilst they remain in the custody of the relevant police officer.

In my opinion, the amendments to custody arrangements for the purposes of examinations under the Major Crime Act do not limit any human rights under the charter. The bringing of a prisoner in custody before the chief examiner does not alter or increase the limitation on the prisoner's liberty caused by their original sentence or their freedom of movement. As such, I am satisfied that the provisions do not limit the rights in section 21 of the charter. I note also that police officers are public authorities under the charter, and therefore must comply with the obligations to act compatibly with and give proper consideration to rights that are relevant to the treatment of detained persons while the prisoners are in their custody pursuant to these provisions, such as the right to humane treatment when deprived of liberty (section 22 under the charter).

Hon. Gayle Tierney, MLC
Minister for Corrections

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:

In summary, the bill will amend the Corrections Act 1986 and the Major Crimes (Investigative Powers) Act 2004 to:

introduce a new offence to strengthen the operation of the corrections system by addressing the possession or use of prohibited contraband in prisons;

create a new security officer role to provide security at the adult parole board;

improve the operation of the parole system including putting beyond doubt application of laws introduced last year in cases of police murderers;

create an explicit power to remove electronic monitoring devices or equipment;

clarify that provisions relating to discharge of firearms in prison emergencies apply to police officers who are authorised to exercise the powers of prison officers;

allow regulations to permit a trial of paid prisoner employment scheme with a mandatory contribution to victims of crime and their families;

make provision for community corrections officers to carry out or supervise alcohol and drug tests;

clarify the custody arrangements of prisoners appearing before the chief examiner.

Stronger penalties for prison contraband

Contraband in prison must be stopped and deterred. Contraband poses security risks, including to staff and other prisoners. Contraband can also be used as a means of escape and to organise crime. As a first step, the government recently introduced legislation into Parliament in 2017 to ban 'drones' and helicopters from entering prisons, including to combat contraband.

This bill goes further by targeting the worst types of contraband found in prisons and on prisoners.

Currently, some types of contraband as a prison offence are only punishable by a fine. This is manifestly inadequate. Under this bill, the most serious types of contraband will now be punishable by imprisonment.

The bill will strengthen prison security by introducing a new offence for possessing or using certain contraband without reasonable excuse. This will include making, controlling, concealing, giving or supplying the contraband in prison.

The new offence will target the most serious types of contraband, including explosives, firearms, weapons, drugs, child exploitation material, mobile phones and other electronic communication devices, called category 1 contraband. The offence will also apply to a second category of contraband including unauthorised prescription drugs, drug paraphernalia, electronic storage equipment and recording (for example, photography) equipment which is not communication capable. Contraband to which the new offence applies will be split into these two categories with penalties appropriate to the seriousness of the offence.

Category 1 contraband will attract a maximum penalty of two years imprisonment, while category 2 will attract a maximum of 12 months imprisonment. This broadly aligns with the current maximum penalty to introduce contraband into prisons which carries up to two years imprisonment.

Under the Sentencing Act 1991 if the prisoner is already serving a sentence at the same time as receiving a term of imprisonment for the contraband offence, the new sentence must be served on top unless exceptional circumstances apply.

These amendments will ensure that the possession and use of contraband in prisons carry stiffer penalties than in the past. Corrections Victoria will continue to work closely with Victoria Police in keeping our prisons clean of contraband and prosecuting those who breach prison security.

Security at the adult parole board

The security of staff is vital to the safe operation of the corrections system. The security of staff and members of the adult parole board has become an issue due to the safety incidents at the premises of the board when the prisoner's parole has been cancelled or while the prisoner on parole is attending for interview by the board. Some of these incidents have occurred before Victoria Police have arrived at the premises where the adult parole board is sitting. The risk of a prisoner on parole absconding in these circumstances will also be addressed by these amendments.

In order to ensure the safety of staff and members of the adult parole board, the bill introduces a new class of security officer in the Corrections Act. This will address specific needs of the adult parole board and its staff who were consulted in the development of this reform.

The new security officers will have the power under the Corrections Act to use reasonable force, including use of handcuffs, and also may be authorised under the Control of Weapons Act 1990 to use oleoresin capsicum spray and extendable batons. These powers are consistent with the statutory powers available to manage prisoners in custody, serious sex offenders in the community and high-risk prisoners on parole in the community who are supervised by the security and emergency services group of Corrections Victoria.

The bill also gives security officers power to arrest and detain a prisoner on parole without warrant upon forming a reasonable belief that the prisoner on parole has committed an indictable offence, or upon cancellation of parole. The officers will hold the prisoner and then hand them over to Victoria Police upon their attendance, which is a similar power held by protective services officers in designated areas in the community. The bill ensures security officers use of reasonable force includes enforcing a direction given by a police officer (in addition to enforcing a direction given by the security officer).

The new class of officers will be drawn from an existing pool of prison officers from Corrections Victoria who have the necessary skills and experience to undertake these functions including returning prisoners to custody. The officers may assist the adult parole board when required including on short notice outside business hours. The government has worked closely with the board in the development of this reform.

Parole amendments

The bill also makes amendments to improve or confirm existing arrangements within the parole system.

Last year, Parliament passed legislation imposing strict limits on the granting of parole for prisoners sentenced for the murder of a police officer. Section 74AAA of the Corrections Act, which commenced on 14 December 2016, restricts the granting parole to such a prisoner to circumstances where the prisoner no longer has the physical ability to harm any person and has demonstrated they do not pose a risk to the community. To put beyond doubt the application of these requirements, the bill inserts a transitional provision into the Corrections Act to make explicit that section 74AAA applies to a prisoner convicted and sentenced as mentioned in section 74AAA(1), regardless of whether, before the commencement of those amendments, the prisoner had become eligible for parole, the prisoner had taken any steps to ask the board to grant the prisoner parole, or the board had begun any consideration of whether or not the prisoner should be granted parole. The board may, in its discretion, treat any steps taken by a prisoner to ask the board to grant the prisoner parole, being steps taken before the commencement of those amendments, as being an application lodged with the secretary under section 74AAA(2). The amendment confirms the original intent of the legislation.

The bill also makes other amendments to improve or confirm existing arrangements within the parole system, including:

a. confirming the power of the adult parole board to require reports from the secretary to the department to perform its parole functions, and to require further reports or information, including reports to assess suitability of prisoners to be released on parole or to remain on parole;

b. reflecting current practice by inserting a requirement in parole decisions that the adult parole board must have regard to the record of the court, including the judgement and the reasons for sentence, when making parole decisions including cancellation of parole; and

c. confirming the minimum number of members of the serious violent offender or sexual offender parole division of the adult parole board is at least two members.

Removal of electronic monitoring devices

Electronic monitoring devices are used to monitor prisoners in prison, parole conditions and community correction orders (such as exclusion zones and curfews).

The requirement for electronic monitoring may be cancelled or revoked or may expire. In most cases the removal of electronic monitoring devices is conducted with the consent of the offender. However, there is no legal power to remove the electronic monitoring devices or equipment (such as an ankle bracelet or device at a home) as the condition to wear the device no longer exists.

The bill will allow electronic monitoring devices to be removed from prisoners, prisoners on parole and offenders without their consent. The provisions will also allow the use of reasonable force to remove an electronic monitoring device or entry to the premises of the offender or parolee to remove any electronic monitoring equipment at the residence. If an offender is arrested and taken into Victoria Police custody an electronic monitoring device will be removed to prevent tampering, misuse, stigmatisation or self-harm. The device or equipment may be evidence of an offence, such as entry into an exclusion zone or breach of a curfew.

Use of firearms

Under the Corrections Act, police officers may be authorised to act as prison officers in the case of a prison emergency such as a riot. Sections 55EB and 55EC of the Corrections Act states the circumstances in which escort officers may discharge firearms, and any requirements prior to discharge, such as giving a warning. These conditions on the use of firearms do not apply automatically to police officers who are authorised to act as prison officers. The bill therefore explicitly provides that these provisions also apply to authorised police officers.

These amendments will clarify the power of Victoria Police to respond to serious incidents in prisons including to allow the use of non-lethal firearms when authorised with powers of prison officers and escort officers.

The bill does not limit the existing powers and duties of police officers when performing their role as police officers. This amendment confirms existing arrangements between Corrections Victoria and Victoria Police and existing provisions of the Corrections Regulations 2009 to keep prisons safe and secure when responding to serious incidents.

Paid prisoner employment scheme

Paid employment of prisoners was recommended in the 2005 Victorian Ombudsman report *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*. This bill takes the step of allowing for the commencement of a trial of paid employment at the Judy Lazarus Transition Centre, with the long-term goal of expanding the program to other minimum-security prisons including low-security prisons for women.

Importantly, prisoners participating in the scheme will be required to make a contribution from their earnings to a pool of funds for assisting victims of crime and their family members. Contributions will be on a sliding scale, meaning that contributions increase as earnings increase. Also, prisoner access to their wages will be limited in order to ensure that prisoners have financial resources available for their post-release needs and provide a reduced strain on post-release services, both state and commonwealth.

Limiting prisoner access to wages will also prevent other inmates from abusing the system by targeting employed prisoners or gambling.

All employers currently engaged in the prisoner work experience program during 2017 provided skills in entry-level jobs in the hospitality, construction, and fitness industries responded to the invitation from Corrections Victoria to provide information about a proposed trial of a paid prisoner employment program.

All work prisoner employment placements must be assessed as suitable by the Secretary to the Department of Justice and Regulation. Prisoners excluded from the scheme include prisoners sentenced for violent or sexual offences and a prohibition on child-related employment.

These participants indicated that, based on their experience, they would employ the prisoner currently working with them on a paid basis under applicable state or federal award conditions. All program participants also said they would be likely to continue the employment of the prisoner upon release.

Alcohol and drug testing

Offenders in the community may be required to undergo alcohol or drug testing such as part of the conditions on a community correction order or parole order. Some of these offenders have been found to be attempting to provide substitute samples at pathology clinics.

In some cases suspicious pathology staff have felt intimidated by offenders and this is clearly unfair.

The bill therefore includes new powers in the Corrections Act for community corrections staff to supervise and carry out tests. This will occur when the Secretary to the Department of Justice and Regulation (or delegate) reasonably believes it is required to ensure an accurate assessment of the alcohol or drug use of the offender. These powers will only apply to breath or urine tests. The bill will require tests be conducted or supervised by an officer who is the same gender as that with which the person being tested identifies or, if the person so requests, a different gender.

This amendment will ensure evidence of compliance with parole orders and community correction orders can be obtained safely, reliably and accurately.

Prisoners giving evidence for the purpose of the Major Crimes (Investigative Powers) Act

Following consultation with Victoria Police, the bill also clarifies the technical anomalies in the custody, transport and supervision arrangements for persons in prisons or police gaols who are required to give evidence at an examination hearing before the chief examiner appointed under the Major Crimes (Investigative Powers) Act.

Currently the individual officer who sought the examination order must have carriage of the custody of the prisoner, which is impractical and time-consuming for Victoria Police. In practice, Corrections Victoria escort officer or other police officers transport the prisoner in the presence of the officer who sought the examination order.

The bill will allow any police officer, police custody officer, prison officer or escort officer to take custody and return the prisoner to a place of detention. The bill will also allow prisoners to be returned to places of detention other than the location where the prisoner was originally held — be that a prison or a police gaol. Further, the amendments will allow corrections staff and police custody officers to provide temporary supervision support or assistance to Victoria Police officers during the giving of examinations, including during adjournments.

This bill represents another step the government is taking to ensure the smooth operation of the corrections system and keep the community safe.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 28 September.

OATHS AND AFFIRMATIONS 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 Oaths and Affirmations Bill 2017.

In my opinion, the Oaths and Affirmations Bill 2017, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill repeals most of part 4 and all of part 5 of the Evidence (Miscellaneous Provisions) Act 1958 (EMPA) and modernises laws relating to oaths, affirmations, affidavits and statutory declarations.

The bill also provides a statutory scheme for the certification that a copy document is a true copy of an original. This scheme must be expressly adopted in legislation or otherwise before it will apply.

