PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 30 November 2017

(Extract from book 21)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

The ministry

(from 16 October 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 and Minister for Resources	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Major Projects	The Hon. J. Allan, MP
Minister for Industry and Employment	The Hon. B. A. Carroll, MP
Minister for Trade and Investment, Minister for Innovation and the Digital Economy, and Minister for Small Business	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, Minister for Early Childhood Education and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Police and Minister for Water	The Hon. L. M. Neville, 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 15 October 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
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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
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 Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
Minister for Consumer Affairs, Gaming and Liquor Regulation	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 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 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 — 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 — #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 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:
Dr S. RATNAM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John[1]	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina[2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Brien, Mr Daniel David[7]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel[3]	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[8]	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[4]	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	Ratnam, Dr Samantha Shantini[9]	Northern Metropolitan	Greens
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Gepp, Mr Mark[5]	Northern Victoria	ALP	Shing, Ms Harriet	Eastern Victoria	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Herbert, Mr Steven Ralph[6]	Northern Victoria	ALP	Springle, Ms Nina	South Eastern Metropolitan	Greens
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Melhem, Mr Cesar	Western Metropolitan	ALP	Young, Mr Daniel	Northern Victoria	SFFP

[1] Resigned 28 September 2017
[2] Appointed 15 April 2015
[3] DLP until 26 June 2017
[4] Resigned 27 May 2016
[5] Appointed 7 June 2017
[6] Resigned 6 April 2017
[7] Resigned 25 February 2015
[8] Appointed 12 October 2016
[9] Appointed 18 October 2017

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, 30 NOVEMBER 2017

Thursday, 30 November 2017

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

SUPREME COURT OF VICTORIA

Report 2015–16

Ms TIERNEY (Minister for Training and Skills) presented report by command of the Governor.

Laid on table.

Report 2016–17

Ms TIERNEY (Minister for Training and Skills) presented report by command of the Governor.

Laid on table.

JUDICIAL COLLEGE OF VICTORIA

Report 2016–17

Ms TIERNEY (Minister for Training and Skills), by leave, presented report.

Laid on table.

VICTORIA LAW FOUNDATION

Report 2016–17

Ms TIERNEY (Minister for Training and Skills), by leave, presented report.

Laid on table.

PAPERS

Laid on table by Clerk:

Australian Health Practitioner Regulation Authority — Report, 2016–17.

Health Practitioner Regulation National Law (Victoria) Act 2009 — National Health Practitioner Ombudsman and Privacy Commissioner Report, 2016–17.

Judicial College of Victoria — Minister's report of receipt of 2016–17 report.

Members of Parliament (Register of Interests) Act 1978 — Summary of Primary Return — November 2017 and Summary of Variations Notified between 22 September and 28 November 2017 *(Ordered to be published)*.

National Health Funding Pool Administrator — Report, 2016–17.

Ombudsman — Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre, November 2017 *(Ordered to be published)*.

Planning and Environment Act 1987 — Notice of Approval of the following amendment to planning schemes — Ararat, Baw Baw, Buloke, East Gippsland, Frankston, Gannawarra, Greater Bendigo, Greater Geelong, Macedon Ranges, Melbourne, Monash, Moorabool, Northern Grampians, Port Phillip and Stonnington Planning Schemes — Amendment GC49.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule Nos. 112, 113, 118 and 119.

Victorian Civil and Administrative Tribunal — Report, 2016–17.

BUSINESS OF THE HOUSE

Adjournment

Mr JENNINGS (Special Minister of State) — I am going to make the chamber happy. I move:

That the Council, at its rising, adjourn until 12.00 p.m. on Tuesday, 12 December.

Motion agreed to.

MEMBERS STATEMENTS

GEN44

Mr LEANE (Eastern Metropolitan) (09:40) — I was pleased yesterday morning to be at this year's launch of GEN44 at the Level Crossing Removal Authority's headquarters. GEN44 is a program where 44 university students can do a cadetship over summer at a number of authorities, including the Level Crossing Removal Authority, the Melbourne Metro Rail Authority, VicRoads and a number of other entities, such as Yarra Trams, to supplement their studies. When they finish their studies they will have on their résumé that they have done some serious work for these particular authorities, which is a huge feather in their cap. It is a very popular program to the point that while it is supposed to accommodate 44 people, which is why it is called GEN44, there are actually about 50 in this year's program. It is too late to change the header on the paperwork, so we are stuck with GEN44.

It is a fantastic program, and it is another program that is available because of the huge infrastructure program that the Andrews government has embarked on. We are providing these possibilities for young people and a number of other people, including people in underemployed groups, and we are seeing these social enterprises. This government will go down as one of

the greatest Victorian governments that has ever been in place, led by one of the greatest premiers ever in this state.

Epping RSL

Mr ONDARCHIE (Northern Metropolitan) (09:42) — I rise this morning to congratulate the Epping RSL sub-branch for the work that they do. They never forget that their primary purpose is to serve and support returned service men and women. I particularly note their Remembrance Day service, which took on a new beginning this year with the replacement of the wonderful Ken Jeffrey with Senior Sergeant Glenn Parker, who MC'ed the Remembrance Day ceremony under the mentorship of Ken Jeffrey. I congratulate Ross Harvey, the Anzac Day chairman; the president, Kevin Ind; Herb Mason, the outgoing president; Phil Creek, the secretary; Narelle Hart, the general manager of the Epping RSL; and their members. We got to experience a Remembrance Day service that was respectful, strong in its memory, meaningful and educational. I salute those at the Epping RSL sub-branch.

Zait Lounge and Bar

Mr ONDARCHIE — On another matter, I congratulate Tony and his team from Zait Lounge and Bar on the opening of their new business in South Morang. It is a venue that is much-needed as a place to socialise and get together in South Morang, and I congratulate Tony and the team for their investment and for taking on the risk in this new business.

Albert Street, Brunswick, development

Dr RATNAM (Northern Metropolitan) (09:43) — It is well-known that in this city and under this government developers have free reign. What is shaping the city is not careful planning by our governments but the unbridled pursuit of profit by developers. As if further proof is needed, the Minister for Planning has provided another sorry example of how broken the system is. Moreland City Council recently abandoned a rezoning application due to community concerns about a development's uncontrolled height and lack of community benefit. This spot on Albert Street is next to sporting grounds and parkland. The residents do not want towers overshadowing their open space and are tired of the desperate calls for mandatory heights, affordable housing and sustainability being ignored by the state-appointed planning panels, VCAT and the minister.

The community were no match for the developer's lawyers, who relentlessly pursued council. Council stood up and knocked it back. This upset the developers, who were expecting a nice windfall. Naturally they used their considerable influence with the government and were able to meet with the minister's office within weeks of council's decision, despite the community having to wait months, if not years, for a proper response.

In an unprecedented move the rezoning decision has been called in by the minister against the wishes of the community and council. He has used his powers to approve this rezoning, and the date this letter was shamefully signed — Sunday, 19 November — was the morning after the Northcote by-election. If this government wants to see more planning decisions overturned in this place, they are going the right way about it with such terrible decisions.

Australian Labor Party

Mrs PEULICH (South Eastern Metropolitan) (09:46) — Rorting has been the hallmark of Daniel Andrews and his government, setting the tone even before they won office: red shirt army rorting of electorate office budgets; Ted and Patch being chauffeured in government cars; rorting of the second residence allowance by senior Labor MPs, who are still delivering tainted votes; and the Deputy President's alleged involvement in irregularities in invoicing within his office. Today we know Sam Dastyari is delivering policy for cash, and this week at lunchtime on Monday Queen's Hall in the Parliament of Victoria, the seat of our democracy and the people's house, was being used to solicit financial donations to the Victorian branch of the Labor Party as part of an event attended by Labor luminaries. I actually witnessed the solicitation of donations by a woman at the registration table.

I call on the President of the Legislative Council to investigate who approved this activity to take place, who approved the collection of donations to the ALP and if and when the payment for the use of Queen's Hall for this activity occurred, because of course Victorians should never have to accept that their Parliament is being used as a branch of the Victorian ALP. Indeed this is a new and brazen misuse of public resources that I have not seen in my 21 years of parliamentary service. This serves only narrow party-political interests, and we should stamp it out.

Mr Dalidakis — On a point of order, President, my understanding is that given the seriousness of the allegations that the member has just made, that needs to be done through a substantive motion, not a members

statement. In fact I ask her to withdraw the point that she has made about members of Parliament in another place who have no ability to defend themselves against that kind of smear and gutter attack.

Mr Finn — On the point of order, President, the fact of the matter is that Mrs Peulich did not actually name any members. If she had directed accusations directly at members, then Mr Dalidakis would have a point, but he does not as she did not. It was directed towards the Australian Labor Party, and the Australian Labor Party does not have the sort of protection under the standing orders that Mr Dalidakis suggests.

Mrs Peulich — On the point of order, President, I certainly concur and have been advised to raise it in this manner. Yes, I did try that last night, and I did take a photograph of the form that was being distributed at the registration table. It was the True Believers fund, ALP Victorian branch, 438 Docklands Drive —

The PRESIDENT — Order! Mrs Peulich, you are debating; you are on a point of order. I do not accept Mr Dalidakis's point of order. I think Mr Finn was quite correct in his point of order before the house.

Western Victoria Region councils

Mr PURCELL (Western Victoria) (09:49) — It gives me great pleasure to rise today to congratulate the returning and new mayors in my part of the world. While it is not possible to mention all mayoral appointments in western Victoria, because I believe there are over 30 of them, it is important that I acknowledge the mayors of my old municipality and the neighbouring municipality that I spent a great deal of time working with and for.

This year's mayors include Warrnambool City Council mayor Robert Anderson, a first-time mayor. Robert has only has been a councillor for two years and has a big job ahead, and I look forward to working with Robert. Corangamite Shire Council mayor Jo Beard is a returning mayor after doing an exceptional job, and she works extremely hard for her community. In the Glenelg shire mayor Anita Rank is also a returning mayor after a stellar year, and for those who do not know, Anita is involved in everything in Portland and her surrounding district. Finally, mayor Mick Wolfe from my old shire, Moyne shire, is a first-time mayor. It was a pleasure to have Mick as a councillor while I was mayor, and he will do an exceptional job as he has a particular love for his community and his community work. Congratulations to all mayors in western Victoria. May you have a great year and enjoy the experience and honour that has been bestowed upon you.

Victoria Police Blue Ribbon Foundation

Mr O'DONOHUE (Eastern Victoria) (09:50) — I had the privilege of attending the Blue Ribbon Ball after the last sitting week. I must congratulate the chair, David Mann, the CEO, Neil Soulier, and all involved in making it such a fantastic event. As members will be aware, the Victoria Police Blue Ribbon Foundation, through the support of worthwhile community projects within Victoria, perpetuates the memory of members of Victoria Police killed in the line of duty, and in total 159 Victoria Police members have been killed in the line of duty.

In a similar vein, it was an absolute pleasure to attend the annual Victorian Police Pipe Band and Royal Australian Navy Band concert at the Frankston Arts Centre on Sunday put on by the peninsula branch of the Blue Ribbon Foundation. I congratulate Darryl and Rhon Nation, two outstanding community contributors, on their success in everything they have done for the Blue Ribbon Foundation through the peninsula branch, which has already contributed tens of thousands of dollars — indeed hundreds of thousands — to upgrade hospital equipment and medical services in Frankston and on the Mornington Peninsula.

Officer Specialist School

Mr O'DONOHUE — On a separate matter, I wish to raise the lack of car parking at Officer Specialist School now that the land around that school has been and is being developed. As the chamber would be aware, Officer Specialist School provides outstanding education to students with special needs, and more car parking for that school is required.

Senator Sam Dastyari

Mr DAVIS (Southern Metropolitan) (09:52) — All of us are aware of the imbroglio in the federal Parliament with the series of incidents that have occurred with section 44 in its various iterations and the citizenship matters that have had a very real impact with people losing their seats, although they never held them. But what I want to say is that the founding fathers were very aware of the need for clear citizenship and for clear allegiances. There has been long-term residency in British history, and indeed the founding fathers, as they were, took a very cautious approach and understood that we needed very clear citizenship arrangements in our national Parliament.

I for one think they got it right, despite the difficulties that have been caused and the undoubted confusion that has existed in recent months — and you need look no further than the incident with Senator Dastyari in recent days. It is clear that the need for clear and undivided allegiance is absolutely central to the operation of our federal Parliament and our federal constitution. Having influences from distant countries is not the way to go. I must say that the matter involving Senator Dastyari has been a very tawdry outing, and I think that he should not just go from that position of influence but from the Parliament.

Eureka rebellion anniversary

Mr MORRIS (Western Victoria) (09:54) — It was on this day 163 years ago that Peter Lalor and several miners at Bakery Hill swore the oath of allegiance which was:

> We swear by the Southern Cross to stand truly by each other and fight to defend our rights and liberties.

I do note that it was —

Ms Shing interjected.

Mr MORRIS — It was not the union movement at all, Ms Shing.

Mr Finn interjected.

Mr MORRIS — They were small business people indeed, Mr Finn, and what they were fighting against was a tyrannical government. They were fighting against a tyrannical government that was imposing unfair taxation. I note that 163 years ago the people rose up and fought against a tyrannical, bullying government that did not represent them and that was not acting in their best interests. That will be occurring again. History will repeat itself on 24 November 2018. The people of Victoria, rather than taking up arms, are going to take up their votes and throw out a bullying, tyrannical government. We are going to see the end of Daniel Andrews and the beginning of the Guy government.