The bill also simplifies the words that may be used when a child or a person with a cognitive impairment makes an oath or affirmation.

Human rights issues

Human rights protected by the charter that are relevant to the bill

The following sections of the charter are engaged by the provisions of the bill:

section 8 — recognition and equality before the law

section 14 — freedom of thought, conscience, religion and belief

section 15 — freedom of expression

section 19 — cultural rights

section 17 — protection of families and children

section 23 — children in the criminal process

section 18 — taking part in public life

Right to choose between making an oath or affirmation

The bill promotes freedom of religion, freedom of expression and cultural rights by:

providing that a person who is required to take an oath or an affirmation may choose whether to take an oath or make an affirmation;

providing that a person may use a religious text when taking an oath or affirmation, but is not required to do so;

allowing a person to take an oath, even if that person's religious or spiritual beliefs do not include a belief in the existence of a god.

Clause 7 of the bill provides that a person who is required to take an oath or make an affirmation may choose either of those alternatives. This ensures that those who have religious beliefs and desire to take an oath and those who do not hold any such belief and desire to make an affirmation, are treated equally and are free to act in accordance with their religious beliefs. The bill also therefore means that those from cultures who feel it is appropriate to make an oath may do so, and those from cultures who consider that is not appropriate, may make an affirmation.

Clause 10 also provides that a person may use a religious text in taking an oath, but is not required to do so, and that a person may take an oath, even if that person's religious or spiritual beliefs do not include a belief in the existence of a god. It also provides that an oath is effective even if the person who takes it does not have a religious belief or a religious belief of a particular kind. This clause therefore ensures that irrespective of a person's religious beliefs, all have equal access to participating in the legal process, and are free to act in accordance with their religion or belief. It also means that those from cultures who consider it is appropriate to use a religious text or to refer to the basis of their beliefs may do so, and those from cultures who do not consider that it is appropriate may elect not to do so.

Modified oaths or affirmations

The bill promotes equality before the law and the rights of children in the criminal process through providing for modified ways of making oaths or affirmations.

Clause 15 provides that an administering officer may make reasonable modifications to the process of taking an oath or making an affirmation if the person taking the oath or making the affirmation has a disability that prevents the person from doing so in the usual way prescribed by the bill. For example, a hearing-impaired person may read and sign an oath or affirmation instead of saying it aloud. A person who is unable to speak may be able to listen to an oath or affirmation being read and nod assent. In this way those with disabilities are, as far as possible, accorded equality before the law.

Clause 25 also requires that a person who swears an affidavit or makes an affirmation must do so aloud, unless the person has a disability that prevents them from doing so. Further, clause 28 provides that if a person who is illiterate, blind or cognitively impaired makes an affidavit, then the authorised affidavit taker must certify that he or she read the affidavit to the deponent. These clauses also therefore provide for those with disabilities to be accorded, as far as possible, equality before the law.

Clause 32 provides that any person who assists a person make a statutory declaration must, amongst other matters, explain the nature of the assistance provided to the person making the declaration. This once again allows for as many people as possible to have equal access to the law.

Clause 14 does however prevent some people from taking an oath or making an affirmation. It provides that if it appears to an administering officer that a person taking an oath or making an affirmation is unable to understand the nature of an oath or affirmation, then the officer must refuse to administer the oath or affirmation. This is however a reasonable limitation on both the right pursuant to section 8 of the charter that every person is equal before the law and the right of freedom of expression pursuant to section 15 of the charter, as taking an oath or making an affirmation is a fundamental part of our legal process and failure to understand the nature and significance of an oath or affirmation means that it would be inappropriate for a person to purport to take an oath or make an affirmation.

This does not however necessarily prevent a person who is unable to understand the nature of an oath or affirmation from participating at all in the legal process, as a court does have power pursuant to section 13 Evidence Act 2008, in certain circumstances, to allow a witness to give unsworn evidence.

Clause 8 provides that an oath may be taken or an affirmation may be made in accordance with prescribed words or in a similar form, unless the oath or affirmation is required to be in a particular form required by another act or by convention or otherwise. Subsection 3 specifically provides that 'a similar form' includes, in the case of a child or a person with a cognitive impairment, the words 'I promise to tell the truth'. This will promote the best interests of the child by ensuring that children have as much opportunity as reasonably possible to make an oath or affirmation and participate in the legal process.

Section 25(3) of the charter deals with rights in a criminal trial and provides that, 'a child charged with a criminal offence has the right to a procedure that takes account of his or her age …'. As stated, the bill will confirm that a form of words similar to those prescribed for an oath or affirmation will be sufficient and therefore valid, so will promote the participation of children in the criminal justice system in an age-appropriate way.

Taking part in public life

Clause 30 of the bill expands the list of those who may witness statutory declarations to include those on the list authorised by the commonwealth. This engages the charter right to take part in public life (section 18 of the charter) because a broader range of people who can witness statutory declarations is likely to mean that people, such as those who might live in remote or small regional areas, who previously were unable to find easy access to an authorised statutory declaration witness, are more likely to be able to do so. They therefore will be more easily able to engage in some public activities.

The Hon. Gayle Tierney, MP
Minister for Corrections

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:

Most Victorians will at some time or another, make a statutory declaration or provide a certified copy of an original document to a business or government agency. They may be buying a house, making an insurance claim or verifying their identity for a permit or licence. Some might make an affidavit setting out evidence to support a claim in a court or tribunal.

Every day, in our businesses, community organisations and government agencies, Victorians rely on the integrity of these legal documents to ensure honest, transparent dealings with one another and the efficient working of our society.

That is why the laws about these legal processes need to be crystal clear, accessible to all and easy to follow. They should be straightforward and easy to apply in our local community or in the global, digital economy.

This bill consolidates, clarifies and updates the law relating to oaths, affirmations, affidavits and statutory declarations.

Overview of the bill

The bill will repeal almost all of part 4 and all of part 5 of the Evidence (Miscellaneous Provisions) Act 1958 (EMPA) — and will modernise those provisions. It clearly spells out what a person making an affidavit or statutory declaration must do and what the witnesses must do. This will make these processes more efficient and reduce the chance of procedural error and costly mistakes.

The bill will also remove a number of provisions that can be traced to Victoria's Evidence Act 1890 which are obsolete. There is no place, for example, in the modern Victorian statute book, for special legal status to only be given to countries if 'under the dominion of Her Majesty'.

The bill will also, for the first time, provide a clear, statutory process which business and the community can use to certify that a copy document is a true copy of an original.

The bill will have a long commencement period to ensure sufficient time to make any necessary changes to forms, administrative processes, procedures and regulations or legislative amendments.

The bill is in seven parts. I will outline the substantive parts of the bill and the changes it makes to the existing laws in the Evidence (Miscellaneous Provisions) Act 1958.

Part 2 — Oaths and affirmations

Part 2 deals with oaths and affirmations — the solemn promises at the heart of our legal system.

Many acts and conventions govern how oaths and affirmations are made. The bill makes it clear that if an oath or affirmation is required by other legislation or convention, that process will not be affected by this bill.

Part 2 of the bill modernises how an oath or affirmation can be made if no other laws specify what is required or, if a process is prescribed, there are gaps in that process. It permits certain things to be done but it is not mandatory.

For example, the Constitution Act 1975 does not provide for a member of the executive to make an affirmation of office as an alternative to an oath of office. The Constitution Act cannot be changed to remedy this without a referendum. The bill, on the other hand, provides an affirmation as an alternative to an oath. Because the bill is not mandatory and not inconsistent with the Constitution Act 1975, the two pieces of legislation can be read together so that an affirmation of office can still be made in these circumstances.

While Victoria's Evidence Act 2008 governs how oaths and affirmations are to be made in most legal proceedings, it is part 2 of this bill that authorises who can administer those oaths and affirmations.

The bill will not interfere with the powers of courts or other bodies acting judicially when dealing with witnesses required to make an oath or affirmation. Courts and bodies to which the Evidence Act 2008 applies will retain the same powers as they have now.

The bill also re-enacts some provisions of the Evidence Act 2008 so that the practices for oaths or affirmations in court or other settings (such as swearing-in ceremonies) are broadly the same.

The list of people authorised to administer an oath or affirmation by the bill is not an exclusive list. Many other acts specifically authorise people in certain positions to administer oaths and affirmations and nothing in this bill affects that authorisation. For example section 62 of the Juries Act 2000 authorises the juries commissioner to administer an oath or affirmation for the purposes of that act.

Part 3 — Affidavits

The Evidence (Miscellaneous Provisions) Act 1958 currently sets out who may witness an affidavit both within and outside Victoria for use in this state. However, it does not give much guidance about the proper completion and execution of these important documents.

The rules about affidavits are traditionally set out in individual court rules, because they are used in courts. The bill now sets out, in one place, the standard requirements that apply to all affidavits for use in Victoria.

The bill will apply unless a specific requirement of any other act is inconsistent with the bill's provisions. Courts and tribunals can continue to make rules that tailor affidavits to specific proceedings but under the bill there will be no confusion about the basic requirements for a Victorian affidavit.

The bill also authorises who can witness an affidavit in Victoria. Victoria already has a fairly generous list of those authorised to take affidavits, compared with some other states. So the list of those authorised to take an affidavit will remain as it currently is with a few anomalies corrected.

Regulations will be made under the bill when it commences, to re-authorise affidavit witnesses currently authorised under the Evidence (Affidavits and Statutory Declarations) Regulations 2008.

The bill maintains the existing prohibition on witnesses charging for signing and administering an oath or affirmation for an affidavit.

Part 4 — Statutory declarations

The bill makes some significant changes to the laws about statutory declarations. First and foremost the bill will expand the existing list of statutory declaration witnesses to include all those authorised to witness a commonwealth statutory declaration.

This means no more confusion. If a person is authorised to witness a commonwealth statutory declaration, they will automatically be recognised as a Victorian statutory declaration witness.

It also means that many more people will be able to witness statutory declarations in Victoria. The expanded list will include certain Australia Post staff and agents, nurses, full-time teachers and more commonwealth and local government public servants.

The bill spells out the basic steps for making a statutory declaration, based on the existing practice of Victoria's honorary justices. It will allow a statutory declaration form to be prescribed in regulations and the words of the declaration

that must be said aloud, before the witness, will be standardised.

The bill creates a new offence for falsely making a statutory declaration instead of relying on the general offence of perjury in the Crimes Act 1958. The maximum penalty for the new offence will be five years imprisonment. This recognises that making a false statutory declaration remains a very serious indictable offence but is not considered as grave as lying under oath.

Part 5 — Certification

Many legal and administrative processes require original documents that establish identity, residence, qualifications or other facts. If it is not feasible to give an original document, organisations will usually accept a copy of the original document if a trusted person or agency certifies that the copy is a true copy of the original.

Many thousands of these certified copies are made every year by honorary justices and others however, there has never been a formal statutory process set out for certification of copy documents.

The integrity of the certification process is critical. Those relying on these copies must have confidence in the authenticity of those documents and the facts contained in them. False documents could be a precursor to fraud or other criminal activity.

Some organisations or industries have their own rigorous processes to ensure the integrity of copy documents. More often the process is uncertain and depends on the practice of the certifier.

The bill sets out clear processes that promote the integrity of certified copies which organisations or agencies can adopt. The bill's processes and the list of authorised certifiers can be adopted in legislation, regulations, rules or internal policies and procedures. It will not be a mandatory scheme, as we recognise that some organisations and industries already have rigorous processes in place that meet their needs.

However, those relying on copy documents certified in accordance with the bill can have increased confidence that reasonable steps have been taken in the certification process and the certifier has used their best judgement to determine that the document is a true copy of the original document.

Part 5 is not intended to be applied to copies or extracts of official records or registers issued by the body that creates or holds those official records or registers — for example, land titles issued by Land Victoria or a transcript of academic results issued by the university that awarded them. Those agencies have their own processes in place to authenticate authorised copies of their own records.

However, part 5 of the bill will add value where a person, not being the maker of the original document, can honestly certify the copy document is a true copy of the original document that they have inspected. This independent scrutiny when copy documents are generated will promote document integrity.