Northcote by-election

Ms FITZHERBERT (Southern Metropolitan) (09:55) — The night before the Northcote by-election I was very surprised to read comments from the Animal Justice Party in the *Age*:

> We're preferencing Labor because they were offering us a Victorian welfare group for animals, they were also offering us about $500 000 for animal organisations and community organisations …

In this place the minister has deliberately avoided scrutiny of her decision to form Animal Welfare Victoria and also to make available a new $500 000 round of grants for animal welfare. The time line for these decisions, made without warning, align very neatly with the Northcote by-election campaign. But we do know that the minister did not consult with the Victorian Farmers Federation and did not consult with the Australian Veterinary Association or the RSPCA. She did not discuss it with the chief vet, Mr Charles Milne, when she met with him in the livestock industry consultative committee only three days before the announcement.

The Animal Justice Party posted to Facebook saying:

> In recent discussions with the ALP, we, the AJP, negotiated a better welfare deal for animals in Victoria.

These are extremely serious allegations. The minister may try to shrug them off, but the scenario that the Animal Justice Party has described is extremely serious and possibly illegal. The minister needs to stop ducking and weaving and talking out questions in this place and give a full account of who did the deal with the Animal Justice Party with taxpayer funds and with the participation of a government minister. It is time the minister came clean on this latest and very serious allegation of ALP rorting.

Northern Victoria Region flood risk

Mr O'SULLIVAN (Northern Victoria) (09:57) — Right across northern Victoria in my electorate the agriculture season is in full swing. We have got the grain harvest throughout most of the north and also into the Wimmera and some of western Victoria as well. Dairy production is in full swing, and the horticulture industry is coming online with is fruit, grapes and so forth, which are ripening on the trees and vines as we speak. This creates a lot of productivity and money for people in northern Victoria in my electorate.

But what we are about to see are some very large rains right across the state. We are hearing that it could be somewhere between 50 and 300 millimetres in what appears to be a statewide rain event that is going to be quite severe. If you look on the radar that is coming up, it could be more severe than anything we have seen for a long time, and there is potential for much damage to occur in the agricultural sector. Some areas, particularly in the Wimmera, have had much grain damage already through frost and also hail, and it is going to be potentially very devastating for those farmers and communities that might be severely impacted by the heavy rain that we are about to receive. The crop damage I think will be substantial. There could be

complete wipe-outs in some areas for those farmers who have not even started to harvest, particularly in the horticultural sector. I think we are probably going to see some plugs as well, so I hope the government is on stand-by to assist those people who need their assistance in the upcoming days and weeks.

FIREARMS AMENDMENT BILL 2017

Second reading

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

Mr O'DONOHUE (Eastern Victoria) (09:59) — I am pleased to rise on behalf of the opposition in relation to this important piece of legislation, the Firearms Amendment Bill 2017. At the outset I indicate that the opposition will not oppose this bill. Indeed some of the changes being brought are most welcome, and some of them pick up some previous policy announcements of the coalition, but I will get to that obviously in due course. I also flag to the chamber that I will be moving some amendments to the firearm prohibition order (FPO) scheme, and again I will get to that in due course.

The bill before the house amends the Firearms Act 1996 to do a number of things. Perhaps the one of most community interest is to introduce the firearm prohibition order scheme for police to proactively address the risk to public safety from the possession and use of firearms by organised crime groups and persons rated as a terrorist risk by police. I note that a firearm prohibition scheme has existed in New South Wales for many, many years, with recent changes, and indeed it was the subject of a 2015 ombudsman's inquiry.

The bill also seeks to insert a new indictable offence to tackle drive-by shootings and updates the offence of possession, carriage and use of firearms in public places. This is welcomed by the opposition. Back in April 2016 the Leader of the Opposition, Matthew Guy, announced a policy commitment of the coalition to create a drive-by shooting offence. We are pleased that 18 months later that commitment is being copied by the Andrews Labor government. The new offence that is being created is broadly similar to the terms which were announced by the opposition leader. An offence carries 15 years imprisonment, with the potential for that to be increased to 20. The key difference is that the opposition's announced policy had a statutory minimum of five years in jail for that offence. So whilst this new offence being created is broadly similar, it does not have that statutory minimum that the opposition was calling for and committed to.

The bill also seeks to amend the illicit firearm manufacture offence to better capture preparatory steps in the manufacturing process. I know in the minister's second-reading speech she referenced the Brighton siege, where it has been reported that Yacqub Khayre was able to purchase two weapons while on parole. I look forward to exploring that issue of manufacturing firearms and capturing those preparatory steps, because while that intent is supported by the opposition, in so many of these issues the devil can be in the detail. Some have put to me various questions about what exactly 'manufacture' is, what 'preparatory steps' are, where the line is drawn between innocently holding metalwork and other tools and perhaps transgressing this amended offence. As I said, the bill also revises the definition of trafficable quantities of unregistered firearms from more than three firearms to two or more. There are also a number of amendments to improve the operation of the firearms licensing and regulation system.

Turning now to the firearm prohibition order scheme, the key features of this new scheme involve the Chief Commissioner of Police or delegate. One of the amendments that I will circulate deals with the range of delegations that may be available. They will be able to make a firearm prohibition order against individuals if it is in the public interest to prohibit their access to firearms. An FPO can be ordered against someone who has no criminal convictions and basically, as the second-reading speech says, as does subsequent information provided to me by the minister's office — and I thank the minister's office for the extra information that has been provided — it has been kept deliberately broad to enable flexibility for police in determining whether an FPO should be issued. The merit of that is understood by the opposition, but of course that in a regulatory sense can create some challenges in identifying the breadth of this important new power.

So if an FPO is issued, police will have warrantless search powers over the life of the order. The bill proposes that the life of the order be 10 years for adults, with a potential for review at the midpoint of that order, so at five years. The person who is the subject of that order can seek to have that order reviewed at the midpoint, and it would be five years for children aged 14 years or older. My proposal in a set of amendments to be circulated is that that time period be simplified to five years with no review for all persons subject to an FPO.

Serious offences will apply if the firearm prohibition order subject acquires, possesses, carries or uses a firearm or firearm-related item, such as a silencer or cartridge ammunition, and again I think it would be very helpful if during the committee stage the minister clarified what 'related item' is. I anticipate there will be several questions just to clarify on the record what exactly a related item may be or may potentially be.

A person issued with an FPO will have a right of review to VCAT when the order is first made and, as I said, a further right of review at the halfway mark, which again I will seek to amend. These are broad powers for Victoria Police, and the need for these broad powers is clearly understood and supported by the opposition, but it is important that we get the balance right, and I believe that the Victorian Civil and Administrative Tribunal is not the correct jurisdiction for a review to be made. Indeed the correct jurisdiction for a review of such an important and serious order is in fact the court, so in the third set of amendments that I will put before the house I will be suggesting to the chamber that 'VCAT' be amended to 'the Magistrates Court'.

In summary, there is no doubt that we have a very serious issue when it comes to a relatively small cohort of organised crime figures — outlaw motorcycle gangs, some drug dealers and the like — and that police need the appropriate powers to be able to pursue them. We on this side of the chamber welcome the provision of appropriate powers to Victoria Police to be able to go after those increasingly sophisticated, cross-border, indeed international, organised crime syndicates to give them the power to break up those syndicates and disrupt their criminal activities importing drugs and weapons and causing and inflicting so much harm in the community.

We welcome the additional appropriate powers for Victoria Police to pursue those important, critical community safety objectives. The question for us is: what checks and balances are there in relation to those powers and how can the Parliament be satisfied we have got that balance correct? The three amendments I have foreshadowed, from the opposition's perspective, seek to provide that balance without compromising Victoria Police's ability to pursue that critical objective that we strongly support. That is really the intention of those three sets of amendments.

This is a critical issue, as I said. The minister on the first page of her second-reading speech said, and I quote:

> Drive-by shootings in Victoria have risen from 27 non-fatal shootings in 2014, to 67 in 2016 and already 47 to date in 2017.

I understand that figure is higher now since the second-reading speech was tabled. Drive-by shootings alone have enormous capacity to kill, injure and instil fear into law-abiding citizens going about their lives. They can literally get caught in the crossfire between warring criminal gangs and organisations. We need to do what we need to do to disrupt and put a stop to those activities.

The bill provides an oversight system which is described as a three-tiered oversight and assurance system with biannual reports to Parliament by IBAC, standing monitoring and reporting powers for IBAC and a review of a sufficient sample of case files to assess the information relied on when making the FPO. I think in addition to the regulatory regime in New South Wales and IBAC's oversight, this is welcome and a good initiative to provide oversight to the FPO regime. We welcome it and we support it. But, I suppose, it is after the event, and my amendments are seeking to provide greater certainty in relation to the processes for the ordering of an FPO at the time.

Just moving to the issue of who can order the issuing of an FPO, the government's bill is suggesting that superintendents, commanders, assistant commissioners, non-sworn deputy secretaries of the Department of Justice and Regulation — non-sworn members of executive command of Victoria Police, in other words — the three deputy commissioners and the chief commissioner of Victoria Police all have the ability to issue an FPO. In total that would cover more than 100 members of Victoria Police and those two non-sworn members. In discussions with the government, the number they are proposing will be significantly less than that, and whilst this is not about numbers alone, again the balance is between this significant new power and to whom that delegation should be provided. Some may suggest that the chief commissioner himself or herself should be the one issuing that power. The government's legislation suggests superintendents et cetera. In my view a balanced position is assistant commissioners or higher. I have had some discussions with the government about this, and I look forward to contributions from government members responding to my proposition. As I said, one of my amendments will seek to raise the chief commissioner's power of delegation to assistant commissioners or higher, so to around 20 sworn members of the force.

In relation to the firearm prohibition order, the member for Box Hill in the other place, Mr Clark, put on the record in the Assembly debate a number of concerns about the perhaps unintended consequences that this bill may have. One example that crystallises these concerns is the hypothetical example of someone who has a firearm prohibition order in place so they cannot attend a location where firearms are present but needs to report an activity or something to the police and attends a police station to do so. Arguably under the bill as it is drafted that person would contravene the firearm prohibition order by his or her attendance at the police station, where obviously firearms are held and police members have weapons on their person.

I do not raise this example to try to be clever or cute, but I think it is important that through this process and through the committee stage, with the minister's assistance, we seek to put on the record some further clarification about the intent of these orders to provide comfort to those lawful firearms owners who are concerned about the potential reach of these powers. Again, I say that without any reflection on members of Victoria Police or indeed on the government per se, but it is important for us as legislators to ensure that those legitimate concerns are addressed and the minister provides as much clarity as possible on the record about whom these new offences and these new orders are aimed at and the breadth or limitation of the powers in those sorts of examples that I have provided. Since Mr Clark raised those issues I have received some advice and some assurance from the government about the intended purpose, but again I think it is very important that that is put on the record. Hopefully that can provide some comfort to lawful firearms owners who may have some concerns about the breadth of these new powers.

It is probably worth making the point that while these amendments are being made to the Firearms Act and the word 'firearms' is mentioned as the first word of the new order, one does not necessarily have to have a connection to firearms to receive a firearm prohibition order. Notwithstanding that, significant extra powers are provided pursuant to this order.

Let me just address a couple of other issues in the bill that I want to flag for consideration and debate. In perusing the New South Wales scheme I noted that the number of police who actually generally issue FPOs is very limited. The majority of FPOs are authorised by two superintendents and one inspector tasked to the firearms registry, state crime command and Operation Talon respectively. Just going to the issue of who has the ability to issue an FPO, New South Wales has a broader scheme and hundreds of police have the capacity to issue FPOs, but I note from the report that the majority of FPOs are authorised by just four members of the New South Wales police force. Again the advice and representation to me has been that limiting the delegation to around 20 of the most senior police may raise some operational challenges, but the advice from New South Wales is that just four police issue the majority of FPOs there.

Moving through the bill, the grounds on which the chief commissioner or delegate may make an FPO are contained in new division 3 of new part 4A, proposed section 112E, 'Considerations for making a firearm prohibition order'. It states:

> The Chief Commissioner may make a firearm prohibition order only if the Chief Commissioner is satisfied that it is in the public interest —

so a broad test —

> to do so—
>
> (a) because of the criminal history of the individual …

but as I said, it is not a requirement that there be a criminal history —

> (b) because of the behaviour of the individual; or
>
> (c) because of the people with whom the individual associates; or
>
> (d) because, on the basis of information known to the Chief Commissioner about the individual, the individual may pose a threat or risk to public safety.

I have had various pieces of different advice from the government about the nature of the ordering of FPOs and about whether these considerations in the public interest, as articulated in new section 112E, will be made in advance, considering the intelligence and risk assessments available to Victoria Police in a considered way, or whether these orders may be made almost contemporaneously as situations present themselves. I think that is an important issue to consider when determining the appropriate delegation. But also, if it is anticipated that significant numbers of FPOs will be issued as a result of active investigations in an almost contemporaneous sense, what comfort can the community have about the checks and balances around the issuing of those orders in such a short time? Without questioning the purpose, the intent or the potential benefits that may flow from this regime, those questions around the checks and balances are ones that I think are worthy of consideration by this chamber, and comfort should be provided by the minister in due course.

Once an FPO is ordered, all licences, permits and approvals under the Firearms Act 1996 held by an individual to whom a firearm prohibition order applies are cancelled by the making of the order, and the cancellation has an effect on the order being served on the individual. The chief commissioner may revoke an FPO at any time. In new division 4 sections 112L and 112M set out the review mechanism for an FPO, and I will be seeking to change the reference from VCAT to the court. I think it is appropriate to have a court review such a significant new head of power rather than a tribunal, again without reflecting on the good men and women of the tribunal.

The offences created by this bill are significant. An individual to whom an FPO applies is not allowed to enter the premises of a person who carries on the business of being a firearms dealer, a shooting range, a handgun target club, a firearms collectors club, a shooters club, a place where a handgun target shooting match is occurring, a paintball range or a place at which paintball activities are carried out, or premises where firearms are stored. It is that final point to which I alluded before in relation to police stations. The other hypothetical example is that if a person attended someone's premises for a legitimate purpose it may be unknown to that person that those premises contain firearms. Again I think it is important to clarify those sorts of issues when we have the opportunity to do so through the committee stage.

It is an offence to fail to surrender firearms or firearm-related items on the service of an order, with a maximum penalty of five years. The FPO provides the power to search premises, vehicles, vessels or aircraft without warrant or consent, and it lowers the threshold from having reasonable suspicion or reasonable belief to the exercise of the power being 'reasonably required', and that term has been picked up from both the New South Wales and the South Australian schemes. So it is a lowering of the threshold required to enable Victoria Police to undertake those searches.

That is probably enough of the detail of the actual FPO arrangements at this time. In general the opposition welcomes these changes. I refer to the commitment of the opposition in relation to drive-by shootings from 10 April 2016. I am pleased that the government has again lifted a policy of the opposition, albeit not quite as strongly as we had proposed. We recognise the increasingly complex environment that Victoria Police operates in, as events from early this week demonstrated. In countering that, Victoria Police is doing a number of things, including working much more closely with our partners in other states and with federal authorities so that information can be shared and actions can be taken in real time with all relevant information.

Another limb of that response is having the powers required to respond to the sophisticated and very dangerous nature of some of the offending that is taking place in Victoria. I think Victorians have been shocked at some of the crimes we have seen and some of the activities we have seen. We should never underestimate the cost to the community — for victims of crime and the broader community — of the impact it has on people's lives, on their ability to feel safe at night and on their ability to move around, as they should be able to, without fear.

I do wish to move amendments that seek to address the length of time for the FPO, address the appeal mechanism for the FPO and reduce the delegation to a level which I think adequately reflects the very serious nature and the significant powers that the FPO provides. Perhaps now may be the appropriate time to circulate those amendments.

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

Mr O'DONOHUE — One of my very talented staff has just highlighted to me that I mentioned that the Department of Justice and Regulation's deputy secretaries are able to issue the FPOs. That may have not been strictly correct. It is the deputy secretary at Victoria Police — just to correct the record.

The ACTING PRESIDENT (**Mr Ramsay**) — He is listening.

Mr O'DONOHUE — Indeed. I have also received further advice about the number of police that can issue the FPO in New South Wales. Again, as I think I said in my contribution, more police can issue the FPO in New South Wales than what is contemplated through this legislation as proposed by the government. But I think it is instructive from an operational perspective that only four police issue the majority. I am sure we will have further discussions about these issues.

The opposition welcomes any move by the government to strengthen community safety and to tackle the crime issue Victoria has seen in recent times that has shocked the community. We welcome the appropriate powers being given to Victoria Police, giving them the tools they need to disrupt this type of organised, sophisticated criminal activity. With those words, the opposition will not oppose the bill, and I look forward to pursuing some of these other issues in the committee stage.

Mr BOURMAN (Eastern Victoria) (10:34) — It gives me pleasure today to stand up and speak on the Firearms Amendment Bill 2017. The changing face of law enforcement has obviously brought this bill to the fore. The days of outlaw motorcycle gangs have been around for a while, but the days of terrorists are clearly here and we need to move with the times. A firearm prohibition order (FPO) sounds fairly straightforward, but there is a lot more to this than just telling a criminal, who probably already has a firearm illegally, that they cannot have an illegal firearm.

As they say in this game, the devil is in the detail, and it is the detail we need to think long and hard about. The detail here is what the search party is granted, and the Scrutiny of Acts and Regulations Committee did a pretty good summary in *Alert Digest* No. 14 of issues arising from this bill. I do not propose to go through that, but there are many human rights issues, given that the FPO will pretty well allow a warrantless stop and search of anyone with an FPO against them, no matter who they are with and where they are. This means that someone who is completely unaware of the situation — think of a family member or an acquaintance — can be caught up in a tactical stop and search. A tactical stop and search is not a 'Please may I search you?' affair. It may be by the special operations group, who are very serious people with very serious equipment and procedures. This could have someone involved that is completely unaware of what is going on.

If someone fits the needs of an FPO, I have no qualms about this. Life can be pretty complicated at times, but it does not take much not to be a terrorist or involved in organised crime. If this is the life you have chosen, then this is one of the consequences. Where I have some issues is around the processes and administration of the FPOs.

I do support Mr O'Donohue's amendments. To be honest, when it came to the delegation of powers as to who can make an FPO, initially I was going to go just for the Chief Commissioner of Police. While this may sound impracticable, we are talking about a warrantless stop and search and powers of entry. This is an extraordinary impost on civil liberties, so it must be done at a level that is most accountable. It can be given to someone with no convictions whatsoever, and the original list of people that could make one included bureaucrats. As a police officer, no matter how long you have been in what I call the uniform bureaucracy, at some point in time you went through the academy, you were out on the street and you have an understanding. Not all bureaucrats have that luxury. The New South Wales system of firearm prohibition orders has recently drawn quite a substantial level of criticism and has warranted a fairly substantial review. This is our opportunity to get this right. This is our opportunity to make sure that we do not have in five or 10 years time an inquiry into what we are talking about today.

As well as the concerns I have outlined, my main concern is about how this could be used against law-abiding shooters. It may be a long stretch to say this, but the devil is in the details. Why is the purpose of the Firearms Act 1996 being changed to add the word 'strict'? The act itself is mainly about legal firearm ownership and penalties for not abiding by the legislation, so it is strict already. Why is VCAT effectively replacing the Firearms Appeals Committee? I am aware that Victoria Police is currently ignoring some advice from the Firearms Appeals Committee and has gone to VCAT, so are they going to ignore VCAT? I do not know what they are going to do.

Having discussed my criticisms of this bill, there are some good things for recreational shooters. There is the extension of junior licences, so after the expiration of your junior licence, or when you turn 18, and in the time it takes to get a proper adult shooting licence, you are no longer all of a sudden left unlicensed. It is not like you are allowed to actually own a firearm anyway, but it is a very good thing. The extension of the notice of receiving instructions is good, particularly for juniors, who before only had three times until they turned 18 when they could legally go and fire a handgun at a proper range. But how are we going to allow people to practise enough for Olympic competition if they can only shoot three times between 12 and 18? Whilst this is good, there is a definite improvement that could be made; we could put a time limit on it.

I am not going to go into the level of detail that Mr O'Donohue did; he covered it fairly extensively. I am going to go into a fair bit of detail in the committee stage, and most of my concerns will be drawn out there. It is not necessarily guaranteed that we will support this bill, because it depends on what we get out of the committee stage. If the government satisfies my concerns, then we will do that, and if not, then we will take that as it comes.

I am flagging now that I will move an amendment that is about the advertising of firearms. That amendment sounds very much like my recent private members bill, which is slowly dying in the Assembly somewhere. I figure this is an opportunity, because there is a change

in this bill to allow firearms dealers to advertise via the internet, and now is a good time to slip that in.

Shooters, Fishers and Farmers Party amendments circulated by Mr BOURMAN (Eastern Victoria) pursuant to standing orders.

Mr BOURMAN — I am not going to go into any real detail about these; we have recently covered it. I am just going to make sure that it is on the record again, that my amendment does not allow anyone who is not a licensed firearm owner to have, buy or possess a legal firearm. All it does is allow people to advertise on the internet. It does not give any more detail to anyone other than what is already in a print shooting magazine. It is almost an inconsequential amendment, to be honest. It is 2017; it is not 1990. The internet is here, and from that point of view I would suggest we just vote for it.

Ms SYMES (Northern Victoria) (10:41) — I will just go through the bill's content for the benefit of the house. We have heard that there are several amendments, particularly those put by Mr O'Donohue, but I have not had the opportunity to be fully briefed on those. The Minister for Police in the other place is in ongoing discussions about those, and Minister Tierney will be able to address them in the committee.

I just wanted to say that we all know the harm that is caused by illegal firearms and firearm crime in Victoria. It is quite shocking that the 2016 report of the Australian Crime Intelligence Commission conservatively estimates that there are 260 000 illegal guns across the country. Victoria Police officers work tirelessly to reduce harm in our communities and address the crime that occurs as a result of these illegal firearms. We work very closely with Victoria Police to ensure that they have the powers and resources they need to keep Victorians safe, and we have the utmost respect for the job they do.

Since we came to government there has been substantial investment in additional resources for the police — more than $2 billion. There are more police officers — 2729 additional police officers to be precise; more than 100 new protective services officers have been rolled out; there is the dedicated 24-hour police assistance line; there is the modernisation and expansion of Victoria Police air wing; and I think about 10 police stations are being upgraded at the moment. There was the development of the *Community Safety Statement* this year, and what we learned from that process is that there can be more done to reduce the harm caused by illegal firearm use in the state, and this bill responds to that.

The bill will provide Victoria Police with strong new powers to target and search individuals from outlaw motorcycle gangs and serious criminal organisations, including those who may just associate with organised crime figures. It introduces a firearm prohibition order (FPO) scheme into the Firearms Act 1996 for police to proactively address the risks to public safety from the possession and use of firearms by crime groups and persons rated as a terrorist risk by police. The scheme is modelled on that of New South Wales.

The bill inserts a new indictable offence into the Firearms Act to tackle drive-by shootings and updates the offence for possession, carriage and use of firearms in public places. It amends the illicit firearm manufacturing offence to better capture the early steps in the manufacturing process of those particular items. It reduces the definition of trafficable quantities of unregistered firearms from four firearms to two or more, and it also makes a number of amendments to improve the operation of the firearms licensing and regulation system, which of course is of particular interest to Mr Bourman.

In relation to the firearm prohibition order scheme, the bill as I have said is based on the New South Wales model but also reflects the South Australian model. The prohibition order will apply before the event so police can quickly and proactively disrupt criminal activity where there is sufficient intelligence that the person should not have access to firearms. Under the FPO scheme in the bill, the Chief Commissioner of Police or select delegate may issue an FPO if satisfied that a person's criminal history, behaviour or associations are such that they may pose a threat to public safety, which means that it is not in the public interest for those types of people to have a firearm.

Deputy Commissioner Shane Patton has said that the legislation is groundbreaking and perhaps the most important piece of legislation introduced for a number of years to improve community safety. FPOs will have a maximum 10-year duration for adults and five years for children, and police will have significant search powers that can be exercised at any time. There is a right of review to VCAT with safeguards to protect police intelligence. Persons subject to an FPO will have a further review right at the halfway point in the order, that being five years. IBAC will have a three-tiered oversight role, which will include reviews every two years to the minister and Parliament and review of the case files relied on when making the FPOs, as well as standing powers to review and report on the scheme at any time. The scheme will sunset 10 years after operation, unless Parliament determines that it should continue.

The government has been very clear that this is not and has never been about any intention for these orders to inhibit the lawful activities of legitimate firearm users, including sporting shooters and farmers. The orders will be used against and are targeted at our most serious criminals. The powers will also target individuals associated with organised crime who might actually have a clean record but the intelligence is that they may pose a risk. We want to stop serious criminals in their tracks, and that is why this legislation is designed to get tough on gun possession. The orders will be used as part of a suite of investigative and disruptive tools to target crime, supported by additional investment in 30 new officers and two support personnel for the anti-gang and illicit trafficking teams.

In relation to the drive-by shooting offence, as was outlined in the *Community Safety Statement*, it is a specific new offence relating to shooting at premises, vehicles, vessels or aircraft. The offence uses a broad definition of 'premises' to cover structures where people may be present. These new offences carry high penalties which reflect the seriousness and potential for fatal injuries from this type of conduct with a firearm in public places and Victoria Police's concern about events involving drive-by and non-fatal shootings in recent years. The indictable offence of discharging a shot, bullet or other missile at a premises or vehicle, vessel or aircraft with reckless disregard for the safety of any person will have a penalty of a maximum of 15 years imprisonment.

I note that Mr Bourman welcomed some of the amendments that support sporting shooters, and in particular the bill sets out to support amateur and sporting shooters by removing a distinction in the number of unlicensed supervised handgun shoots for adults and children so that over an unlicensed person's lifetime they will be able to receive a maximum of 13 supervised instructions at an approved shooting range. This will provide people with more opportunity to try out target handgun shooting before committing to the sport and associated licensing requirements. Mr Bourman also talked about the potential gap that has been closed in relation to the junior licence holders when they go for an adult licence application.

I do commend the bill to the house. I know that there are ongoing discussions. I have alerted the whips of the other parties that this bill will be adjourned off during its second reading and the committee stage will be later this day. For anybody who wants to have ongoing conversations, the department are available to talk to them about the various amendments that are being proposed.