Accessibility

The bill modernises certain provisions in the Evidence (Miscellaneous Provisions) Act 1958 and provides that a person may take an oath even if the person's religious or spiritual beliefs do not include the existence of a god. It also confirms that it is not necessary to swear an oath on a religious text. This reflects the general approach to taking oaths in the Evidence Act 2008 which is part of the uniform evidence laws adopted in many Australian jurisdictions, including Victoria. In this way, our laws respect the beliefs and cultures of the Victorian community.

The bill also contains new provisions that aim to make our justice processes more accessible to children and those with a disability. Ensuring a child or person who is cognitively impaired is comfortable when giving evidence is critical to their full participation in the justice system.

In consultation we heard that young children who were capable of giving sworn evidence, were sometimes confused by and struggled with the words of the oath required in the Evidence Act 2008. This could needlessly undermine their confidence and even willingness to give evidence.

Accordingly, the bill provides that a simpler form of words — I promise to tell the truth — can be used by a child or person with cognitive impairment when making the oath and this will satisfy the requirements of the Evidence Act 2008 and the Oaths and Affirmations Bill 2017.

The bill also provides that an administering officer, affidavit taker or statutory declaration witness may make reasonable modifications to prescribed processes if the person taking the oath or making the affirmation, affidavit or statutory declaration has a disability that prevents the person from doing so in the usual way.

For example a hearing-impaired person may read and sign an oath or affirmation instead of saying it aloud. A person who is unable to speak may be able to listen to an oath or affirmation being read and nod assent. While this may seem like common sense, by specifically authorising such reasonable modifications we ensure that there is no ambiguity and that those with disabilities are accorded equal respect and access to the law.

In conclusion, a modern economy and legal system needs legislation that is fit for purpose. An inclusive community needs legislation that is clear and promotes access to the justice system. The bill is an important step to modernise and clarify laws that affect all Victorians — now and well into the future.

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, 28 September.

RENEWABLE ENERGY (JOBS AND INVESTMENT) 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 Renewable Energy (Jobs and Investment) Bill 2017.

In my opinion, the Renewable Energy (Jobs and Investment) Bill 2017, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill establishes renewable energy targets for Victoria. The bill also provides for annual reporting to Parliament on progress towards meeting the targets.

Human rights issues

There are no human rights protected under the charter that are relevant to the bill. I therefore consider that the bill is compatible with the charter.

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:

The Andrews Labor government recognises that the energy sector is rapidly transforming. The world is transitioning towards renewable energy and it is vital that Victoria embraces the transformation, seizing the significant economic, environmental and social benefits for current and future generations of Victorians.

This is an important step for the state. It is crucial that Victoria makes best value from our abundant wind, solar, biomass, marine and other renewable sources to drive investment and create thousands of new jobs in renewable energy right across Victoria.

The Andrews government sees the opportunities for our state to leverage our position at the centre of the national electricity market and bring on a pipeline of new renewable energy projects together with a sustainable supply chain of goods and services to support a clean energy economy.

This bill sets ambitious and achievable renewable energy targets that will underpin the decisive action that the Victorian government is taking to encourage investment in our energy sector and to ensure Victorians continue to benefit from a renewable, affordable and reliable energy system into the future.

Affordability, reliability and emissions-intensity have become core concerns for households and businesses. Thankfully, solutions to transition our energy system are available now, helping to achieve a modern, renewable energy system to support our economy and way of life.

Renewable energy is already the cheapest and cleanest source of energy supply. Renewable energy, including energy from wind and solar is now becoming the lowest cost of energy available. Importantly, as Victoria generates more energy from renewable sources it will drive the wholesale price of electricity lower and result in a net benefit on electricity bills for Victorian households and businesses.

Our approach to transitioning the energy system involves setting long-term goals and electricity generation profiles which enable a pipeline of projects and investment in new technologies and electricity infrastructure to be deployed. The government is investing in energy storage, and supporting new and emerging technologies to ensure a reliable and resilient electricity supply. Energy security will also be a key feature of actions to meet the targets in this bill, and weighting will be provided to projects and new technologies that add to overall security.

This bill is part of a package of policy reforms designed to deliver investment, employment and ensure a sustainable, growing economy.

The Andrews Labor government is re-establishing Victoria as a leader in renewable energy development. We have significant wind and solar resources at our disposal and are seeking to leverage these resources to position our state at the forefront of energy transformation — in Australia and internationally.

Our transition to a modern and renewable energy future is already well underway. We are bringing forward investment in renewable projects through our renewable certificates purchasing initiative announced in August 2016. Our two new wind farms have a total generation capacity of around 100 MW, which is estimated to be able to supply enough renewable energy to power more than 80 000 Victorian homes. The wind farms are expected to be operational by 2018, and will be located at Kiata near Horsham and Mount Gellibrand near Colac. We are bringing forward 75 MW of large-scale solar through the second round of our renewable energy purchasing, of which 35 MW will be used to power all of Melbourne's 410 trams. We are also making energy storage mainstream in Victoria through deploying at least 40 MW of capacity by summer 2018.

The Renewable Energy (Jobs and Investment) Bill 2017, before you today, will legislate the previously announced renewable energy targets for Victoria: 25 per cent of electricity generated in Victoria will be sourced from renewable energy by 2020 and 40 per cent by 2025.

Our ambitious and achievable renewable energy generation targets — a significant increase from the current levels of 17 per cent — will require significant new generation by 2025, resulting in billions of dollars of new capital investment and thousands of new jobs, mostly in regional in Victoria.

This is a major step forward. This bill is an essential component of the government's plan to build a world-class

energy future that delivers real economic benefits for an array of regional locations across our state.

This bill's purpose is to establish renewable energy targets for Victoria and support schemes that promote the generation of electricity by means of large-scale facilities that utilise or convert renewable energy sources into electricity. The Victorian renewable energy target (VRET) scheme will focus on large-scale generation projects to ensure best value for the Victorian community.

The VRET scheme will complement the commonwealth government renewable energy target scheme until 2020. The design and flexibility of our scheme will deliver the best projects at the lowest cost to Victorian consumers. The design will also complement future national schemes.

Renewable energy sources including wind and solar and other energy sources declared by the minister will contribute to the targets. It is envisaged that except for large-scale solar, the competitive processes under the VRET scheme will be technology neutral subject to those sources declared by the minister.

Whilst it is anticipated that the majority of increased generation by 2025 will come from large-scale wind, solar and other renewable energy — the Andrews government is also empowering households, businesses and communities to adopt renewable energy. We have supported delivery of a new feed-in-tariff framework for selling excess electricity back into the grid, including payment for the environment and social value provided by energy. This has resulted in a doubling of the payments received by solar households and businesses. Over 300 000 solar installations that are already on Victorian rooftops will also be contributing to Victoria achieving the targets enshrined in this bill.

The bill outlines a number of important features of the targets. First, the minister must report to Parliament annually on the progress made towards meeting the renewable energy targets as well as the performance of renewable energy schemes that are helping to achieve the targets.

Second, the minister must publish in the *Government Gazette*, the minimum amounts of renewable energy generation capacity needed to meet the 2020 and 2025 targets.

To provide a signal of the investment required to meet the 2020 target, the minister will make a capacity determination for the renewable energy target for 2020 by 31 December 2017.

Then by 31 December 2019, when more information is available on policies at the commonwealth government level as well as updated electricity supply and demand forecasting, the minister must publish the additional new capacity needed to achieve the target for 2025.

Renewable energy is a low-cost alternative to many other power sources, and delivery of this large volume of renewable power within the state over coming years will help to feed more affordable power into the grid, keeping downward pressure on electricity prices.

Finally, the new power sources will add to diversity of supply, beyond the predominant current energy mix of brown coal, gas and hydropower. This is vital in Victoria, which not only has significant energy needs itself, but is an important hub within the national electricity market.

This bill will grow jobs, Victoria's economy, and return Victoria to a position of national leadership on renewable energy.

I commend the bill to the house.

Debate adjourned for Mrs PEULICH (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 28 September.

SERIOUS SEX OFFENDERS (DETENTION AND SUPERVISION) AMENDMENT (GOVERNANCE) 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 Serious Sex Offenders (Detention and Supervision) Amendment (Governance) Bill 2017 (the bill).

In my opinion, the bill, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill amends the Serious Sex Offenders (Detention and Supervision) Act 2009 (the SSODSA) and other acts, to relevantly:

a. establish the Post Sentence Authority (authority) and provide for its functions and powers;

b. abolish the detention and supervision order division (DSO division) of the adult parole board (APB);

c. provide for the coordination of services to eligible offenders and offenders subject to supervision orders (including interim orders), including by multi-agency panels; and

d. provide for the sharing of information between relevant departments and agencies.

Human rights issues

New Post Sentence Authority

The bill will amend the SSODSA to establish the authority to oversee the post-sentence scheme. The authority will be an independent statutory body, governed by a board of up to 10 members. Members will be made up of retired judicial officers, Australian lawyers and community representatives. The authority will assume the functions of the current body overseeing the scheme, the DSO division of the APB. The provisions relating to the DSO division of the APB will be consequently repealed by the bill.

The bill does not alter the role or substantive power of the courts, the Secretary to the Department of Justice and Regulation or the Director of Public Prosecutions under the SSODSA.

The authority is a public authority under the charter

Unlike the APB (which is declared by regulation 5 of the Charter of Human Rights and Responsibilities (Public Authority) Regulations 2013 not to be a public authority for the purpose of the charter), the authority will be a public authority under the charter. As a public authority, the authority will be obliged to comply with section 38(1) of the charter. The authority will consequently be required to give proper consideration to relevant rights when making decisions, and to act compatibly with human rights.

Accordingly, the bill will increase the protection of human rights generally in the SSODSA by requiring the authority to make decisions which are compatible with the charter (noting that section 20(2) of the SSODSA already requires consideration of liberty, privacy and freedom of movement when giving a direction under a supervision order).

Substantive limitations on human rights

The bill transfers the existing functions and powers of the DSO division of the APB under the SSODSA to the authority. This includes functions to:

> review and monitor the progress of offenders on detention orders and supervision orders;
>
> monitor compliance with, and administer, the conditions of a supervision order;
>
> give directions and instructions to an offender in accordance with any authorisation given under a supervision order or the SSODSA; and
>
> make decisions to ensure the carrying into effect of the conditions.

The bill provides the authority with some additional powers to request information from departments and agencies to facilitate the preparation of its annual report (new section 192ZE) and from responsible agencies to allow it to oversee the performance of those agencies (new section 192ZL). Other than these provisions, the bill does not alter or expand the existing scope of the powers being assumed by the authority, nor does it increase the existing potential for those powers to be exercised in ways that limit human rights. These limitations have been discussed previously by the statements of compatibility to the Serious Sex Offenders (Detention and Supervision) Bill 2009 and amending bills.

That said, given the nature and extent of limitations on human rights that may occur as a result of the exercise of the powers being transferred, I will restate why these limitations are considered reasonably justified and compatible with the charter.

Of the existing powers being assumed by the authority, the power to give directions or instructions to offenders subject to supervision orders has the greatest potential to interfere with, and limit, human rights. The relevant rights and the degree to which they are limited will depend on the specific direction or instruction that is given. For example, if authorised to do so by a supervision order made by the court, the authority may give directions about:

> where an offender can reside, including at a residential facility under the SSODSA;
>
> the conditions upon which an offender can leave and/or be absent from their residence (including being subject to a curfew and accompaniment);
>
> attendance and participation in treatment or rehabilitation programs or activities;
>
> abstinence from alcohol and drugs, and submission to testing to detect use of these substances;
>
> monitoring (including electronic monitoring) of the offender's whereabouts or alcohol use; and
>
> limitations on use of technology (including mobile telephones, computers and access to the internet).

The human rights that might be limited by these powers include the rights to medical treatment without consent (s 10), freedom of movement (s 12), privacy (s 13), freedom of expression (s 15), freedom of assembly and association (s 16), property (s 20), right to liberty (s 21) and humane treatment when deprived of liberty (s 22).