Ms PENNICUIK (Southern Metropolitan) (10:49) — I am pleased to speak on the Firearms Amendment Bill 2017 today. This bill creates a firearm prohibition order (FPO) scheme to sit alongside the already existing prohibited person scheme with regard to possession of firearms. It creates an offence for possessing, carrying and using firearms in public places and private property; provides for firearm prohibition orders and, further, provides for the Victorian Civil and Administrative Tribunal to review certain Chief Commissioner of Police firearm licensing decisions under the act; provides for trafficable quantities of unregistered firearms and reduces the quantity from 10 to two; creates offences for possession of parts and equipment for the purposes of manufacturing firearms; provides police with certain search and seizure powers; and provides for independent oversight of the FPO regime by IBAC. It also provides for a new offence of discharging a firearm at a premises or vehicle with a maximum penalty of 15 years, and the Greens are pleased to see no mandatory minimum penalty attached to that offence.

The Greens are broadly supportive of the bill. I have had some research done with regard to the existence or not of similar schemes in other states, and as has been mentioned already by other speakers, there is a scheme of firearm prohibition orders in place in New South Wales. But it is also in place in South Australia and Tasmania and will be introduced into Western Australia shortly as well. I asked the library to have a look into these schemes in the other states for me because I thought they were very apposite to the bill being put forward by the government for a similar scheme in Victoria, and I thank the library staff for preparing that brief for me. We can say that the bill before us and the proposed scheme in Victoria is modelled on the New South Wales scheme and takes into account the recommendations of the review and report of the New South Wales FPO search powers by the New South Wales Ombudsman last year.

It is worth saying that the New South Wales FPO scheme, according to the New South Wales police, has had significant impacts on firearm crime in New South Wales. Police advise that shooting incidents across the New South Wales metropolitan and regional areas have decreased by 45 per cent since the introduction of the scheme in 2013. It is worth also pointing out that the Commissioner of the New South Wales Police has had the power to apply an FPO on a person since 1973. The bill that was introduced in 2013 added several provisions to prohibit persons subject to FPOs.

A New South Wales Ombudsman report, which was mentioned by Mr O'Donohue earlier, found that the police used the FPO search powers extensively during the period of the review. There were approximately 1500 interactions where police used the search powers. During those interactions the police conducted over 2500 separate searches, sometimes of the person as well as of their property. Police found firearms, ammunition and firearm parts in a small number — 2 per cent — of those interactions, and seized 35 firearms, 26 lots of ammunition and nine firearm parts. The Ombudsman found — and this is slightly different to what was said before — that the searches conducted on these people appeared to be generally consistent with the intention of the Parliament in New South Wales.

However, the report found that police conducted searches on more than 200 people who were not subject to an FPO at the time of the search, conducted those searches on what appeared to be an erroneous application of the FPO search powers in New South Wales and that those searches may in fact have been unlawful. The New South Wales Ombudsman found a lack of clarity and police understanding of when they may conduct an FPO search on an FPO subject. In 14 per cent of those events police conducted a search on the basis of their apparent understanding that a search can be conducted for the reason alone that the person is an FPO subject. The Ombudsman did not view that as being correct but that the intention of the act was that a search can be conducted only when reasonably required to determine if an FPO offence has been committed. It is not a roving search power to be used randomly on FPO subjects but a power to be used in a targeted way to examine if firearms control legislation is being properly observed.

In looking at the bill I understand that the Victorian bill picks up that gap in the New South Wales legislation, such that in terms of the search power a police officer may conduct a search if they believe that it is reasonably required to ascertain whether a person who is the subject of a firearm prohibition order is in fact carrying a firearm or part of a firearm. The New South Wales Ombudsman also said that the fact that the FPO searches have enabled police to confiscate illicit firearms during the review period was a positive outcome. The report made 15 recommendations to the government of New South Wales regarding the scheme.

South Australia has a similar system in place, which shares some similarities with the Firearms Amendment Bill 2017. However, there are several key provisions which provide South Australian police with potentially broader scope to act in relation to firearm prohibition orders. For example, their act outlines wide powers in which a police officer can issue an FPO to a person who is part of or used to be part of a criminal organisation and provides that a person is assumed unless there is evidence to the contrary to be part of a criminal organisation if the person wears or displays the insignia of that organisation. It appears that in South Australia an ordinary police officer can apply an FPO, and that will be interesting in terms of the discussion with regard to Mr O'Donohue's amendments limiting the rank of police who can apply an FPO. In the South Australian regime there are wide powers to forbid a person issued with a prohibition order from possessing or being near to those possessing firearms, including paintball guns and equipment, and severe penalties apply to those people.

Tasmania also has a legal mechanism for the issue of prohibition orders. It is a pretty straightforward regime It allows for the commissioner to issue and FPO to a person who is unfit in the public interest to possess or use a firearm, and the commissioner may revoke that prohibition order at any time. The person issued with an FPO must not possess or use a firearm in contravention of the order et cetera. The penalties under the Tasmanian regime are similar to those in the Victorian bill, but are less severe than those under the South Australian regime. There does not appear to be any provision in the Tasmanian scheme for police officers to conduct warrantless searches of people who have been issued or who officers reasonably believe have been issued with prohibition orders.

Western Australia has a different scheme, which applies under particular acts: the Prohibited Behaviour Orders Act 2010, the Criminal Organisations Control Act 2012 and the review of the Firearms Act 1973 in that state. Again, that is a bit different to the other states.

The reason for looking into what applies in other states is that I think this is quite a significant power to give to police. I wanted to know the regimes around the country and how they may differ or be similar. One of the issues to raise here in terms of national consistency with firearm regulation is that with regard to this particular part of firearm regulation — that is, the issuing of firearm prohibition orders — it is not consistent around the country.

I think that will be an issue for people who cross state borders and may be subject to different regimes in different states and territories. So it is another example of firearm legislation not being consistent across Australia, and really all efforts should be made to make it so. Even though the differences between the states with regard to firearm prohibition orders are not that

great, they still do differ, and they do differ in terms of the penalties that are attached to them. This bill is modelled on the New South Wales FPO powers and has been developed in consultation with Victoria Police. As I mentioned, the New South Wales police advise that their scheme has resulted in a reduction in shootings across New South Wales metropolitan areas by 45 per cent from 2011 to 2016. They have advised Victoria Police that FPOs have been successfully issued in counterterrorism cases and against outlaw motorcycle gang members and other high-risk individuals.

Currently in Victoria under the prohibited person scheme a person is prohibited from having or using a firearm because of their criminal conviction or imprisonment for a serious crime or because they are subject to an intervention order. However, the existing scheme does not address individuals who are not prohibited but are still a significant concern to police in relation to the risk of firearms, so this bill inserts new part 4A into the Firearms Act 1996 to create the FPO scheme. This allows the chief commissioner or delegates of the chief commissioner, down to the level of superintendent and including some executive civilian members of the police, to issue FPO orders. I know Mr O'Donohue has an amendment to restrict that to the assistant and deputy commissioner level. I am certainly interested in the arguments for that restriction, notwithstanding that I noticed the differences in other jurisdictions with regard to which police can actually issue FPOs.

The new scheme that will be introduced in this bill allows, as I said, the chief commissioner or delegates to make an FPO, meaning prohibiting an individual from acquiring any firearm or firearm-related item or possessing, carrying or using any firearm or firearm-related item. That will be done if the commissioner or delegate is satisfied that it is in the public interest to do so because of any one of the following: the criminal history of the individual, the behaviour of the individual, the people with whom the individual associates and information that the individual may pose a threat or risk to safety. This is quite a strong power to give to the police, who already have a lot of powers, so it is important that we look at who issues those orders and what safeguards there are with regard to the issuing of them.

People who are subject to an FPO will be restricted from entering or remaining on certain premises where firearms are available. These premises will include shooting ranges, shooting clubs, premises where firearms are kept and paintball locations. The Scrutiny of Acts and Regulations Committee did raise the issue of a person who is subject to an FPO being restricted from being in a house or living in a premises where a firearm is located or where another person who is not the subject of an FPO or a prohibition order does carry a firearm. The chief commissioner cannot make an FPO in relation to a person who is under 14 years of age. The FPO will remain in force for 10 years from the day it is served on the individual, and it may be revoked at any point by the chief commissioner. I note that in New South Wales FPOs are in place for an indefinite period of time; there is no time limit on them. Significant penalties apply for an offence where a person who is subject to an FPO acquires, possesses or carries a firearm or a firearm-related item. There is a maximum of 10 years imprisonment.

Mr Bourman raised the issue of firearm-related items or parts of firearms being included in this regime. I make the point that I think it is very important that they are, because earlier in another piece of legislation I raised the issue of customs inadvertently coming across boxes of different parts of firearms being illegally imported into Australia. Several of those boxes had eluded customs. As I understand it, they were in fact still in circulation in the Australian community before customs were actually alerted to this way of importing illegal firearms in pieces into the country. So the applies to not just full firearms but also parts of firearms in different boxes that are coming into the country. In fact I think it is really important that this covers parts of firearms.

The appeal rights under the bill are such that after being served with an FPO an individual may apply within 28 days to VCAT for a merits review of a decision. Mr O'Donohue has circulated amendments with regard to whether VCAT is the appropriate place for the merits review or the appeal mechanism and whether this should not in fact be made to a higher jurisdiction, such as the Magistrates Court. I have some sympathy for that argument, and I will be interested in the government's views on that, because as I say, it is a very strong power that will be given to the police here, notwithstanding those that exist in other jurisdictions. I think it would be preferable if a court oversees the application of this power.

As I said, the Victorian scheme takes into account the New South Wales Ombudsman's review in giving police search and seizure powers without consent or warrant in relation to persons subject to FPOs and also any persons who accompany a person who is subject to an FPO such that the police may enter and search any premises occupied by or under the control of that individual; search any vehicle, vessel or aircraft that is in the charge of the individual or passenger, including stopping and detaining any vehicle as long as it is

reasonably necessary to conduct the search; and search the individual and seize any firearm or related item that is found. However, these powers may only be exercised if the power is reasonably required to determine whether an individual has acquired, possesses or is carrying or using a firearm or related item in contravention of the act. I think that does take into account the concern that was raised by the overuse of powers, which seemed to be a misunderstanding of the powers by New South Wales police.

This scheme will be overseen by IBAC. IBAC is to report biannually to the minister on the administration of FPOs and the exercise of the powers, and the report is to be tabled in Parliament. IBAC will also have standing powers to monitor the exercise of the powers under part 4A of the bill and will have all the necessary powers to discharge this function, including powers of entry of Victoria Police premises, full and free access to all relevant Victoria Police records and documents, and powers to direct police officers to give IBAC any relevant information or document or answer any relevant questions, which I think is a good mechanism of oversight of this scheme.

As I mentioned, the bill also introduces the offence of discharging a firearm into a building or vehicle, otherwise known as a drive-by offence. While the Greens are usually very reluctant to add to the statute book new offences which are already offences — it is already an offence to shoot at a building or vehicle or discharge a firearm in a public place, so it is not that hitherto it has been legal to discharge a firearm in a public place — given the fact that this new provision will not carry a mandatory minimum sentence, the Greens in this instance will not oppose it, although we do find it an unnecessary new offence duplicating something that is already an offence.

The Greens are not disposed to support the amendments put forward by Mr Bourman with regard to advertising of firearms. In fact I am not sure that there is any prohibition under the act for advertising of firearms online. I have had a look at that provision, and it does not say that the advertising must be in printed material. It just talks about publishing and it does not actually restrict publishing to printed publications, but I will be interested in pursuing that during the committee stage.

With those comments on this important piece of legislation, the Greens will support the bill. We reserve our rights on the amendments as put forward by Mr O'Donohue, by the government and by Mr Bourman.

Mr O'SULLIVAN (Northern Victoria) (11:11) — It gives me great pleasure to rise this morning to make a contribution to the Firearms Amendment Bill 2017. I want to make a few comments in relation to the contents of this bill, but before I do that I am happy to put on the record that I am a shooter. I am a licensed shooter, and I own a couple of firearms. I grew up on a farm where we undertook quite a bit of shooting as part of the requirements of our farming enterprise, and I am a member of Field and Game Australia to date. I am just happy to put that on the record.

In terms of this bill there are some things in here that do concern me, and I wish to put those on the record to indicate that I am not pleased with everything in this bill. I am happy to acknowledge the amendments that have been put forward by Mr O'Donohue on behalf of the coalition, and I think some of those amendments are favourable and would make this bill a better bill if they were to pass as a part of this legislation. If you look at what is contained in this bill, the sentiment of it might seem reasonable at the outset in terms of addressing issues such as mitigating terror-related strategies. While that might be a laudable premise in terms of which this bill might situate itself, unfortunately when you get into some of the detail of the bill I think it crosses over from addressing those issues in relation to potential risks or threats to our community from the top-end terrorist type of assaults that could happen in our state.

Rightly so, we all agree that we must do what we can to ensure that people are as safe as they can possibly be in terms of that risk mitigation. I certainly agree with that as well, but what this bill does is go beyond that. Unfortunately that is where I start to have some of the problems that I have with the bill, like when you talk about trafficable quantities of unregistered firearms. That sounds like a substantial problem that certainly should have laws around it, but when you actually break it down in terms of what that really means, the intent, while it sounds good, starts to impact on ordinary firearm users who use their firearms in a very lawful way and do all the right things in terms of storage, licensing, handling and the use of their firearms. I think this legislation actually goes too far in terms of interfering with the law-abiding licensed firearm owner and user.

I might just go through some of those problems as I see them so that we can put those on the record and point out some of the problems. When this bill goes into committee I might ask a couple of questions in relation to that at a later time. One of the significant elements of this bill is the nature of the Chief Commissioner of Police's role in bringing about an order in relation to a person that is referred to as 'a prohibited person' in

terms of owning or possessing firearms. I want to touch base on that, but I also want to touch base on some of the other aspects of those prohibition orders — the way they are administered, the way they are implemented by Victoria Police and some of the methods that might be used in terms of undertaking those particular orders.

If you look at some of the detail that is actually contained within the bill, the chief commissioner is able to delegate their powers to others who are somewhat down the ranks within the police force in terms of being able to put in place these prohibition orders around a certain individual. That might sound great in theory, but I think in practice that is opening it up too broadly, where less senior ranking police officers would be able to use the discretionary powers that are in place under this legislation to prohibit someone from having a lawful firearm. In terms of the reasoning as to why those prohibition orders are put in place, the discretionary element of this bill is, I think, too open-ended. People could be impacted wrongly as a result of this legislation under the suspicion of a middle-ranking police officer and under the guise that there could be a risk to public safety. I do not think there are strong enough regulations in place in terms of outlining why those prohibition orders might be put in place. Having the discretionary powers that are so wideranging in this area is going too far and could impact unnecessarily on lawful gun owners who have not done too much wrong. For the Chief Commissioner of Police to actually be able to delegate that down to middle-ranking police officers is a step too far. I am happy that our amendment that we have brought forward, which would make that power available to assistant commissioners as the minimum rank, proposes a sensible outcome that we could put in place that might address that issue.

One of the other amendments that we will certainly be putting in place is in relation to appeals being made to the Magistrates Court rather than to VCAT. I think that is a reasonable aspect that we will put in place as well. In terms of having those powers to ensure that someone is not able to possess a firearm, if there are reasonable grounds for that and there is evidence that is very clear then I think most people would say that that is pretty reasonable. But under this legislation it is discretionary, so therefore that burden of having the proof and evidence to substantiate that prohibition order being put in place needs to be strengthened from my point of view. We all know that there are certain people out there who may, for whatever reason, annoy a particular police officer. That police officer may decide that they wish to ensure that that person is put on this prohibition list, and I think that would be the wrong outcome, because there could be circumstances which do not necessitate that prohibition being put in place in the first place.

One of the other aspects of the bill that I am a little concerned about is that if someone has got a prohibition order against them they are not allowed to go into another premises where a firearm is stored. Again that sounds reasonable, but if someone has a prohibition order against them they may not know, if they go to visit the next-door neighbour or their cousins or whoever, whether there are firearms stored on the premises that they are actually going to. So they could be inadvertently breaking the law without actually even realising it, when they are doing something as harmless as going and visiting a family member. That is something I am a bit worried about, because quite a lot of licensed firearm owners have got a gun safe that could be in the garage or in the house somewhere, and you do not put a sign up on the front gate saying that you have got firearms stored on the premises. If someone under a prohibition order goes to one of those premises they will not know, and therefore they could inadvertently be breaking the law, and the penalties in place are quite strict. I think that is one area that I do have a problem with.

The other amendment that we will be putting up is in relation to bringing the prohibition order from 10 years down to five years. Under this provision to prohibit someone for up to 10 years is a very, very long time. As we have already established, the burden of proof in terms of why someone has been put on a prohibition order is not strongly stated, and there are discretionary elements that are a part of instigating that prohibition order being placed on an individual. I think that is something that will be beneficial as well. After five years, if someone is on one of those prohibition orders, the police will certainly be in a position to determine whether that person is a significant risk to public safety or a significant risk in terms of any terrorism-related activities that may or may not occur. I think the police would be very well positioned in terms of all the work that they do — the surveillance work and whatever other work they do behind the scenes, and most of us will never know exactly what that is — and all the powers, regulations, laws and tools at their disposal to enable them to well and truly establish that within five years. The additional five years is unnecessary in this regard. And if police do actually ascertain that that person is a risk, they will have other tools at their disposal to be able to undertake the necessary steps from their end to ensure that the community is kept safe.

In terms of that, they are some of the concerns that I have with this piece of legislation. There are other more

specific issues that I would certainly like to raise when we get into the committee stage of this bill, but I support the amendments that have been circulated by Mr O'Donohue. I look forward to being able to continue to advocate on behalf of legal, responsible firearm owners and users to ensure that they can go about their recreation or their agricultural activities without having undue influence from laws that are intended to assist in the fight against terrorism. I will continue to ensure wherever I can that those sorts of laws do not impact licensed firearm owners who are law-abiding citizens who do the right thing whenever they can. We do not want a situation where we put in rules that are so strict that they start putting law-abiding firearm users in a position where it is almost impossible for them to go out and enjoy the recreation that they pursue or where farmers do not have the tools at their disposal that they need to undertake their agricultural pursuits. With those words, we look forward to taking this bill into committee.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (11:25) — I am pleased to make some remarks on the Firearms Amendment Bill 2017 this morning. There are a number of elements to the bill which have been explained at some length, discrete provisions which have been brought forward. The first element that Mr O'Donohue outlined is the provisions which relate to drive-by shootings, to use the vernacular. Obviously the coalition came forward with a very strong policy on drive-by shootings in a private members bill earlier this year, which the government failed to carry through to introduction in this place or the other, and we are now seeing a watered-down framework being brought forward by the government. Having argued against Mr O'Donohue's policy position earlier in the year, the government now recognises that it needs to adopt it, so we have in this bill this morning a weakened version of the drive-by shooting provisions, but nonetheless it is better than nothing. We are pleased that the government is finally getting on board on the issue of drive-by shootings.

The second aspect to touch on briefly is the changes related to licensing and registration, particularly around the use of handguns and the number of attendances required under the ownership regime for handguns, the various requirements set down for participation in competition and the clarification and coordination of some of those requirements, which we think are useful changes being proposed through this bill. One of the things that is evident from the Firearms Act 1996 is that many of the provisions in it are cumbersome, bureaucratic and complicated, so provisions which clarify and simplify those provisions are useful. Many of those provisions do not make any contribution to public safety; they are simply bureaucratic mechanisms, and having those tidied up is a useful approach, which we are seeing in elements of this bill.

The third area that I would like to touch on at more length is the issue of firearm prohibition orders (FPOs), which has been the subject of most of the debate today. The rationale that has been given by the government for the introduction of FPOs was set out in the minister's second-reading speech, where the minister stated:

> Victoria Police has told the government that, operationally, the current tools that exist to address firearm-related offending are no longer sufficient to prevent emerging kinds of firearm crime.

That is a very bold statement. As members will be aware, the current Firearms Act gives the Chief Commissioner of Police very broad discretion with respect to firearm licensing matters and the issuing of permits to acquire, so obviously when this bill gets to committee the minister will need to be able to explain the inadequacies of the current Firearms Act and what the government means by the limitations of those current provisions that obviously justify the introduction of the FPO framework. The second-reading speech then goes on to say:

> FPOs will be used in scenarios where no other appropriate mechanism exists to prevent a person from obtaining a firearm, but sufficient intelligence exists to indicate that it is contrary to the public interest for that person to possess a firearm.

That is also a very strong statement, and it introduces a number of elements that are not reflected in the bill. The second-reading speech talks about preventing a person obtaining a firearm, so obviously that suggests there is an intention to obtain a firearm, which is not an element of the bill. It also talks about sufficient intelligence to indicate that it is contrary to the public interest for a person to possess a firearm, which also is an element broader than what is contained in the bill. Those are matters that we will expect the minister to be able to address in relation to the FPO framework when we get into committee.

I would now like to jump to what the bill actually says with respect to firearm prohibition orders, in contrast to what was set out as a rationale in the minister's second-reading speech, which essentially indicates that the FPO framework is to address concerns at the margin, to address what you might describe as exceptional circumstances where the current framework does not work and there is a need for a type of intervention — that it would be an extreme intervention. We have heard through the debate that the powers created under FPOs are very substantial to give

the police a lot of discretion around interventions, and we therefore need to reconcile the statement about the use in the second-reading speech with the practicalities of the bill.

The bill seeks through part 4A to be inserted into the Firearms Act to create the framework for FPOs. The key elements that come into play are the factors that the chief commissioner must take into account in issuing an FPO. Just to refer to proposed section 112E, in summary:

> The Chief Commissioner may make a firearm prohibition order only if the Chief Commissioner is satisfied —

the first element is the chief commissioner's satisfaction as to the circumstances, so it comes down to what the chief determines in his view is satisfactory, which is obviously an element that goes to the chief commissioner's judgement —

> that it is in the public interest —

which again is obviously largely up to the discretion of the chief commissioner as to what is the public interest in the circumstances —

> to do so …

It then sets down some criteria. The first is:

> (a) because of the criminal history of the individual …

That is pretty straightforward. If a person has a criminal history, that is obviously on the record. The second element, though, is where the FPO framework becomes very broad, because the second element is:

> (b) because of the behaviour of the individual …

and the third element is:

> (c) because of the people with whom the individual associates …

Putting that section together, it states that the chief commissioner may make an FPO if they are satisfied that it is in the public interest because of the behaviour of the individual or because of the people with whom the individual associates. That is very broad. There is no requirement under those criteria for the chief commissioner to believe the person is seeking access to a firearm or has had access to a firearm or wants access to a firearm. Indeed those criteria could be applied to any person, including someone who has never had any association with a firearm, who may never in their life have possessed, owned or fired a firearm and who may have no intention of possessing, owning or firing a firearm. Looking around the chamber, somebody like Ms Pennicuik could, if the chief commissioner deemed it to be in the public interest because of the behaviour of the individual or because of the people with whom the individual associates, be made subject to an FPO. If a person is merely associated with people who have been involved with a political activity that the chief commissioner deemed to their own satisfaction raised some public interest element, the chief commissioner could issue an FPO.

I use Ms Pennicuik as an example because I suspect Ms Pennicuik has never owned or fired a firearm and is not likely to do so, yet she could by virtue of the people with whom she associates be subject to an FPO, if the chief commissioner deems it should be so, even though she would never have any intention of owning a firearm. Yesterday we had some nut job hanging off the roof of Parliament protesting against logging. Arguably the nut job hanging off the roof of Parliament yesterday could be someone associated with the Greens party and potentially could be brought into play in respect of the types of people that an individual associates with.

It is a serious point that an FPO could be applied to somebody who has had no association with firearms and no intention of any association with firearms. A relationship with firearms is not necessary for the chief commissioner to issue an FPO, provided they are satisfied that it is in the public interest on the grounds of the people the individual associates with or the conduct of the individual, which may have absolutely nothing to do with firearms. Once an FPO is in place it then triggers the framework around preventing a person from being in premises where there are firearms. Of course in Parliament House there are firearms — all the protective services officers (PSOs) carry firearms — and on that basis arguably a person with an FPO could not enter Parliament House or enter the courts, where there are PSOs with firearms. The example of police stations has also been raised.

No individual is going to know which private homes or private buildings hold firearms, so there is potentially a significant restriction on the movement of a person who is subject to an FPO, even though that person may never have had a firearm, been associated with a firearm or wanted a firearm, because a relationship with a firearm is not necessary for the imposition of an FPO. Likewise a person who is subject to an FPO is then subject to the warrantless stop-and-search provisions, which are contained in new sections 112Q and 112R to be inserted by the bill.

I know Ms Pennicuik spoke about the circumstances which have pertained in New South Wales and have been reported on in the New South Wales Ombudsman's report. What is worthy to note with this

bill is that the stop-and-search provisions for premises and individuals do not require reasonable suspicion. They merely provide that:

> A police officer, without warrant or consent, may exercise any of the powers under subsection (2) —

which are the search powers —

> if the exercise of the power is reasonably required to determine whether an individual …

is breaching an FPO — whether they possess a firearm et cetera. There is no requirement for reasonable suspicion that they are breaching, merely that the search is reasonably required to determine whether they are breaching. Arguably, if you want to determine if someone possesses a firearm part, you need to search them; it is reasonably required to search them to determine whether they possess the part of a firearm. You do not need any reasonable suspicion that they do; you just need it to be reasonably required to search them to actually determine that they do not. That means these provisions can be applied very broadly. The fact that there is no requirement for reasonable suspicion and the fact that these orders can be applied to any person, including a person who has never had any association with firearms, means these powers are very, very significant. We believe that it is appropriate that their application be available on a narrow basis.

The bill proposes that police officers down to the rank of superintendent be able to issue FPOs. That means there would be 122 sworn officers who could potentially issue FPOs based on the data from this year's Victoria Police annual report — obviously one chief commissioner, three deputy commissioners, 15 assistant commissioners, 11 commanders and 92 superintendents. The bill also allows certain executive officers who work for the chief commissioner under the Public Administration Act 2004 to issue them, and there are some 21 executive officers employed by the chief commissioner under that act. So there are 143 people that currently would be able to issue these FPOs, which provide incredibly broad stop-and-search powers which are not necessarily related to a person ever wanting a firearm. We believe that provision should be narrowed to only assistant commissioner and above.

Likewise we believe that the review of the issuing of FPOs should not be undertaken by VCAT but should be actually lifted to the Magistrates Court — to a higher level of jurisdiction — because of the very broad application that is potentially available with these orders. Likewise the application of this order, which is currently proposed to be 10 years, should be limited to five years. The potential for these orders to impact on the movement of individuals and to provide capacity for them to be stopped and searched randomly is very, very significant. It is not unreasonable that that order apply for five years and then, if the circumstances still pertain, for a new order to be issued, but we believe to issue orders for 10 years initially is a step too far.