In some circumstances, the primary limitation on rights may arise from the relevant condition of the supervision order to which the direction relates. In other circumstances the court may impose a condition on a supervision order that gives the authority broad discretion to give directions to the offender.

In relation to the substantive effect of these directions or instructions on an offender, I am of the view that the structure of the scheme and the inclusion of various safeguards ensure that any resulting limits will be reasonably justified under section 7(2) of the charter, on the grounds of enhancing community safety. Serious sexual offences can cause enduring harm to individuals and to families, can inflict lifelong damage to victims' wellbeing and may target the most vulnerable in our community. It is the public's expectation that all possible steps be taken reduce an offender's risk of further offending and therefore reduce the risk of harm to the community.

In order for a person to be subject to the exercise of the authority's powers, a number of threshold tests and procedural conditions must be satisfied, which are transparent, accessible and certain. Firstly, they must be an eligible offender who has served a custodial sentence for a serious sex offence. Secondly, an application for a supervision order over that eligible offender must be made to

a court by the secretary, accompanied by a report made by a medical expert that addresses specific matters relating to the assessment of the offender's risk.

Thirdly, a court must be satisfied that the eligible offender poses an unacceptable risk of committing further serious sex offences if a supervision order is not made and the offender remains in the community. The evidence justifying the decision must be cogent, and a court must be satisfied by that evidence to a high degree of probability. Additionally, even if the test is satisfied, a court retains discretion as to whether or not to make any order and may take account of any matter in exercising its discretion, including the human rights of the offender (subject to section 9(4) of the SSODSA). Fourthly, once a supervision order is made, a court must ensure the proportionality of the conditions of an order, and conditions (other than core conditions) must be appropriately tailored to an offender's circumstances to constitute the minimum interference with the offender's liberty, privacy or freedom of movement that is necessary in the circumstances to ensure the purposes of the conditions. Finally, for the authority to have power to give directions or instructions about the operation of a particular order, this must be authorised by the relevant court by way of explicit wording in the conditions.

Where the authority is authorised to give directions or instructions, the authority is also obliged to ensure that any direction it issues constitutes the minimum interference with an offender's liberty, privacy or freedom of movement that is necessary in the circumstances to ensure the purposes of conditions are met, and is reasonably related to the gravity of the risk of the offender reoffending.

The authority will assume the statutory power to make an emergency direction in circumstances where it is not authorised by a court. However, this power can only be invoked for specified reasons relating to situations of high risk, and in urgent circumstances where it is not practicable to bring the matter before a court. Any such emergency direction is limited to 72 hours of duration and, if the authority is of the view that the direction should continue for more than 72 hours, the authority may recommend that the secretary apply to the court for an urgent court review of the conditions of a supervision order.

In addition to these statutory preconditions on the authority's exercise of power over offenders, the scheme incorporates a number of safeguards to ensure any limitations of human rights are, and remain, proportional to changing circumstances. Supervision orders and order conditions are subject to mandatory reviews by a court at specified intervals, where the tests for making an order and imposing each additional condition must be re-satisfied for the order to be confirmed and for existing discretionary conditions to continue. The parties to an order may also seek leave in between periodic reviews to review an order or conditions if new facts or circumstances have emerged or it is justifiable to do so. Parties also retain rights to appeal any orders or conditions to the Court of Appeal.

In my view, the above statutory preconditions and safeguards ensure that any limitations upon human rights from the authority's exercise of power continue to be necessary and relevant to achieving the stated community protection purposes of the SSODSA.

Exclusion of natural justice

I will now discuss additional human rights implications that arise from the procedures of the authority when performing its functions and exercising its powers.

The DSO division of the APB is not bound by the rules of natural justice (section 69(2) of the Corrections Act 1986). Consistent with this, the authority will not be bound by the rules of natural justice (new section 192D(3)). The continued rationale for the exemption is that it ensures the authority can respond quickly and effectively when performing its functions, including managing offenders subject to a supervision order, under the SSODSA.

This means that the authority is not bound by the rules of natural justice when giving directions or instructions to an offender that may limit an offender's rights. This includes when exercising powers to impose a limit on the offender's right to liberty in section 21 of the charter, which may result from giving directions to an offender on where they must reside, their curfew and the conditions in which they may leave their residence.

To balance the potential limitation on rights, the SSODSA includes procedures in sections 122 to 127 with which the authority must comply when giving directions. In summary, those provisions state that the authority must notify an offender of any directions or instructions that it gives in relation to the offender (section 122), the offender may make submissions within 21 days of receiving notice (section 123) and is entitled to be heard at the authority's meeting (section 124), the offender may inspect documents relied on by the authority (section 127), the authority must take into account the offender's submissions (section 125) and the authority must give reasons for the decision it made after hearing from the offender or reasons for any other decision at the offender's request (section 126).

Sections 122 to 127 of the SSODSA do not require a hearing until after a direction has been given by the authority (and in all likelihood, commenced operation). The rationale is that the proper management of an offender's unacceptable risk to the community is dynamic and complex, and can require the giving of prompt and timely directions in response to an offender's sudden change in circumstances or elevated level of risk. It is critical that the authority is able to make prompt and final directions that have an immediate effect, as any delay in implementing a direction may expose the community to an unacceptable risk of harm. For example, it would not be appropriate to notify an offender before giving a direction if there is a risk that the offender may abscond in order to avoid the direction being given or the effect of the direction. It is also important that the authority is able to discharge its functions without being impaired or frustrated by challenges to its procedures.

Section 24 of the charter provides that a party to a civil proceeding has the right to have that proceeding determined by a competent, independent and impartial court or tribunal after a fair and public hearing. While the authorities have interpreted 'civil proceeding' in section 24(1) broadly, it does not extend to the kind of administrative decision-making that will be undertaken by the authority. Accordingly, I do not consider that the fair hearing right will be limited by the exclusion of natural justice.

However, section 192D(3) may have implications for other rights protected by the charter. A number of charter rights include a protection against arbitrary treatment, and according natural justice through the hearing rule is an effective way of avoiding arbitrariness. Procedural safeguards are especially important in relation to the right to liberty, which requires that a person must not be arbitrarily detained, and must not be deprived of liberty except on grounds, and in accordance with procedures, established by law.

Despite these concerns, I am satisfied that sufficient safeguards exist to protect against an arbitrary exercise of power by the authority. Specifically, the SSODSA:

> contains procedures that provide an offender with multiple opportunities to be heard; and
>
> provides sufficient flexibility for the authority to consider whether, in particular cases, additional procedural steps may be appropriate in order for it to meet its statutory obligations, including under section 20(2), and its obligations under section 38(1) of the charter.

Multiple opportunities to be heard

With respect to opportunities to be heard, the authority can only give a direction if the court making the supervision order authorises the relevant condition, after being satisfied that a condition constitutes the minimum interference with an offender's liberty. The offender has an opportunity to be heard on the initial making of the condition by the court, including whether the authority should be authorised to make directions on certain matters. An offender also has a right to appeal against the making of a supervision order, and the conditions imposed on the order.

Further, after the direction or instruction has been issued (and most likely has commenced operation), the offender is afforded the procedures in sections 122 to 127 of the SSODSA, which includes being notified of the direction, being afforded the opportunity to make written submissions and attend an oral hearing, request reasons and respond to those reasons. This in effect allows a person to submit reasons to the authority as to why any direction should be overturned or varied. The authority must consider these submissions and confirm or vary (including revoking) the direction as soon as practicable. The authority will again be required when complying with sections 122 to 127 of the SSODSA to act in accordance with the charter and give proper consideration of human rights when exercising discretion under these provisions.

If, after these processes, the offender still retains a grievance with the operation of a direction, they may apply at any time with the leave of the court to review any condition of the supervision order (section 77 of the SSODSA). A court may grant leave if it is satisfied that new facts and circumstances have arisen that would justify the review or that it would generally be in the interests of justice to review the conditions (section 77(3)). This is in addition to the statutory reviews of the supervision order that occur at mandated intervals. Accordingly, during either type of review, an offender will have the opportunity to subject the authority's exercise of powers to court scrutiny. The court has the power to override the authority's exercise of power through varying or removing conditions, including the power to vary or remove entirely the authority's power to give directions on conditions concerning residence, curfew, accompaniment or monitoring (although the authority will always retain its emergency power of direction for the duration of a supervision order).

Flexibility in procedures

The SSODSA sets out the minimum procedural requirements with which the authority must comply. It does not, however, prevent the authority from taking additional procedural steps in the exercise of its statutory powers as appropriate in the circumstances of the matter that it is dealing with.

Further, section 20(2) of the SSODSA states that the authority must aim to ensure that any direction constitutes the minimum interference with an offender's liberty, privacy and freedom of movement and is reasonably related to the gravity of reoffending.

As noted above, the authority will be a public authority under the charter. Section 38(1) of the charter states that it is unlawful for a public authority to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right. The authority must comply with section 38(1) when exercising or not exercising, or deciding to exercise or not exercise, any power under the SSODSA (or any other act).

Accordingly, when considered within the totality of the scheme, I am satisfied that the SSODSA contains sufficient procedural safeguards for the authority to act compatibly with human rights, although it will not be bound by the common-law rules of natural justice.

Power of authority to compel production of documents and other things or attendance of witnesses

In addition to the powers provided in the SSODSA, the DSO division of the APB has a range of powers under the Corrections Act 1986, which will be provided to the authority.

Clause 16 inserts new part 13A into the SSODSA which grants the authority the power to:

> compel the production of documents and/or information by issuing notices, which will be enforced by making it an offence to fail to comply with a notice without a reasonable excuse;
>
> direct a person to appear at an authority meeting or appear via audiovisual link; and
>
> require a person to give evidence or answer questions under oath or affirmation, which will be enforced by making it an offence to fail to comply without a reasonable excuse.

Again, I note that the bill is transferring existing powers to a new body, so it does not introduce any new potential to interfere with human rights. However, in any event, I am satisfied that these provisions are compatible with the charter, for the following reasons.

Right not to be compelled to testify against oneself or to confess guilt (s 25(2)(k))

Section 25(2)(k) provides for the protection against self-incrimination.

In my view, these provisions do not limit this protection. A person can only be compelled to attend a meeting of the authority or produce documents subject to written notice. The notice must be served in accordance with specified procedural steps and must clearly outline how a person may object to the notice, including giving a reasonable excuse for failing to comply. Reasonable excuse includes where the information might tend to incriminate the person or make the person liable to a penalty, and in such circumstances, a person is not held liable for any failure to comply with a notice. Accordingly, the protection against self-incrimination is not interfered with by these provisions.

Restrictions on the bringing of proceedings

New sections 192ZA and 192ZB affect the circumstances in which a person may bring legal proceedings in relation to particular matters or against certain people.

New section 192ZA provides for various protections and immunities for participants at authority meetings, such as authority members, employees assisting the authority, legal representatives and witnesses. The protection and immunity granted is akin to that which would be granted to a person with a similar role in a proceeding before the Supreme Court.

New section 192ZB provides that a member of the authority is not personally liable for anything done or omitted to be done in good faith in the exercise of a power or the performance of a function under the SSODSA or the regulations (or the belief that an act was within the exercise of such a power), and that any liability resulting attaches instead to the authority.

Right to a fair hearing (s 24)

Section 24(1) of the charter provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal. In other jurisdictions, it has been found that a broad statutory immunity from liability which imposes a bar to access to the courts for persons seeking redress against those who enjoy the immunity may interfere with the fair hearing right.

In relation to new section 192ZB, I note that this provision does not remove available causes of action, but instead shifts liability to the authority, which in my view, does not result in the imposition of a bar to bringing a proceeding and consequently does not limit the right to fair hearing. I also note that an individual could still initiate legal proceedings against the authority or against the member, if the member's actions were not taken in good faith.