For that reason Mr O'Donohue has circulated amendments to require that reviews of FPOs be undertaken by the Magistrates Court rather than VCAT, to limit the delegation powers available to the chief commissioner down to the rank of assistant commissioner only and to limit the application period of FPOs to five years rather than 10. None of these provisions impede the use of FPOs, but they do provide a higher level of rigour, a higher level of oversight, for a mechanism which the minister in the second-reading speech indicated is meant to be used in exceptional circumstances where other laws are not providing sufficient safeguards. We accept that there is a need for FPOs, but we recognise that the legislation as drafted allows them to be applied on a very, very wide basis and with insufficient safeguards to protect the civil liberties of Victorian citizens. We believe those amendments are important. We would urge all members of the house to support those amendments in the consideration of this bill.

In the time remaining, Mr Bourman has introduced amendments which reflect the private member's bill he brought to this house some months ago. As members will recall, that private member's bill was supported by the Legislative Council and has languished in the other place. His amendments reflect that private member's bill. For that reason the coalition will support Mr Bourman's amendments so that private member's bill, which was supported by this chamber, can be given effect by way of amendments to the bill today.

Mr MORRIS (Western Victoria) (11:40) — I rise to make my contribution to the Firearms Amendment Bill 2017. Sorry to cut you off there, Minister for Corrections — I will not be long, though. I know that Mr O'Sullivan has made some comments saying that he is a shooter and owns firearms and the like. I must admit that my interaction with firearms only came about as a result of coming into this place and being invited to events associated with Field and Game Australia, the Melbourne International Shooting Club and other such organisations. I must say that after attending many of these events I found that people associated with shooting and for whom shooting is a recreation are an excellent bunch of people. They are a group of people who wholly enjoy their recreation, and I think they should be well protected in being able to do

so. I think — this is a discussion I have had with Mr Bourman on many occasions — that when we are focusing on regulating firearms, we need to make sure that we are focusing on the right areas of our community.

This particular bill introduces firearm prohibition orders (FPOs) to that effect to ensure that people who should not have firearms do not have access to firearms. I note that there are people who should not teach children, and as a result we have regulations in place and protections to ensure that people who are not of good character are not able to become a teacher, and as such that provides protection for our community. Similarly these FPOs are going to be able to provide such protections for the community.

But we do need to ensure that there are the right checks and balances in place, which is why I am very pleased that Mr O'Donohue has introduced his amendments to ensure that it would be assistant commissioners and above who would have the capacity to provide and seek that an FPO comes into effect. He also raised that rather than having VCAT have jurisdiction over such matters, the Magistrates Court have jurisdiction, raising the scrutiny level and ensuring that there is the proper level of accountability for the issuing of FPOs. There are many broad and I think in some circumstances unintended consequences of these FPOs if they are not used correctly and appropriately by those able to issue them. Having those additional protections, ensuring that these changes are made to the bill, I certainly believe will strengthen the bill and result in that better outcome.

I also note that Mr Bourman has amendments. I am very pleased he has put those forward. I think they are excellent amendments — some of the best amendments I have seen. They will provide for matters this house has already debated on previous occasions. In effect they are very sensible amendments to ensure consistency around where firearms might be advertised for sale. It is what occurs just about everywhere else in Australia, and I think it is a very sensible amendment to this bill and should come into effect.

I do note that the coalition has had a very strong track record with regard to law and order. The legislation and the bills that have been introduced by the opposition have certainly pushed the government in the right direction — unfortunately it has been dragged kicking and screaming in some circumstances — to ensure that the laws are strengthened in our state, because we are seeing an unprecedented spike in crime. A crime tsunami, some might say, is what the Victorian community is experiencing under Daniel Andrews and Labor at this point. That is something that is shameful and something that needs to be addressed.

It cannot just be addressed through legislation, however; it does need to be addressed to ensure that the fine men and women at Victoria Police have the appropriate resources to do the very important job that they do and to ensure that a very strong message is sent to our community that if you are going to break the law, there are going to be very real consequences for those behaviours. We note that of late unfortunately that has not been the case. Unfortunately we have seen that sentencing in our courts is nowhere near meeting community expectations. It is actually one of the major issues that people in the community raise with me unprompted. They say that our hardworking men and women of Victoria Police do the very best they can to ensure that offenders are brought before the courts to answer for their actions, but once they are there some of the sentences that are being provided for them fall well short of what the community would expect for some of the crimes that they have committed.

I did indicate to the minister that I would keep my contribution rather brief, and I shall do so so that she may get on with her summing up of this bill. I certainly hope that the house will support the amendments that are being proposed by both Mr O'Donohue and Mr Bourman to strengthen this bill. I certainly also look forward to the committee stage as we advance through this bill.

Ms TIERNEY (Minister for Training and Skills) (11:47) — I rise to sum up and provide some points of clarification that have been asked of me by members of the house, but prior to doing that I ask that the house amendment I will move in my name be circulated. This is an amendment that deals with a typographical error in clause 22.

Government amendments circulated by Ms TIERNEY (Minister for Training and Skills) pursuant to standing orders.

Ms TIERNEY — The Andrews Labor government knows the harm that is caused by illegal firearm use and firearm crime in this state. Firearm prohibition orders (FPOs) are designed to apply before the event so that police can quickly and proactively disrupt dynamic and intricate criminal activity where there is sufficient intelligence that particular persons should not have access to firearms.

There have been 155 non-fatal shootings for the two financial years of 2015–16 and 2016–17. Individuals associated with these non-fatal shootings will be likely

candidates for an FPO. Those figures do not account for drive-by shootings and armed crime occurring at businesses and homes, the incidence of which has been rising since 2011. This illegal offending is being driven by serious and organised criminals whose business models and ways of operating challenge policing methods. FPOs will be targeted at these groups as well as persons of interest in counterterrorism cases. For example, FPOs are likely to be issued against members of outlaw motorcycle gangs and organised crime groups, where a culture of insular secrecy and intimidation limits the ability of police to break the code of silence.

Significantly the use of illegal firearms is increasing among networked youth offenders and gang members. The prevalence of illegal firearms in the community is a significant concern relative to community safety. The increased illegal firearm possession is driven by the ability of firearms that are illegally imported into Australia or stolen from licensed owners. The increased use of firearms has been attributed to organised crime figures, with a significant driver being the propensity of rival Middle Eastern organised crime figures to intentionally use non-fatal shootings as a warning, or punishment, for transgressions in connection with the illicit drug trade. Police indicate that shootings as a form of intimidation and retribution are likely to escalate in severity in the next one to two years. Gun violence between rival groups to resolve disputes and drug-related activity will continue to be an issue for Victoria Police and community safety. Increased illicit firearm possession is driven by the ease of availability of handguns, semiautomatic rifles, shotguns and increasingly military grade weapons that are smuggled into Australia or stolen from licensed owners.

The criteria for making an FPO have been left in broad terms in order to provide the Chief Commissioner of Police with the operational flexibility to proactively and quickly respond to fluid, serious criminality, intricate criminal enterprises and counterterrorism-related operations. Given the variability of conduct within these groups, the grounds provide a high degree of flexibility. Victoria Police will develop policies for the consistent application of FPOs.

Victoria Police has already commenced work to develop policies which will be accompanied by extensive training and strong communication so that police are educated and aware of their powers and the consequences of misuse. The intention is to adopt a model similar to New South Wales police who use a tiered approach to both the issuing of FPOs and subsequent FPO-related searches. Under that model any action taken will be governed by criminal intelligence investigations, as well as necessity where imminent threats are likely to place the Victorian community at risk, for example, in a counterterrorism scenario. Assessments on a case-by-case basis will determine how the powers are used.

Additionally, IBAC will monitor the application of the legislation and associated powers under a strong oversight model. This will be coupled with reporting requirements and other appropriate safeguards.

On the issue of safeguards it is worth noting that the checks and balances proposed are significantly more stringent and onerous than those currently in operation in New South Wales. Importantly the licensing system and the prohibited person regime in the Firearms Act 1996 are being maintained. If the person satisfies the grounds for the chief commissioner, or delegate, to make the FPO, it could be made against a person who holds a firearms licence. That would indicate that they are not a legitimate licence-holder. We know the important role that legitimate firearms owners play in our community, and they are not being targeted by these orders, which are intended to ensure firearms never fall into the hands of dangerous criminals who would do our community harm.

The FPO regime is not designed to replace or displace the existing regulatory system. The regulatory scheme for firearms will continue to operate to safeguard the interests of legitimate firearm-owning community members. The FPO regime is designed to address the challenges of individuals who, through their criminal activity, choose to operate outside the regulatory system.

During the debate in the Legislative Assembly Mr Clark queried whether the subject of an FPO could go to a police station, for example, to report a crime, or go to the home of a relative who stores firearms at their residence. Victoria Police has advised that they have discretion in these matters, and it is in no way the intention that a person subject to an FPO would be charged for attending a police station in the instance that they are reporting a crime.

I must emphasise again that the government's expectation is that the chief commissioner uses these orders to focus on serious criminal activity. FPOs are a tough new measure that will allow Victoria Police to proactively and quickly disrupt serious criminal activity associated with illicit use of firearms. However, it is the view of Victoria Police that allowing an FPO subject to be on the premises where firearms are normally stored would undermine the effectiveness of the FPO scheme and the protection of the community. The premises could include residential locations where a licensed

firearm owner stores firearms. There are a variety of alternative firearm storage arrangements that may be utilised, such as storing with a licensed firearms dealer, or at another firearms licence-holder's premises. The firearms would then no longer be stored at a residence, and the individual that is subject to an FPO would no longer be prohibited from residing at such premises, or visiting relatives who own firearms because the firearms would be stored off-site.

Just briefly, there were a number of other matters raised and I will quickly go to some of them. In response to comments in relation to proposed section 130(2A)(g), I can advise that the exemptions only apply if the person holds a firearms licence and the possession, carrying or use of the firearm is in accordance with the firearms licence, and any other authority that applies to the use, possession and carriage of the firearm. For example, police and armed security guards, such as Armaguard employees replenishing Myki machines, would be able to walk down the Melbourne CBD with loaded firearms, which they can do now. As is currently the case, if someone has a firearms licence for hunting, the carriage, use and possession of the firearm has to be for that purpose, as approved by other authorities that regulate hunting in Victoria. Therefore the status quo is maintained.

The rationale for these provisions was the increase of non-fatal shootings between rival gangs at public locations such as shopping centres and a car park outside of a suburban Officeworks. Another example was the shooting of constables Ashmole and Wospil at close range in a school car park — I think that was in Essendon — by two criminals who had been released from prison only a short time prior. Constable Ashmole was shot in the head and was lucky to survive, although he now lives with severe headaches and the constant reminder of the incident through several pellets that could not be removed from his skull.

On the possession of firearm parts and manufacturing equipment, these terms are already in the Firearms Act and are not defined. They will continue to have the ordinary and current meaning within the context of the act. Merely possessing a part or equipment does not establish the offence. To be an offence the part or equipment must be possessed for the purpose of manufacturing a firearm or other part. Advice from Victoria Police is that buck plates, cheek pieces and chokes would not be firearm parts as they are not necessary for the firearm to function. Increasingly Victoria Police are coming across instances of possession of equipment to manufacture illicit firearms, particularly among outlaw motorcycle gang members, who have been found to possess handgun moulds and detailed blueprints for gun manufacture. Blueprints can be easily downloaded from the internet, and while possession of them is not illegal, they provide a step-by-step guide to enable even inexperienced people to make unsophisticated yet highly dangerous firearms.

Some members have also asked what can be done to speed up the licensing process to ensure people do not exhaust the 13 unlicensed shoots that they are permitted under the Firearms Act. Victoria Police processes applications as quickly as possible, but there are necessary checks that have to be run to ensure the suitability of the person. This is the case even with junior shooters. By and large the junior applications are not so complex. Victoria Police is a responsive regulator, and it will continue to promote greater efficiencies in the administration of firearm regulations.

As the Assembly debates canvassed, this is about where the appropriate balance is for enabling a person to try out a sport and ensuring the licensing system is not evaded or subverted. Thirteen unlicensed shoots over a person's life gives juniors more opportunity to try out the sport while not undermining the licensing system. Thirteen shoots also gives adults ample scope to participate in events and functions involving supervised pistol shoots. This change was requested by the Victorian Amateur Pistol Association and was included in the Justice Legislation Amendment (Firearms and Other Matters) Bill 2014, which lapsed when the previous Parliament expired.

In respect of this bill I thank other members for their contributions so far, and I look forward to discussions in committee. I understand that there are a number of amendments from the coalition and the Shooters, Fishers and Farmers Party. I am sure that we will work through those matters in a time-effective way. Thank you.

Motion agreed to.

Read second time.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Justice system

Mr O'DONOHUE (Eastern Victoria) (12:01) — My question is to the Minister for Corrections. Minister, two years ago today David Harper and his team handed to government their report into the sex offender and post-sentence scheme in Victoria following the tragic murder of Masa Vukotic. Minister, despite your promises and those of the Premier that these recommendations will be implemented as quickly as possible, two years have now passed and the most

important reform — the legislation to manage the worst and most dangerous offenders on a post-sentence scheme — has yet to be even introduced to the Parliament. Minister, why has your government failed to act on this and other key community safety recommendations?