While new section 192ZA may impose a bar on bringing legal action, the implied right of access to the courts is not an absolute right, and can be subject to reasonably justified limits under section 7(2) of the charter. The relevant immunities and protections are appropriately granted in these circumstances, with regard to the authority's role in supporting the implementation of a court ordered supervision order, and the need for the finality of decisions and the maintenance of the authority's independence. The decisions of members in discharge of the authority's functions will affect the rights of offenders, and it essential that members may make decisions without fear of legal retribution. Similarly, it is in the public interest that witnesses before the authority are able to give their evidence freely for the higher interest of enhancing public protection, without fear of collateral proceedings against them. Similar, advocacy immunity is necessary to uphold finality of decisions and to safeguard the role of legal representatives at meetings before the authority.

I note that other oversight mechanisms are in place to ensure that members of the authority exercise an appropriate level of care in the performance of their functions. For example, the authority will be required to comply with significant reporting obligations and will be subject to a range of whole-of-government legislation. For example, the Public Administration Act 2004 (except part 3) will apply to a member of the authority and the authority. The authority will also be subject to the charter, the Equal Opportunity Act 2010, Financial Management Act 1994, Public Records Act 1973, and the Protected Disclosure Act 2012. Further, the authority will be subject to oversight by the Auditor-General, the Independent Broad-based Anti-corruption Commission and the Ombudsman. Finally, the authority's decisions, including their directions and instructions on the conditions of supervision orders, will be subject to the scrutiny of courts during the periodic reviews of the supervision order.

Accordingly, I am satisfied that these provisions are compatible with the charter.

Information sharing

Section 189 of the SSODSA has information-sharing provisions that strictly regulate the use or disclosure of information relating to court proceedings under the SSODSA or the administration of SSODSA orders.

Clause 13 amends section 189 to permit further circumstances of information sharing, including:

> specifying that any member of the authority or an employee assisting the authority, any person delivering services or advice to or on behalf of the authority, a person or body from who a responsible agency seeks or obtains advice, or a person or body prescribed as a responsible agency is a relevant person who can share information in the permitted circumstances;
>
> allowing the sharing of information where a relevant person believes on reasonable grounds that it is necessary for preparing and reviewing a coordinated services plan, or delivering services or providing for the delivery of services in accordance with a plan;
>
> replicating and transferring to the authority information-sharing provisions which applied to the DSO division of the APB under the Corrections Act 1986.

The right to privacy

Section 13 of the charter provides that person must not have their privacy unlawfully or arbitrarily interfered with. Expanding or altering the scope of permitted sharing of information will be relevant to this right. However, it is my view that these amendments are appropriately circumscribed so as not to authorise any arbitrary interferences with privacy.

The amendments are consequential in nature and allow for existing information-sharing arrangements to apply to the new authority and the new multi-agency panels. Appropriate information sharing is important to ensuring the effective operation of the authority and the ability of the new multi-agency panels to meet their statutory obligations, which

are critical to upholding the overall aim of enhancing community safety. It is necessary that the SSODSA does not contain any inappropriate barriers to the use or disclosure of information required to effectively administer the post-sentence scheme, provide rehabilitation and treatment services to offenders and manage risk to the community. These amendments permit use and disclosure in circumstances that are consistent with the purpose for which the information is collected under the scheme, and is similarly consistent with whole-of-government standards on disclosure of information as provided for in the information privacy principles in the Privacy and Data Protection Act 2014.

Further, the amendments remain subject to a number of safeguards, including penalties for any unauthorised use or disclosure of information and the requirement that relevant persons develop guidelines in relation to accessing of information to ensure that access is restricted to the greatest extent that is possible without interfering with the purpose of the legislation. Finally, the authority and multi-agency panels, as public authorities under the charter, will be required to give proper consideration to, and act compatibly with, the right to privacy when making decisions regarding the nature and extent of any information shared. For these reasons, I consider that the amendments to information sharing will not limit the right to privacy.

Freedom of information

Clause 15 will insert new section 192B into the SSODSA to prevent the Freedom of Information Act 1982 from applying to grant access to specified kinds of information held by the authority, including details about supervision orders, personal information of supervised offenders and victims and the decisions made by the authority.

Freedom of expression (s 15)

Section 15 of the charter provides that every person has the right to freedom of expression, which includes the freedom to receive information and ideas of all kinds. This right has been interpreted as including a right to seek information from public authorities. However, freedom of expression is subject to an internal limitation provision, and may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons, or for the protection of national security, public order, public health or public morality.

It is not appropriate for certain types of information or documents held by the authority to be publicly released. Public access to this specified information may endanger the safety and rehabilitation of offenders subject to the scheme, prejudice the interests of victims and their families, interfere with the assessment, treatment and supervision of offenders, prejudice the containment of an offender's level of risk, and frustrate the authority's ability to oversee the scheme and ensure community protection. While the community may have an interest in accessing such information, it is important that the integrity of confidential and sensitive information be upheld, so that assessment, treatment and supervision of complex offenders is effective, and not frustrated or interfered with.

Reverse onus provisions

New sections 192Y and 192Z provide for offences with the defence of reasonable excuse. To escape liability on the basis of a reasonable excuse, the accused must present or point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the excuse. This is relevant to the right to be presumed innocent in section 25(1) of the charter.

Right to be presumed innocent (s 25(1))

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. This right is relevant where a statutory provision shifts the burden of proof on to 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.

In my view, these provisions do not transfer the legal burden of proof, because once the defendant has adduced or pointed to some evidence, the burden is on the prosecution to prove the absence of the exception raised. Courts in other jurisdictions have generally taken the approach that an evidential onus on a defendant to raise a defence does not limit the presumption of innocence. The exceptions that are provided relate to matters within the knowledge of the defendant (specifically, the excuse as to why they have failed to comply with a notice to produce or attend, to take oath, make affirmation or answer a question) and, if the onus were placed on the prosecution, would involve the proof of a negative which would be very difficult.

For these reasons, I consider that it is appropriate for an evidential burden to be placed on a defendant in these instances.

Hon. Gayle Tierney, MP
Minister for Corrections

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:

Community safety and protection are a key priority of this government and are at the centre of the reforms contained in the Serious Sex Offenders (Detention and Supervision) Amendment (Governance) Bill 2017 (the bill).

The Serious Sex Offenders (Detention and Supervision) Act 2009 (SSODSA) seeks to enhance the protection of the community by requiring the detention or supervision of serious sex offenders who have completed their prison sentence and who present an ongoing unacceptable risk of committing a further sexual offence.

This bill is about ensuring that the post-sentence detention and supervision system is supported by an independent, rigorous and accountable governance framework that can effectively seek to achieve and promote community protection. It is also about promoting shared responsibility and a whole-of-government approach to the delivery of

services required to reduce the likelihood of reoffending and better protect the community.

These are the most significant reforms to the post-sentence scheme established under the SSODSA since its enactment in 2009.

Review of the post-sentence scheme

It is important to acknowledge the tragedy that gave rise to these reforms. In 2015 an offender who was subject to a supervision order committed heinous offences against innocent victims. This offending understandably generated significant public concern about the operation of the post-sentence scheme.

In response, the government commissioned a panel of experts, led by former Court of Appeal Judge David Harper, to undertake the review of complex adult victim sex offender management (Harper review).

The Harper review considered how to improve the legislative framework for the post-sentence scheme to promote community protection, how to improve the management of complex adult victim sex offenders including those who may be violent, and governance models to improve decision-making and case management between the criminal justice and mental health service systems in relation to these offenders.

The Harper review made 35 recommendations that proposed significant and complex changes to the post-sentence scheme, including to the legislative, governance and operational mechanisms supporting the scheme. The government has committed to implementing all 35 recommendations in principle. We have already implemented a number of the recommendations, this bill will implement more and significant work is being undertaken to progress the remaining recommendations.

Concurrently with the review and as an immediate response to its findings the government acted to strengthen the post-sentence scheme through a series of legislative amendments and operational reforms. In 2015 the government introduced the Serious Sex Offenders (Detention and Supervision) and Other Acts Amendment Act 2015, which strengthened the supervision and management of serious sex offenders including through new police powers and a new presumption against bail. A joint Corrections Victoria and Victoria Police sex offender specialist response unit was also established. In April 2016 the government introduced the Serious Sex Offenders (Detention and Supervision) Amendment (Community Safety) Act 2016 to implement certain Harper review recommendations including to make it absolutely clear that community protection is the governing principle for the legislation, and to provide stronger powers to support the management of serious sex offenders including those who are also a risk of violent offending.

Further, we have made a significant investment in improving the system committing a total of $392 million across the 2016–17 and 2017–18 state budgets.

Before turning to the reforms in the bill, I would like to thank the members of the panel — the Honourable David Harper, AM, Professor Paul Mullen and Professor Bernadette McSherry — and all those who contributed to the work of the panel for their efforts and for making a valuable contribution to a creating a safer Victoria.

The governance bill

Turning to the bill, the main purposes of the bill are to:

establish a new independent statutory body that provides independent, proactive and rigorous oversight of the administration of the post-sentence scheme;

promote shared responsibility across government to strengthen the delivery of services to offenders to address their multiple and complex needs; and

reduce fragmentation and streamline the processes for prosecuting offenders who breach their supervision orders as part of a course of offending that involves related summary offences.

These reforms are consistent with the four key pillars that underpinned the recommendations in the Harper review. Those pillars are (1) early intervention and continuity of care to reduce the risk of serious interpersonal harm (2) reducing the number of victims of serious interpersonal harm (3) independent and rigorous oversight, and (4) responsible service delivery and intensive case management.

New Post Sentence Authority

In line with the recommendations of the Harper review, the bill establishes a new statutory authority called the Post Sentence Authority. Creating a new body solely focused on the post-sentence scheme will encourage independent and proactive oversight and improve accountability for decision-making.

The new authority will take over from the detention and supervision order division (DSOD) of the adult parole (APB). As noted in the Harper review, the APB has admirably discharged its functions under the SSODSA. The reforms in this bill will enable the APB to solely focus on its critical role in administering Victoria's parole system.

Membership and operations

The authority will be governed by a board of up to 10 members, led by a chairperson, and will be made up of retired judicial officers, legal practitioners and community representatives to ensure diversity of views. Members will be appointed by the Governor in Council, on the recommendation of the minister.

To enable the authority to respond quickly and effectively in managing offenders subject to post-sentence orders, the bill provides the chairperson with flexibility to determine when and how meetings should be held.

The Department of Justice and Regulation will provide secretariat support to the authority. The bill requires the secretary to provide employees and any other assistance necessary to support the authority in carrying out its functions. In addition the bill empowers the authority to engage independent contractors and agents to assist it to perform its functions.

Role and functions of the authority

The authority will provide rigorous oversight and scrutiny of the post-sentence scheme and be involved in the management of offenders subject to post-sentence orders. Its functions will

be a combination of the existing functions of the DSOD of the APB and some new functions.

The existing functions that the bill transfers to the authority include responsibility to:

> review and monitor the progress of offenders on supervision, detention and interim orders;
>
> monitor compliance with and administer the conditions of supervision orders and interim supervision orders;
>
> give directions and instructions to an offender in accordance with any authorisation given to the authority under an order; and
>
> make recommendations to the secretary in relation to applying to a court to review the conditions of supervision orders and interim supervision orders.

In addition, the bill confers an additional function on the authority to oversee the coordination of service delivery to offenders by responsible agencies. This is discussed in detail in the context of reforms to improve interagency cooperation and coordination.

The bill also strengthens obligations to report on the performance and administration of the post-sentence scheme. This is consistent with the Harper review's finding that a key area of improvement in the management of offenders is to promote rigour in decision-making and increase accountability.

To increase the accountability and transparency of the post-sentence scheme, the bill requires the authority to produce an annual report that will be tabled in Parliament. The annual report will include all matters which the APB is currently required to report on in regards to the post-sentence scheme, as well as additional matters such as:

> the number of eligible offenders within the prison system;
>
> applications made for post-sentence orders, and the development and implementation of coordinated services plans for offenders; and
>
> details of any breaches of conditions of a supervision order or an interim supervision order, including the number of prosecutions commenced for a breach offence.

Powers of the authority

The bill ensures that, under the SSODSA, the authority will have all of the same powers that the DSOD of the APB has under the Corrections Act 1986. For example, the authority will be empowered to compel the production of documents and information by issuing notices, to direct a person to appear at a meeting of the authority, and to require a person to give evidence or answer questions on oath or affirmation. It will be an offence to fail to comply with a notice of the authority without reasonable excuse. These powers will ensure that the authority can properly perform its functions under the SSODSA.

In performing its functions and exercising its powers, the authority will not be bound by the rules of evidence and may inform itself as it sees fit. In addition, the authority will not be bound by the rules of natural justice. These provisions will assist the authority to respond quickly and flexibly when managing offenders subject to post-sentence orders. They are consistent with the current provisions that apply to the DSOD of the APB.

To provide a balance and ensure the scheme is non-punitive, the SSODSA already contains a range of procedural safeguards that the authority will need to observe when making its decisions. Further, the authority will be a public authority under the Charter of Human Rights and Responsibilities Act 2006 and must act compatibly with, and give proper consideration to, human rights in making decisions.

For the avoidance of any doubt, the bill does not change the roles or powers of the courts, the Secretary to the Department of Justice and Regulation, the Director of Public Prosecutions or other agencies under the post-sentence scheme, including in relation to decisions to apply for a detention or supervision order or a decision to make such orders.

Shared responsibility across government and interagency cooperation

The Harper review found that effective assessment, treatment and supervision of complex offenders requires effective coordination between the agencies involved in their management. Importantly, the review noted that responsibility for providing the services that will reduce reoffending and protect the community lies as much with the mental health, disability and social services systems as it does with any part of the justice system. More active involvement by all responsible areas of government in the management of offenders on post-sentence orders is required to effectively protect the community.

Consequently, the review recommended the establishment of multi-agency panels to coordinate services delivered to offenders subject to post-sentence orders. The review envisaged that the panels would include government agencies, such as the Department of Justice and Regulation, the Department of Health and Human Services, Victoria Police and relevant non-government agencies.

To implement the Harper review's recommendations, the bill imposes obligations on responsible agencies — being the secretaries of the departments of Justice and Regulation, and Health and Human Services, the Chief Commissioner of Police and any prescribed person or body (if any). The bill requires these responsible agencies to:

> act in accordance with a principle of shared responsibility by providing reasonable assistance and support to each other, sharing information, and taking steps to resolve any issues arising in the delivery of services to offenders; and
>
> jointly develop, agree and review coordinated services plans for offenders eligible for and subject to post-sentence supervision orders.

The coordinated services plans will set out the agreed services and interventions that will be made available to offenders subject to supervision orders or interim supervision orders. In practice, this means that each responsible agency will need to ensure it is proactively seeking to deliver or provide for the delivery of the agreed services. In addition, the process of jointly developing, preparing and agreeing each plan will promote better coordination and discussion between agencies

about service delivery commitments and make the commitments and responsibilities of each agency clear. Importantly, each plan will specify the factors that are relevant to the risk of the individual offender reoffending by committing a further relevant serious sex offence or a violent offence. These risk factors will continue to be assessed for the duration of the supervision order, and the services and interventions proposed to be delivered to the offender may change accordingly, consistent with the conditions of the offender's supervision order.

To ensure that the reforms support the Harper review objective of early intervention and continuity of care, the reforms provide that the authority will commence oversight of the delivery of services to eligible offenders once the secretary or the Director of Public Prosecutions decide to apply for a post-sentence order. Once an application for a post-sentence order is made, the responsible agencies will develop and agree on a coordinated services plan for the eligible offender. If the eligible offender becomes subject to a post-sentence order, the authority will continue to oversee and manage the offender under the scheme. This will ensure early planning and coordination of services relevant to the offender and continuity of care for eligible offenders transitioning to a post-sentence order. It also avoids unnecessary duplication of resources and expertise between the authority and the agencies that are involved in the management of, and delivery of treatment and services to, eligible offenders in prison.

To meet the Harper review objective of responsible service delivery, the bill empowers the authority to oversee the performance of responsible agencies in meeting their obligations to support coordinated service delivery. Specifically, the bill empowers the authority to review coordinated services plans and issue notices to responsible agencies seeking information relating to the plans. Responsible agencies will be required to respond to a notice of the authority. This power also serves as an accountability mechanism to oversee the coordination of service delivery by responsible agencies to offenders. Further, the authority will be required to report on the activities of responsible agencies, including the number of coordinated services plans developed and implemented for persons subject to supervision orders and interim supervision orders.

The bill requires responsible agencies to create one or more multi-agency panel(s) to support the exercise of their functions and shared responsibilities. To support this, the bill empowers responsible agencies to delegate their functions to appropriate senior officers. This approach makes it clear that the shared responsibilities for the delivery of services to offenders sits with head of departments and agencies, and allows for a practical and flexible implementation approach.

Prosecution of supervision order breaches

The Harper review made a number of recommendations designed to streamline the prosecution of the indictable offence of breaching a condition of a supervision order.

The review recommended that less serious breaches should be prosecuted in the Magistrates Court by Victoria Police or the secretary, and that charges for serious breaches should be initiated by Victoria Police and prosecuted by the Director of Public Prosecutions in the County Court or the Supreme Court. In addition, it recommended that guidelines should be developed so that prosecutorial discretion is exercised consistently across all agencies.

In the context of the post-sentence scheme, it is difficult to identify a clear division between serious and less serious breaches. Offenders subject to supervision orders have been deemed by a court to present an unacceptable risk of further sexual offending, and the conditions imposed are designed to mitigate and control those risks. Consequently, all breaches of supervision order conditions should be considered serious, as they reflect a disregard for the order imposed by the court and represent an increased risk of offending. Further, allowing 'less serious breaches' to be sentenced in the Magistrates Court means the maximum penalty for the offence is lower. This may diminish reforms designed to emphasise the gravity of breaches of supervision order conditions and fragment proceedings in relation to the same offender. Consequently, the requirement for breaches to be prosecuted in the higher courts (County and Supreme Court) where the offender can return to the court that made the order and conditions has been retained.

The Harper review recommended reforms to allow summary offences related to an offence of breaching a supervision order to be heard in the higher courts, at the same time as the breach offence, instead of being heard separately in the Magistrates Court. The recommendation was driven by concerns about the potential fragmentation of matters across different courts and the desirability of the court that imposed the supervision order hearing matters related to an alleged breach of the order that it imposed.

Consequently, the bill requires the Magistrates Court to transfer related summary matters when transferring a breach offence to a higher court. The Magistrates Court will have discretion to order that a proceeding is not transferred, if the parties agree. Once the related summary offence is before the higher court, that court will have the power to hear and determine the charge for the related summary offence using summary procedures. To allow flexibility, the higher court will have discretion to transfer the matter back to the Magistrates Court, if the court considers it appropriate to do so. This procedure is broadly modelled on the existing procedures that apply to the uplifting of summary matters under the Criminal Procedure Act 2006, with appropriate modifications to reflect the operation of the unique procedures in the SSODSA.

In addition, operational changes will be made to improve efficiency, coordination and cooperation between agencies responding to alleged breaches including developing interagency prosecutorial guidelines and procedural changes within Corrections Victoria and Victoria Police to streamline the initiation and investigation of breaches.

Application of the Freedom of Information Act 1982

To promote transparency and accountability in the administration of the post-sentence scheme, the Freedom of Information Act 1982 (FOI act) will apply to documents of the authority.

However, the bill contains a clear list of the types of information that are not appropriate to be publicly released. This includes, for example, information that relates to decisions made in relation to the management of an individual offender or the monitoring and administration of a particular court order or information. It is important that the integrity of this confidential and sensitive information is upheld so that the assessment, treatment and management of complex offenders is effective, and not frustrated, or interfered with. The exemptions set out in

the bill will work together with, and do not limit, the exemptions that are available under the FOI act.

Other amendments

Clear and appropriate information-sharing provisions are critical in ensuring the effective operation of the Authority and the multi-agency panels. The bill makes several other amendments to the SSODSA to facilitate information sharing between agencies and the new authority and to support the new panel arrangements.

The bill includes transitional provisions to ensure a smooth transition between the authority and DSOD of the APB. It also makes consequential amendments to the SSODSA and other acts. For example, the bill ensures that the APB will still receive copies of post-sentence orders in certain circumstances so that it has all the relevant information in respect of an offender if and when it considers a parole application for the offender.

Further reforms

This bill is a further step in strengthening the post-sentence scheme and is the first of a two-phased legislative program for implementing the more complex reforms recommended by the Harper review. We understand that ensuring the effective implementation of the Harper review is critical to the safety and protection of the community. That is why we are ensuring that the new governance model is bedded down and operating effectively before the second phase of reforms comes into effect.

Nevertheless we are working to ensure the second phase of legislative reforms is progressed as quickly as possible. The second phase of reforms will include expanding the post-sentence scheme to serious violent offenders, the establishment of a new 20-bed secure facility, large-scale operational reforms to support the expansion of the scheme and to strengthen the existing management of serious sex offenders and a range of other initiatives.

These reforms are critical to strengthening the operation of the post-sentence system and keeping our community safe.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 28 September.

ADJOURNMENT

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

That the house do now adjourn.

Mr Ramsay — On a point of order, Acting President, I just need some guidance. I note there are a number of members of Parliament wearing badges in the chamber. My understanding is that there is a ruling and a precedent and that the President has indicated there will be no badges.

Mr Jennings — They're brooches.

Mr Ramsay — No, I am talking about badges that have political messages on them. I am asking for guidance, that is all. Otherwise we will come back at the start of the next sitting week assuming we will all be allowed to wear badges.

The ACTING PRESIDENT (Mr Melhem) — I will take the matter up with the President. I will ask for the President to deal with that first thing next sitting week.

Homelessness

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Housing, Disability and Ageing and concerns the fact that as we approach the third anniversary of the last state election, the Andrews Labor government has still not developed a strategy to address homelessness in Victoria. I call on the minister to acknowledge his government's utter failure in tackling homelessness in Victoria and to, as a matter of urgency, formulate and implement a homelessness strategy to assist the most vulnerable of all Victorians.

Over the first two years of the Andrews Labor government there was a 74 per cent increase in the number of homeless people sleeping rough in the City of Melbourne. This increase is visibly evident and attracted international attention during the Australian Open tennis tournament in January this year.

These figures come from the City of Melbourne StreetCount 2016, a biennial collection of information about people sleeping rough within the municipality. At the time of the last StreetCount survey, a total of 247 people, including 195 men and 35 women, were counted as sleeping rough, and as I have said, that is an increase of 74 per cent on the 2014 figures and coincides precisely with the change of government in Victoria, highlighting the difference between the former Liberal government's proactive approach to assisting those in need and the current Labor government's hands-off, couldn't-care-less approach. Yet more than a year after this appalling result, the Andrews government still has not produced a strategy to address homelessness and rough sleeping.

Labor has form when it comes to ignoring the need to have a strategy to address homelessness and failing to work with the sector to produce the best outcomes for vulnerable Victorians. During the Bracks-Brumby governments' final term, the then Minister for Housing, Richard Wynne, despite having promised a strategy,

failed to produce one until just days before the 2010 election. This result was a strategy that was highly criticised by the experts in the sector, who had not been consulted in its development.

On winning government, I scrapped this flawed strategy and worked with the sector to develop and fund the *Victorian Homelessness Action Plan 2011–15*. The action plan led to the development of three education youth foyers and five work and learning centres being established. Both these programs are really kicking goals for vulnerable Victorians. We also funded innovation action projects designed by experts in the homelessness sector.

The funding for the action plan expired in July 2015, and ever since the Andrews government has been without a strategy to address homelessness in this state. There has been a policy vacuum from this government regarding homelessness and people sleeping rough. In November 2016 the government announced a package devoid of any underlying strategic focus and made up of nothing more than thought bubbles so obscure it was impossible to measure any tangible results the package would provide. Not surprisingly, this rapidly thrown together package has failed to reduce the number of people homeless or sleeping rough, evidenced by the number of Victorians still sleeping rough on the streets of Melbourne.