Ms TIERNEY (Minister for Corrections) (12:02) — I do thank the member for his question and his ongoing interest in the Harper report and the Harper recommendations. Work has begun on all 35 recommendations, with the program of work to be completed in 2018. I have said that consistently, and that continues. As a result of the budget this year every single one of them has been funded. Eight recommendations have been implemented, but the reforms in the Serious Sex Offenders (Detention and Supervision) Amendment (Governance) Bill 2017 will go towards finalising a further 14. That bill was passed by the Parliament on 31 October this year and received royal assent on 8 November this year. That bill will establish an independent statutory body, called the Post Sentence Authority, to oversee the post-sentence scheme instead of the Adult Parole Board of Victoria. It will promote shared responsibility by relevant departments and agencies, requiring the establishment of multi-agency panels and imposing statutory obligations on responsible agencies to coordinate service delivery.

The fact of the matter is that it will enable summary offences related to alleged breaches of conditions of supervision orders to be uplifted to the Magistrates Court or to a higher court that is hearing and determining the alleged breach offence. So a number of things are being undertaken in respect to this area, and we have also announced and funded the new centre that is being built outside of Ararat. This government is a government that has been working hard in this area, and as I have said on previous occasions, there will be another bill that will come before this house that will deal with other aspects of this important matter.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) (12:04) — I ask by way of a supplementary question: Minister, how many serious violent offenders have been released from prison in the last two years without the supervision that the post-sentence scheme could bring, and how is the risk of their reoffending being managed while you dither and delay?

Ms TIERNEY (Minister for Corrections) (12:04) — What I can say to the member is that in terms of parole, there are half the amount of people on parole now than there were five years ago.

Mr O'Donohue — On a point of order, President, I am not talking about parole; I am talking about the post-sentence violence scheme. I did not mention parole. I was talking about the post-sentence violence scheme.

The PRESIDENT — I expect the minister did hear that question and intends to acknowledge that in her answer.

Ms TIERNEY — I think it is important to note that there has been a 92 per cent reduction over the past four years in the number of persons convicted of committing serious offences on parole, which —

Mr O'Donohue — On a point of order, President, the substantive and now the supplementary have been very specific about post-sentence supervision, and principally that relates to offenders who have left jail, and many have left jail without undertaking parole at all. This is a dangerous cohort that I am asking a question about, and the minister is choosing to disregard it.

The PRESIDENT — I am not in a position to tell the minister how to answer the question. It may well be that she gets to the specific point you sought. If not, I will be seeking a written response.

Ms TIERNEY — Thank you, President. In terms of the actual numbers that you are seeking, I do not have them, but what I can say to you is that this government is absolutely committed to ensuring that we have the safest possible circumstances for our community. Indeed the adult parole board has functioned extremely well in terms of the deliberations they have made. I believe that this question, similar to a number of other questions, is not motivated by wanting to know an answer; it is about fearmongering in the community when it is absolutely not needed or required.

Justice system

Ms LOVELL (Northern Victoria) (12:07) — My question is for the Minister for Corrections. Minister, I refer to caller Damien, who advised the Neil Mitchell program that his 25-year-old ice-affected daughter was to be bailed to reside in a motel in Coburg at taxpayers expense against his wishes that she be remanded for her own good. Minister, since the election of the Andrews Labor government how many alleged offenders have

been bailed to reside at a taxpayer-funded motel and what has been the cost to taxpayers?

Ms TIERNEY (Minister for Corrections) (12:07) — I thank the member for her question and the ongoing concern that many of us have in terms of the prevalence of drugs in our communities and indeed the fact that this is one of the most significant health scourges that we face as a community. I do not think it matters essentially on what side of the political scale you fall, this is an issue that I think now has got the attention of everyone, and indeed people do understand it to be much more of a health issue, and sometimes of course unfortunately it crosses over into being a criminal justice issue. In terms of the incident that you raise, Ms Lovell, I am not aware of it. If you can provide me with the details of it, I am happy to pursue it.

Supplementary question

Ms LOVELL (Northern Victoria) (12:09) — Minister, the Andrews Labor government's policy of alleged offenders residing at taxpayer-funded motels is not only costly, it brings significant risk of reoffending. Given taxpayers are funding motel accommodation for alleged offenders on bail, how is the significant risk of reoffending being managed by the relevant authorities?

Ms TIERNEY (Minister for Corrections) (12:09) — I thank Ms Lovell for her question. Again I am not aware of the particulars of this case, so it is very difficult to explicitly respond to her question. In respect to bail, it is a matter for the Attorney-General, not the Minister for Corrections.

Corrections system

Mr O'DONOHUE (Eastern Victoria) (12:09) — My question is to the Minister for Corrections. Minister, on Sunday a prisoner was stabbed, assaulted and injured so severely that he was required to be airlifted to Melbourne for emergency medical treatment. Minister, what security shortcomings in the Corrections Victoria intelligence system have been identified that failed to alert authorities to this potential attack?

Ms TIERNEY (Minister for Corrections) (12:10) — I thank the member for his question. Any violence in the prison system is completely unacceptable, whether it is attacks on staff or indeed on other inmates. But I can of course confirm that there was a stabbing at Barwon Prison on Sunday night and it involved a 41-year-old male prisoner who was transferred to a hospital in Melbourne. Police were notified and there are investigations going on, and as a result of the matter being investigated I cannot comment any further.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) (12:11) — Minister, further to the question about identification of prisoners at risk within the corrections system, can you confirm that last week a prisoner at Middleton was airlifted to a Melbourne hospital after attempting to pull out his eye and cut off his penis?

Ms Tierney — On a point of order, President, I seek clarification on how the supplementary is connected to the substantive, which was about a stabbing at Barwon.

The PRESIDENT — Actually I intend to ask for a written response on the substantive because I think you missed the point of the substantive question, which was not about a particular individual. That was perhaps an example that was included, but the question was about the systems — the intelligence systems and the protective systems — within the prison system. Therefore in that context I think the supplementary question is apposite, because it again goes to a matter of the system, not the individual.

Ms TIERNEY (Minister for Corrections) (12:12) — Thank you, President. In terms of the incident that happened on 26 November —

Mr O'Donohue — At Middleton?

Ms TIERNEY — located at Middleton, that person was transferred to hospital. That was an incident that occurred, as I understand it, in the prison's reception area, where he self-harmed. That person is currently receiving medical attention, and corrections have advised me that they are reviewing the circumstances of that incident.

Northcote by-election

Mr RICH-PHILLIPS (South Eastern Metropolitan) (12:13) — My question is to the Minister for Agriculture. Last year the government amended the IBAC act to include misconduct in public office within the scope of corrupt conduct and to oblige department heads to report any suspicions of corrupt conduct to IBAC. Are you aware of any suspicions of corrupt conduct being referred to IBAC by your department head?

Ms PULFORD (Minister for Agriculture) (12:13) — I thank Mr Rich-Phillips for his question. The answer to his question is no. Ms Wooldridge has certainly made assertions here in the Parliament that I

invite her to make outside on the steps of Parliament if she believes there is any foundation to them, but the rules of privilege do not exist so that members can defame other members wantonly and without foundation.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) (12:14) — I thank the minister for her answer. On 17 November the Animal Justice Party disclosed that it had allocated preferences to Labor at the Northcote by-election in exchange for funding and policy changes in animal welfare. Since 17 November have you had any discussions with your department head about the referral of this matter to IBAC under the mandatory reporting requirements?

Ms PULFORD (Minister for Agriculture) (12:14) — I thank Mr Rich-Phillips for his further question. The comments quoted in the *Age* that the coalition are interested in are not totally accurate. The establishment of the public sector group and the animal welfare grants were ongoing programs and policies, as I have explained in answers to previous questions. The development of the animal welfare action plan, which includes commitments to a review of legislation and a recognition of the sentience of animals, has been publicly known and underway for more than a year. The final plan will be released within weeks. The Animal Justice Party directed its preferences based on the candidates and the policies, I guess, and that is a matter for the Animal Justice Party. The Labor Party candidate in the Northcote by-election is a vegan. Perhaps that was something that appealed to them, but the government's and my role is to make sure that we have effective and responsive animal welfare policies.

Northcote by-election

Ms FITZHERBERT (Southern Metropolitan) (12:16) — My question is to the Special Minister of State. Minister, as the minister responsible, have you satisfied yourself that the Minister for Agriculture has, as a result of the Animal Welfare Victoria policy for preferences deal, not breached section 151 of the Electoral Act 2002 that relates to bribery at an election?

Mr JENNINGS (Special Minister of State) (12:16) — I thank Ms Fitzherbert for her question. I am not in any position to say that any evidence has come to me that would indicate the allegations that have been made are warranted or substantiated. It is not up to me to determine whether IBAC considers this to be a relevant matter. Mr Rich-Phillips in question time today has already indicated that there may be a number of ways in which IBAC may be interested in this matter if it is at all relevant to their jurisdiction. They do not need me to be the gatekeeper or the determinant of this matter, and they are quite capable of acting independently and appropriately in relation to any evidence that comes to them.

Supplementary question

Ms FITZHERBERT (Southern Metropolitan) (12:17) — Thank you, Minister. The Animal Justice Party stated that they 'negotiated' policy for preferences during 'discussions' and 'Labor agreed to' demands. Minister, are you confident that no Andrews government MP or ministerial staff member has breached section 151 of the Electoral Act, and what action will the government undertake to ensure that any potential breach of the Electoral Act will be investigated?

Mr JENNINGS (Special Minister of State) (12:18) — In relation to the first matter, I have already indicated that in fact there is jurisdictional cover for any evidence that may be brought to bear for IBAC's consideration. Similarly, if the Victorian Electoral Commission makes the determination, then they can pursue that matter in relation to the Electoral Act, as they would be required to. Both of those agencies act independently in terms of assessing the evidence that is before them and actually making their determination. Whilst I am responsible for both pieces of legislation which deal with the Electoral Act and indeed IBAC, I am not the gatekeeper of investigations to those agencies. They undertake those themselves.

Victoria Police media policy

Ms PATTEN (Northern Metropolitan) (12:18) — My question is for the Minister for Police, represented by Minister Tierney. Natural justice and the presumption of innocence are fundamental human rights and cornerstones of our legal system. The principle of sub judice is something that we are all very familiar with in this context and a principle that we deal with often in this place, the rationale being that publication of material can prejudge legal proceedings or place pressure on persons involved in proceedings, including jurors and witnesses. The ultimate risk is that where a court is satisfied that there is a serious risk that the pretrial publicity has deprived the accused of a fair trial, it could be permanently stayed, meaning the prosecution will never go ahead.

On Monday, after the arrest of Ali Khalif Shire Ali on terrorism charges, police command rushed to a media conference before Mr Ali had even appeared in the

Melbourne Magistrates Court. In that press conference they alleged in great detail information relating to Mr Ali and the nature of an attack that was planned, which was reported widely in all forms of media. My question to the minister is: why are the police being allowed to prejudice legal proceedings in this way?

Ms TIERNEY (Minister for Training and Skills) (12:20) — I thank Ms Patten for her question. It is a question that has been raised in the media over the last couple of days, and I am sure the Minister for Police will provide a written response.

Supplementary question

Ms PATTEN (Northern Metropolitan) (12:20) — Thank you, Minister. In the wake of this media conference — and there have been other similar examples, including a charge against a Melbourne teenager accused of plotting an Anzac Day attack being dropped in the court — will the minister order a review of police media engagement to minimise the risk of prejudice occurring in the future?

Ms TIERNEY (Minister for Training and Skills) (12:20) — I thank Ms Patten for her supplementary question, and again I am sure the Minister for Police will respond to her question.

Animal welfare

Ms PENNICUIK (Southern Metropolitan) (12:21) — My question is for the Minister for Agriculture, and it concerns the boiling of live hens that was broadcast on the ABC *7.30* program, once again an animal cruelty issue uncovered by members of the public and not the regulator. I have looked into this issue and the action taken by the regulators. I have discovered that the complaint was investigated and substantiated by PrimeSafe, which referred the footage to Agriculture Victoria. Agriculture Victoria said that authorised officers spoke to the company's management. PrimeSafe said:

> The business was subject to enforcement action and increased regulatory oversight until improvements in animal handling, including back-up slaughter, were implemented.

Agriculture Victoria said that it 'was satisfied that the remedial action' was 'taken by the company'. My question is: what was the remedial action that was being undertaken, what was the enforcement action and has there been any penalty applied to this company?

Ms PULFORD (Minister for Agriculture) (12:22) — I thank Ms Pennicuik for her question. I know that there is a lot of interest in animal welfare at the moment, but I will take this opportunity in what will be the last question time before the very heavy rains hit many of our agricultural producers. They are furiously preparing and trying to get as much of their harvests completed as they can and racing the clock against some very, very challenging circumstances, so I know that there are members who have interests in other things within the agriculture portfolio, but today and over coming days my primary focus is absolutely going to be on the welfare of our farming families, who are going to be dealing with some really, really difficult circumstances.

If I could respond to Ms Pennicuik's question — and I may have to take some of the detail on notice — Ms Pennicuik raised a matter in relation to animal welfare at Star Poultry. This is a chicken meat processing plant in Keysborough. In March 2017 a complaint regarding poor practices was made to PrimeSafe, which does regulate industry compliance with the national code and standard. The complaint was investigated and substantiated by PrimeSafe, and Star Poultry was subject to enforcement action and increased regulatory oversight until improvements were implemented.