Setting the Record Straight for the Rights of the Child Initiative

Ms SPRINGLE (South Eastern Metropolitan) — My adjournment matter is for the Minister for Families and Children. In recent years numerous inquiries and reports have highlighted the extent to which our child protection record-keeping systems have failed to meet the identity, memory and accountability needs of vulnerable children. These issues were examined at length by the records and record-keeping practices consultation paper of the Royal Commission into Institutional Responses to Child Sexual Abuse. They were also highlighted in the final *Betrayal of Trust* report.

Poor record keeping, including the loss and destruction of records, can be a serious barrier to care leavers attempting to piece together their history, memories and experiences. This in turn can contribute to the vulnerability and disadvantage experienced by many people who have spent part of their childhood in out-of-home care. The final *Betrayal of Trust* report noted significant impediments to care leavers obtaining their records that still exist today.

In response to these systemic failings, Monash University's Centre for Organisational and Social Informatics, working with a number of advocacy and support organisations that work with care leavers, has formed the Setting the Record Straight for the Rights of the Child Initiative. The focus of the initiative is both retrospective and prospective. It aims to address historic failings and remedial actions but also looks towards a future record-keeping system that is comprehensive, child centred and accessible. The Setting the Record Straight website notes that:

> The immediate and lifelong needs of childhood out-of-home care cannot be addressed by incremental changes to existing record-keeping and archiving infrastructure. These have been built for previous eras of child protection and welfare designed for a different age, different values, different principles, and a different technological paradigm. Fundamental transformations are required.

The action I am seeking from the minister is for her to meet with the initiative's coordinator to discuss the strategic objectives of the initiative and establish mechanisms for ongoing input from the panel into the government's reform in this area.

Dalton–Childs roads, Epping, intersection

Mr ONDARCHIE (Northern Metropolitan) — My adjournment matter tonight is for the Minister for Roads and Road Safety, and it is concerning the Dalton–Childs roads traffic light upgrade in my electorate of Northern Metropolitan Region. There was a photo in the local paper of the member for Thomastown, the member for Mill Park and Cr Stevan Kozmevski from Whittlesea council smiling gleefully at the opening of this roundabout, but I have to say it has turned into another government stuff-up.

My constituents are very frustrated. David said:

> Sadly, it's shocking … Worse than the roundabout was.

Steve said:

> Dalton Road (either direction) is now worse for cyclists than the old roundabout.

Dannielle said:

> It's a disgrace now and takes a lot more time to get through.

Shelley said:

> Took nearly 20 minutes to get from ring-road to Childs Road.

Julie said:

> Ended up 15 minutes behind my usual time picking my kids up from school.

Sonji said:

> It is so much worse.

Salvatrice said:

> We thought it would help but turning right onto Childs from Dalton now takes a while.

Sarah said:

> Bring back the roundabout.

Joanne said:

> It's like a car park.

Tony said:

> It's still a disaster.

Amelia said:

> An absolutely unstructured development. It now takes me 22 minutes to drive 3 kilometres … Waste of taxpayer money.

Adrian said:

> Cars in front of me were going straight ahead and doing a U-turn opposite Aldi —

just to get around. Steph said:

> It's worse than before.

Donna said:

> They definitely got it wrong.

Maria said:

> Bring back the roundabout.

Jade said:

> It is an absolute joke … You have just made matters even worse than what they already were.

Narelle said:

> … what would have taken 5 minutes with the roundabout took me 28 minutes what a joke.

Tony said:

> Someone needs to be held accountable for this mess. Fed up!

Dean said:

> Bunch of Disney characters designed the thing. It's shocking.

Mr Jennings — Who are these people?

Mr ONDARCHIE — These are all my constituents who have written to me about this. Bec said:

> It is a joke took me 35 minutes to get through them.

Robert said:

> Big mistake …

Staci said:

> In fact northern suburbs traffic is one big joke!

Goran said:

> You've just made everyone's journey home after a hard day's work even worse!

Sue said:

> Still don't understand some idiot's concept of replacing the roundabout with lights.

Melissa said:

> … this project was a complete waste of time and money and has actually created a bigger, more frustrating issue for commuters and ratepayers.

Carolyn said:

> It has added an extra 15 minutes onto my trip.

Karen said:

> … you have created an intersection that will clearly have major problems in years to come.

There is a host of them. Jacqui said:

> It's way worse.

Elizabeth said:

> Traffic congestion is far worse than original roundabout including at the peak of roadworks with lane closures!

Christie said:

> Very, very disappointed.

George said:

> Have you guys driven through this intersection during peak times?

Neville said:

> Whoever thought it was a smart idea to install lights there should be sacked.

Karina said:

> Very disappointing … Much prefer the roundabout!

Robert said:

> A wonderful example of wasting road funds trying to 'fix' something that already worked.

Kylie said:

> So much worse!

The action I seek is that the Minister for Roads and Road Safety develop a solution that actually fixes this problem and advises me what the outcome is so I can advise my constituents.

Monash Freeway widening

Mr MULINO (Eastern Victoria) — I must confess from the outset that my adjournment matter tonight is going to have far less direct quotations from furious constituents. It is about a project that also relates to the Minister for Roads and Road Safety. It is actually a major project in my electorate and beyond — the M1 upgrade — which is involving a lot of road segments being upgraded.

I must say the commentary that I am receiving from the electorate is very positive. They are very glad to see extra capacity going into this major arterial, possibly the busiest road in Australia by some measures. It is a significant project that links many different parts of Melbourne. It is going to see upgrades all the way from Chadstone through to Pakenham in my electorate, a stretch of around 44 kilometres. Some parts of the road are going to have extra lanes added, some parts of the road are going to have ramps improved and so on. It is a significant project, both because of population growth all along that corridor but also because so many people work in areas far away from where they live. Many people, for example, who live in my electorate in Pakenham, in Beaconsfield or in Officer work in places along the EastLink corridor, or some work in the CBD. People work throughout Melbourne. Many have lengthy trips, so improving the effectiveness and efficiency of this road is absolutely critical.

There is significant work already underway, as anybody who has driven out to the east and back would know. It is a significant project that is well underway, but there are still significant amounts of work to be done. Much work is yet to be done out in my electorate, out near Pakenham, Pakenham South and that part of the freeway. My adjournment matter is for the Minister for Roads and Road Safety to provide an update as to the schedule of works on those parts of the project which are yet to be completed and to provide a summary of the benefits that will accrue to people in my electorate as a result of the completion of this project.

Energy prices

Mr O'SULLIVAN (Northern Victoria) — My adjournment matter tonight is for the Minister for Energy, Environment and Climate Change, and the action I am seeking is that she come to Shepparton and meet with the owners of Radevski Coolstores to discuss the high energy prices that they are confronted with. Radevski Coolstores in Shepparton East harvest and store apples, pears and peaches for consumption. The Radevskis have just recently gone through the process of renewing their electricity contract for 2018. As part of that process they got a couple of quotes.

Their current electricity costs are in the vicinity of $288 000 per year. The lowest quote they got was $473 000 and the highest quote was $483 000. Whichever way they go, whether they go for the lower or the higher quote, they are looking at an increase in their electricity costs of 64 or 68 per cent in one year. That is a lot of money — it represents $185 000 to $195 000 in one year in just electricity costs. The money could be used for expansion, for employing people or for a whole range of things in terms of expanding their business, making it more efficient and so forth, but unfortunately a lot of that money will be absorbed in the higher cost of electricity, which actually delivers nothing for their business other than being a higher expense.

What I am looking to have the minister do is come along and meet with the owners of Radevski Coolstores to gain an understanding of the impacts of the higher prices on their business, including what it means for jobs for their business, and to gain some sort of understanding that the policies undertaken by the government at this point are not working in terms of providing competitiveness for businesses, particularly those food-processing businesses which rely on energy to operate in an efficient way. This business has been in operation for more than 50 years. These increased energy prices are really putting pressure on such businesses to sustain themselves. I think we will see increasingly through a hot summer and in the coming years that a lot of these businesses will find that they just cannot operate in this state because of the high electricity prices that they are confronted with as a result of the reckless policies undertaken by this government.

South Morang railway line services

Ms PATTEN (Northern Metropolitan) — My adjournment matter is for the Minister for Public Transport. I am seeking action in relation to Northern Metropolitan Region's crowded South Morang train

line. While we passed a motion yesterday calling on the government to increase express services on the South Morang train line, my understanding is that that may not occur until the Mernda extension is completed — until another 8 kilometres is put onto that South Morang train line — and unfortunately my constituents are not able to actually get on the trains now.

We know that Melbourne's north is one of the fastest growing areas in the country. South Morang itself is growing by 170 people every week. Mernda, Epping, Preston and South Morang all fall amongst Melbourne's highest growth suburbs, and population density is increasing significantly along the length of the South Morang line. As I said, passengers just cannot get on the trains. When I spoke to a constituent who had heard the debate yesterday, he told me the story of how there is a gentleman in a wheelchair at his train station and people actually have to get off the train halfway through their journey to enable this poor fellow in a wheelchair to get on the train. I think it is very kind of those commuters to get off the train — and hopefully get on the next train into town — but as I said, this is an urgent matter, so I am asking the minister to not only consider the express services, as mentioned in the motion yesterday, but also to increase the frequency of train services on the South Morang line.

Truck curfews

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety, and it concerns truck curfews on Beach Road and Beaconsfield Parade on the stretch of road between Port Melbourne and Black Rock. We have very recently seen an announcement that there will be an extension of curfews for a 12-month trial period, and I suspect that this was done on the run. There had been some surveys done and also some interaction with locals. This had been done some time back, and I had been approached by constituents who were very interested to know the outcome of this because they were keen for some action on this front. In fact the surveys and so on had been requested under FOI, and it had been agreed that they would be handed over in June. This did not happen. It proceeded to VCAT, and — lo and behold — the documents were made public right before a hearing was supposed to happen.

A bit of publicity was evidently quickly organised, but a lot went unsaid, particularly when you look at the documents that were made public. I am referring to the *Beach Road Truck Curfew Survey: Community Consultation Report*, which is dated August 2017. In the announcement a couple of issues from the surveys went totally unaddressed. First of all, what we see is that there is a really poor understanding of what the existing truck curfews are. I will just quote from page 12:

> There was a mixed reaction from the overall response to the survey on the understanding of the existing truck curfews with 34 per cent of respondents aware of the existing truck curfews and the remaining 66 per cent are only either slightly aware or unaware of the curfews.

The second issue that went totally unremarked upon in the press announcements we saw recently is the evidence of breaches of the existing truck curfew. This is something that locals have been complaining about literally for years, and it was indeed picked up in the material that was put forward, but the government does not appear to have said anything at all about how it intends to address this issue — if in fact it intends to at all.

It seems to me that there is a pretty basic communication problem that has been highlighted by this announcement. Most people do not know about the existing truck curfews, and it does not seem that very much is happening at all in relation to breaches of the existing curfew. I ask the minister to provide an explanation of how public awareness and compliance will be addressed by the government as part of the truck curfews.

Horse-drawn vehicle safety

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety, and the action I ask of him is that he disallow horse-drawn vehicles as a class of vehicle inside the Hoddle grid.

The City of Melbourne chose not to renew street trading permits for horse-drawn vehicles from 1 July this year. This followed consultation with horse-drawn vehicle operators, the RSPCA, users of the carriages, Victoria Police and VicRoads. The city found that it was extremely difficult to regulate horse-drawn vehicle behaviour through its local laws and that, with the metro rail tunnel construction beginning, Swanston Street and the Hoddle grid are not safe for the continued operation of horse-drawn vehicles.

Greens councillor Rohan Leppert has said:

> I support these findings and believe that the central city is no place for horses, especially where it has been found that welfare standards and road rules are all but impossible to enforce through … local law …
>
> I never want to see again what we saw in July 2015 when a horse ran its head through a tram window.

> The world's busiest tram route is just no place for horses.
>
> But there is an important role for the state government here, especially since 1 July.
>
> There are a few horse-drawn vehicle operators still using Swanston Street, and a few still conducting street trading in the central city, in contravention of the City of Melbourne Activities Local Law.
>
> But City of Melbourne enforcement officers are not permitted to stop or approach drivers of moving vehicles — only Victoria Police can do that.
>
> The state government needs to step in and use its powers — which the City of Melbourne cannot — to make the central city safer for all people, and remove horse-drawn vehicle operations from the world's busiest tram route …

I say that this is essential for the safety and welfare of horses as well.

The mayor, Robert Doyle, has said:

> It's no longer appropriate for the horse-drawn vehicles to operate in their current location on Swanston Street. This civic spine should be primarily used for cyclists, trams and delivery vehicles. The impact of the Metro Tunnel works makes this change necessary now.

The RSPCA Victoria has also said it:

> … has long held concerns for the welfare of … carriage horses in this notoriously busy and congested environment.

The RSPCA said it has:

> … been working with the City of Melbourne to address animal welfare concerns and recently worked with its animal management team to upskill them on good horse welfare practices …

In terms of this issue, it is essential for public safety and for the safety and welfare of horses that horse-drawn vehicles are no longer allowed to operate inside the Hoddle grid, and I ask that the minister for roads take action to disallow that.

Vocational education and training

Mr GEPP (Northern Victoria) — My adjournment matter is for the Minister for Training and Skills. Vocational education and training in this state has been through some big changes. Back in 2012 we saw the massive over-enrolments presided over by those opposite when in government. In 2013 and 2014 the former government oversaw a massive slash-and-burn exercise that was particularly harsh on TAFEs and on vulnerable members of the community. These cuts were felt particularly hard in the regions, and it is only now, through the initiatives of the Andrews Labor government and Skills First, that we are seeing a recovery.

In my electorate of Northern Victoria Region the Victorian skills commissioner has established the Mallee Regional Skills Taskforce to address skills shortages facing the Mallee, part of Victoria's food bowl and a tri-state hub in the Victorian economy. This work on skills shortages is important to my community because we know that when they are not addressed in a meaningful way, skills shortages not only put business at a disadvantage but also hurt the most vulnerable in our community, denying them opportunities to gain the skills and qualifications required to have meaningful work. In Mildura we have a large Indigenous population, and unemployment, whilst falling, is still far too high.

Minister, the action I seek is that you visit Mildura, talk to training and skills stakeholders, including industry, and have a meaningful dialogue with us on how the most vulnerable in our community can get a shot at the economic success story that is the Victorian economy.

Lyme disease

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is to the Minister for Health, Minister Hennessy. It relates to a disease called Lyme disease. I want to bring this matter to the minister's attention because it has been brought to my attention that a young woman has for three years been battling the health system, as Lyme disease is not recognised in Australia, for a proper diagnosis of her having Lyme disease. Lyme disease is a disease that has various symptoms, but if it goes untreated it can have devastating effects.

The Lyme Disease Association of Australia describes what Lyme disease is. It is:

> … an infection caused by bacteria *Borrelia*. The bacteria, a spirochete, is transmitted when an individual is bitten by a vector …

usually a tick. It can have various symptoms, as I mentioned, and when it gets to the chronic stage it can have symptoms such as unexplained hair loss; headache, mild or severe; seizures; pressure in head; white matter lesions in the brain; facial paralysis; tingling of the nose, tongue or cheek; facial flushing; stiff or painful neck; twitching of facial or other muscles; jaw pain or stiffness; dental problems; and sore throat, clearing throat a lot, phlegm, hoarseness and a runny nose. You can tell from that list that they are very unpleasant symptoms and that some are very serious symptoms.

Madison is a young 26-year-old who, as I mentioned, has been suffering from Lyme disease after being

misdiagnosed as having glandular fever. In trying to work out the diagnosis she has visited over 30 doctors. This letter from her parents says:

> At one particular doctors visit, my daughter sat in front of a doctor, unable to eat, with a belly that looked like she was nine months pregnant, transparent skin and hair falling out in clumps and was told by the GP to practise mind-freeing techniques.

After finally having a correct diagnosis Madison was forced to have her treatment in Cyprus. Her parents have spent over $20 000 in trying to get proper treatment for their poor daughter and are very frustrated and emotionally drained with what has occurred with this ordeal. Madison's initial symptoms arose following a trip to America.

The action I seek from the minister is that the Department of Health and Human Services ensure appropriate and greater awareness of Lyme disease not only among the public but also Victoria's GPs through organisations such as the Royal Australian College of General Practitioners so that, despite Lyme disease not being recognised here in Australia, these symptoms can be made known to GPs and that earlier and more accurate treatments can be applied to those people that inadvertently and unfortunately contract Lyme disease.

Midland Highway upgrade

Mr RAMSAY (Western Victoria) — My adjournment matter tonight is for the Minister for Roads and Road Safety. The action I am seeking from the minister is for him to direct VicRoads to do some immediate upgrades to the Midland Highway. I raise the matter on the basis that last night tragically a young woman from Bannockburn died on the Midland Highway just outside Gheringhap. This was not a one-off; in fact the Midland Highway has a very poor record of accidents. In fact in April an elderly man died in a two-car crash involving a caravan just a few kilometres from Bannockburn. In February a two-car collision closed the Midland Highway near Meredith, with two people hospitalised. In 2015 a woman aged 52 died when the car she was driving hit a tree at Gheringhap as well.

The *Geelong Advertiser* today had the headline 'Killer highway claims teen'. Very sadly we have seen not only the Midland Highway but the Hamilton Highway with a very poor record of accidents and deaths. I do acknowledge that the Victorian government has allocated $10 million for four passing lanes between Bannockburn and Meredith, but it appears the main problem areas associated with accidents and safety are between the Geelong Ring Road and Bannockburn. There has been $2 million allocated between the federal and state governments to plan a potential duplication. I also understand there is some community unrest, particularly around Batesford, for a proposed duplication to go through that town. In fact there are a number of options being considered for bypasses south and north, and right through the centre of Batesford. That will take some time, and I understand that planning and consultation take time, but I think that given the spate of accidents and deaths on this road the matter is urgent. Victoria State Emergency Service labelled the road's condition as appalling and said urgent upgrades were required on the Midland Highway.

The action I ask of the minister tonight is for him to immediately have VicRoads do an inspection, particularly of the areas where these tragic accidents have occurred, and to direct VicRoads to do some immediate upgrades to make that section of the road that has the highest accident records safe for commuters.

Responses

Mr JENNINGS (Special Minister of State) — I have three written responses to adjournment matters raised previously by Ms Crozier on 22 August 2017, Mr Finn on 23 August 2017 and Mr Leane on 23 August 2017.

In relation to tonight's matters, Ms Lovell raised a matter for the attention of the Minister for Housing, Disability and Ageing seeking his response in terms of his policy and calling on the Andrews government to respond in relation to the needs of people who find themselves homeless and indeed a series of reforms that she suggests should be provided in supporting those who are vulnerable in our community. I actually have been provided with a ready reckoner during the course of the adjournment, and I draw her attention to the Social Housing Growth Fund, which is a $1 billion fund to increase the supply of social and affordable housing. In another initiative, the social housing pipeline, we see $120 million allocated to that program. The public housing renewal program is a $185 million program. There is the family violence housing blitz, which allocated $152 million in the 2016–17 budget.

Ms Lovell interjected.

Mr JENNINGS — Here we go. Good for you. Financial support for the community housing sector —

Ms Lovell — That is because it did not produce any results.

Mr JENNINGS — Well, Ms Lovell, thank you for your re-emergence. I do not know whether you are in your place or not. You have just reappeared, and during the course of your presentation, whilst you were criticising the ineffectiveness of these significant reforms that I have actually outlined on behalf of our government, you took credit for initiatives that you introduced that you say still have an enduring ability to be kicking goals, as you describe it. I think it is a bit hard to indicate that in fact your programs probably, in terms of the quantum of resource allocation, actually —

Ms Lovell — Rough sleepers reduced under us and they have increased by 74 per cent since you have been in government.

Mr JENNINGS — Ms Lovell, I am not intending to debate during the course of this evening. I will just draw this to your attention. You can actually study it. You can do an evaluation about whether the significant investment made by our government trumps the investment made by yours and —

Ms Lovell — Spending money does not mean you get results.

Mr JENNINGS — Absolutely, I agree with you, and the wisdom of policy decisions will be a legacy that people will understand well into the future.

The issue Ms Springle raised for the attention of the Minister for Families and Children implored the minister to improve record keeping in relation to child protection. I do not want people to think that I am emulating my colleague the Minister for Families and Children in relation to my dealing with the adjournment debate tonight, because under normal circumstances it is one-way traffic when I do the adjournment, but tonight it has been two-way.

Mr Ondarchie gave a litany of evidence from members of his community in relation to a roundabout in the northern section of his electorate and sought the attention of the Minister for Roads and Road Safety.

Mr Mulino also sought support from the Minister for Roads and Road Safety in relation to outlining to his community the benefits of the M1 upgrade between Chadstone and Pakenham and the updated schedule of works and the benefits it will draw to his local community.

Mr O'Sullivan implored the Minister for Energy, Environment and Climate Change to travel to Shepparton to meet the owners of Radevski Coolstores, who have had increasing energy costs, and to familiarise herself with their challenges.

Ms Patten raised a matter for the attention of the Minister for Public Transport seeking her support for an increased frequency of service on the South Morang line and for more express services to be able to provide for that increased train frequency.

Ms Fitzherbert raised a matter for the attention of the Minister for Roads and Road Safety about the implementation of a truck curfew between Port Melbourne and Black Rock and the way in which that would be complied with.

Ms Pennicuik raised a matter for the same minister in relation to his support to augment whatever action has been taken by the City of Melbourne to disallow horse-drawn carriages within the Melbourne CBD.

Mr Gepp raised a matter for the Minister for Training and Skills seeking her to travel to Mildura to work with the Mallee skills consortia to deal with ways in which the community can participate in economic activity and develop skills that enable them to provide productive work.

Ms Crozier raised a matter for the attention of the Minister for Health seeking the circulation of information and practice guidance to GPs through the Royal Australian College of General Practitioners or other services through the health system that at the one time recognises the symptoms of Lyme disease and the debilitating circumstances that may derive from it. It is a very vexing issue in relation to professional practice where in fact Lyme disease is perhaps a disease, as she describes it herself, that is not recognised in Australia, so that is a bit of a confronting issue and a perplexing regulatory environment. Nonetheless we should be sympathetic to those who have a series of symptoms that in some jurisdictions would be considered to be —

Ms Crozier — And they think that they may have it.

Mr JENNINGS — I am not disputing it at all; I am just outlining the history of it, as you know.

Ms Crozier — Yes, I do know; you're a former Minister for Health.

Mr JENNINGS — Yes, exactly. Mr Ramsay was going to leave, but I am glad he stayed, because in fact I want to congratulate Mr Ramsay on the earnestness of his presentation today, because sometimes matters in the adjournment debate are actually raised in quite hysterical fashion, but he is actually in touch —

Ms Crozier — And you are not?

Mr JENNINGS — No, no; he was in touch with the gravity of the situation where tragically somebody died on the Midland Highway in the last 24 hours, and there has been a coincidence of tragedies that he refers to that have occurred on that roadway and the Hamilton Highway either side of Bannockburn in and around Gheringhap. In fact he has acknowledged again graciously, which is not always done, that in fact $10 million has been allocated by the government to improve the passing lanes between Bannockburn and Meredith, and I thank him for recognising that. He also indicated there is joint funding for $2 million between state and commonwealth governments in relation to the Geelong Ring Road to Bannockburn, and he would hope that that work actually proceeds as quickly as possible. The action that he sought was for the Minister for Roads and Road Safety to implore VicRoads to do an urgent appraisal of what works may increase the safety to his community, and because he did it in such a thoughtful, respectful way, I thought I should respond in kind.

The ACTING PRESIDENT (**Mr Melhem**) — The house stands adjourned.

House adjourned 7.03 p.m. until Tuesday, 17 October.