There was recent footage, as Ms Pennicuik referred to, broadcast by the ABC a couple of weeks ago. Agriculture Victoria have investigated this matter. They attended the premises and contacted the source of the footage to request further details. The source was able to confirm to us that they had taken the footage, but they were not prepared to make a statement. Because the person was not prepared to provide a further statement, the alleged offences could not be established, and therefore there were limits to the extent to which action could be taken in relation to the alleged matters.

All of the animal welfare issues identified, including the alleged scalding of live chickens in boiling water, were rectified through the remedial action undertaken by Star Poultry in response to PrimeSafe's investigation. Of course any member of the community who is aware of non-compliance and unacceptable behaviour outside of the codes of practice and the arrangements with which industry, usually overwhelmingly, complies should make it their business to report these to PrimeSafe or to Agriculture Victoria so that these things can be properly investigated.

Ms Pennicuik's question went to a level of detail about which particular remedial actions were taken, so in response to that particular aspect of Ms Pennicuik's inquiry I will seek some more detailed advice than I am able to provide at the moment and ensure that Ms Pennicuik gets that.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) (12:25) — Thank you, Minister. You said in your answer that the person who took the footage was not prepared to make a statement. That person has made statements in the press. Nevertheless, PrimeSafe did substantiate what had happened, so I still wonder what the enforcement and penalty was given the offence was substantiated, but I also in my investigation discovered that Star Poultry was subject to four audits in the 12 months leading up to this incident or this investigation. As I said, again it was up to a member of the public to uncover this, despite the four audits. My question is: regarding the audits, are these carried out without notice of the auditors' arrival, and why are they carried out by contractors on behalf of PrimeSafe rather than by Agriculture Victoria staff?

Ms PULFORD (Minister for Agriculture) (12:26) — I thank Ms Pennicuik for her supplementary question, which opens a whole lot of other questions around PrimeSafe's operations in terms of their use of contract employees for some aspects of their responsibility. Again, I will provide for Ms Pennicuik some further detail around the audits. I will seek that advice from PrimeSafe, but PrimeSafe do not typically call first to say that they are on the way when they are undertaking their inspections.

Coode Island workplace safety

Ms HARTLAND (Western Metropolitan) (12:27) — My question today is for the Special Minister of State, Mr Jennings, and I direct it to him because it crosses several portfolios and is of serious safety concern to my community. Last night I attended a picket line at the Coode Island terminals. This issue involves 10 workers there, and my main concern is that the company wants to change the rosters, reducing staff from four to three and possibly bringing in casual staff to fill rosters. These workers are highly skilled, and they are in control of such matters as ship-to-shore transfer of highly dangerous toxic and explosive chemicals. I do not believe I need to remind the minister of the Coode Island history. My question is: will the Special Minister of State with appropriate ministers make sure workers and communities in the blast zone are kept safe by sending in WorkCover and Environment Protection Authority Victoria inspectors to make sure that during this dispute the company is maintaining proper safety standards?

Mr JENNINGS (Special Minister of State) (12:28) — I thank Ms Hartland for her question. I have commented previously in the chamber about Ms Hartland's enduring interest in Coode Island and the safety of residents who live in adjoining neighbourhoods and suburbs around Coode Island and ensuring that safe handling practices and that safety be provided on that site. Yes, indeed, you do not need to remind me of the almost catastrophic event that took place in the early 1990s in relation to the risk that was posed to our community at that time — the fire that occurred there — and the challenges that has created for safe working practices on that site. It also led to lengthy consideration about the appropriate relocation of that storage facility. Ultimately, after many years of consideration, it did not result in the facility being relocated, but because it stayed in the same site it really warrants a lot of attention in relation to safe handling practices and making sure that it is kept in good, safe working order, not only for industry but, very importantly, for the communities around it.

At the heart of your question, as I hear it, you are not necessarily asking me to comment on the industrial matter in relation to the dispute between the employer and the employees in any other context than to talk about what might be the safe working practices that should be maintained at the site, not only during the dispute but in the long term, as a consequence of what might be the staffing and the other resource allocations provided to provide for that safety and about what risks that various statutory agencies may ascertain exist currently or into the future and to mitigate them.

In that spirit I am saying to you that I am very happy to talk to my colleagues in relation to their scrutiny of these matters both through the prism of safe practices and through WorkSafe's responsibilities and ultimately environmental protection, the safety of the community and the potential for contaminants in the water and the water stream, contaminants in the air or in fact what fire risk may be associated with this site into the future. I give you a guarantee that I will talk to my colleagues about the appropriate degree of scrutiny that should be afforded to that location and that work practice to make sure that many protections can be afforded now and into the future.

Supplementary question

Ms HARTLAND (Western Metropolitan) (12:31) — Thank you, Minister. Minister, you need to be aware that there is a ship coming in, and it may actually be in now. There are highly skilled workers on the other side of the fence, so I am very concerned about how that ship is going to be unloaded. With that,

will you or the government be talking to the company to urge them to resolve this dispute as quickly as possible and remind them — hopefully they do not need to be reminded — of the danger they are putting their own staff and the community in?

Mr JENNINGS (Special Minister of State) (12:31) — It would be a very unusual circumstance for me to step outside of my ministerial responsibility to assert the responsibility of the Minister for Energy, Environment and Climate Change, the minister who is responsible for WorkCover or the Minister for Industrial Relations. I will talk to my colleagues about the appropriate degree of conversations and considerations that should be undertaken in relation to this matter.

Animal Welfare Victoria

Mr YOUNG (Northern Victoria) (12:32) — My question today is for the Minister for Agriculture. Minister, when you announced the establishment of Animal Welfare Victoria, you said that the government will recognise the sentience of animals. What does that mean?

Ms PULFORD (Minister for Agriculture) (12:32) — It means that they have emotional responses; it means that they can feel pain. That is usually the accepted understanding of the notion of sentience.

Supplementary question

Mr YOUNG (Northern Victoria) (12:32) — Thank you, Minister. Minister, the concept of sentience is central to the animal rights movement. Animal rights activists believe that sentience entails a right to life. Minister, what rights will the government be giving animals as recognition of their sentience?

Ms PULFORD (Minister for Agriculture) (12:33) — I thank Mr Young for his question and also his interest in matters of animal welfare. The animal welfare action plan has been something that we have been consulting widely on with different stakeholders. There has been a very open public process that has received many, many submissions from across the community. The draft animal welfare action plan has been a public document for some time, and we look forward to finalising and releasing the animal welfare action plan by the end of the year. This is something that has been a feature of those discussions, and there is certainly nothing in the plan, or in the legislation that is proposed for as far away as 2019, that would in any way engage the kind of thing that you are asking about.

Written responses

The PRESIDENT (12:34) — In respect of today's questions, regarding Mr O'Donohue's first question to Ms Tierney, just the supplementary question, I direct a written response within one day; Ms Lovell's question to Ms Tierney, the substantive and supplementary questions, one day; Mr O'Donohue's second question to Ms Tierney, the substantive question, one day; Mr Rich-Phillips's question to Ms Pulford, the supplementary question, one day; Ms Fitzherbert's question to Mr Jennings, the substantive question, one day. In some ways Mr Jennings addressed the substantive question in his supplementary question when he reflected on the Victorian Electoral Commission's (VEC) independence in these matters, but in the context of the substantive question Mr Jennings's response was mostly about IBAC and did not actually address the VEC, so I will maintain the substantive question there, albeit that Mr Jennings has ventured some information on that. On Ms Patten's question to Ms Tierney, both the substantive and supplementary questions, I direct written responses, and that is two days; Ms Pennicuik's question to Ms Pulford, the substantive and supplementary questions — the minister volunteered to obtain some additional information particularly on the audit process and so forth — that is one day.

Mr O'Donohue — On a point of order, President, I submit to you that Ms Tierney said in her answer to supplementary question number one about how many serious violent offenders have been released from prison without the supervision of the post-sentence scheme that she did not know the numbers. The Harper review does contemplate the parameters of the post-sentence scheme, and I would submit to you, President, that perhaps the minister could provide a written response to that supplementary question.

The PRESIDENT — I have already asked for that. I said the supplementary question on the first question.

Mr O'Donohue — I apologise, President.

CONSTITUENCY QUESTIONS

Northern Metropolitan Region

Mr ONDARCHIE (Northern Metropolitan) (12:36) — My constituency question is for the Minister for Education, and it concerns schools in the Northcote electorate in my constituency of Northern Metropolitan Region. It concerns the day of the Northcote by-election, when there were many signs outside schools that said, 'Labor funded this project'. My

question for the minister is — and I ask him to respond to me so I can respond to my constituents — how much money exactly did the Australian Labor Party contribute in addition to the taxpayer-funded upgrades to these schools?

Western Victoria Region

Mr PURCELL (Western Victoria) (12:36) — My question is to the Minister for Roads and Road Safety. I have previously raised a number of times the need to have training for international drivers prior to letting them loose onto Victorian roads. Early afternoon last Saturday I came across an accident just metres from my office on a very well signed corner of James and Bank streets in Port Fairy. A vehicle driven by a Chinese visitor with three passengers went straight through a give-way sign and T-boned a local motorist. There was extensive damage to both vehicles, but luckily no serious injuries. The driver from China could speak no English and appeared to have no idea what the give-way sign meant. I therefore again ask: Minister, will you implement a program of driver education for international drivers before letting them loose on Victorian roads?

Western Victoria Region

Mr MORRIS (Western Victoria) (12:37) — My constituency question is directed to the Minister for Roads and Road Safety, and it is in relation to a program that the government is attempting to roll out in Ballarat — what it is referring to as a $9.3 million upgrade to the city's cycling infrastructure. However, many of my constituents and I have grave concerns that this could just turn into a God-awful mess and destroy magnificent Sturt Street. Let us not forget the government has form in destroying magnificent heritage streets in Ballarat. It destroyed Lydiard Street with the buses, now it is trying to destroy Sturt Street with the bikes. I have grave concerns about the plan that has been unveiled. The question that I ask the minister is: will the minister provide an assurance to the Ballarat community that this plan will not destroy the magnificent Sturt Street in Ballarat?

Eastern Metropolitan Region

Mr LEANE (Eastern Metropolitan) (12:38) — Recently, I attended Heathmont College and along with the school's fantastic principal, Johanna Walker, I had a look around and discussed the school. I would like to direct my constituency question to the Minister for Education. Heathmont College is a fantastic school with growing numbers of students because of the demographics and because the school is great, with great teachers and a great atmosphere, but some of the buildings are a bit tired. The question I ask the minister is: can Heathmont College be considered in future capital works funding rounds?

Western Victoria Region

Mr RAMSAY (Western Victoria) (12:39) — My constituency question is to the Minister for Mental Health, Martin Foley. Will the minister commit to $600 000 of capital funding and $1.1 million of recurrent funding for a 20-bed alcohol and other drug rehabilitation centre in Warrnambool? The Assembly member for South-West Coast, Roma Britnell, has been a strong advocate for funding for more rehabilitation beds in the south coast region and has worked closely with the Western Region Alcohol and other Drug Centre, which has pledged $600 000 for the new 20-bed centre, as well as the community, who she has worked very closely with, who have pledged $500 000 for the 20-bed rehabilitation centre. It is a fantastic effort by the community.

With over 600 clients seeking help for alcohol and other drug abuse, there is a real and urgent need for these beds for the Great South Coast region. Again I congratulate Ms Britnell for her very hard work in this area.

Western Metropolitan Region

Mr FINN (Western Metropolitan) (12:40) — My constituency question is to the Minister for Planning. The minister's signing off on the environment effects statement (EES) on the West Gate tunnel project this week has caused outrage among residents groups and local government in the western suburbs. Many residents are angered and believe that they have not been listened to, with the view being expressed that the EES on this project had a predetermined outcome. Locals believe the die was cast well before the process began. They are concerned they are victims of a government hell-bent on bullying them on this matter. What will the minister do to ensure the views of locals in Melbourne's west are listened to and actually heard on this issue?

Northern Victoria Region

Ms LOVELL (Northern Victoria) (12:41) — My constituency question is for the Minister for Health. Members in this place will be well aware of my advocacy for radiotherapy services to be established in Shepparton to service the needs of Goulburn Valley cancer patients requiring this life-saving treatment. Yesterday I announced that private care provider

GenesisCare had secured a $6.95 million federal government healthcare program grant to establish these vital services in Shepparton. Genesis is the largest provider of radiation oncology in Australia and operates eight radiation oncology centres in Victoria, including the regional cancer centre in Albury. Because it is a private provider it is vital that the Andrews government works with GenesisCare to enter into a public-private partnership and provides the recurrent funding to ensure the planned radiotherapy services are available and affordable to all patients.

Will the minister give an undertaking to work with GenesisCare to enter into a public-private partnership that will provide the funding to ensure that all patients will be able to access any planned radiotherapy services in Shepparton?

FIREARMS AMENDMENT BILL 2017

Ordered to be committed later this day.

GAMBLING REGULATION AMENDMENT (GAMING MACHINE ARRANGEMENTS) BILL 2017

Second reading

Debate resumed from 28 November; motion of Mr JENNINGS (Special Minister of State).

Ms PATTEN (Northern Metropolitan) (12:42) — I am rising to speak to the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill 2017. I note that the bill states that its objectives are responsible gambling codes of conduct, self-exclusion programs and standard conditions of agreement, all relating back to responsible gambling. This bill really does quite the opposite in my opinion.

This bill, amongst other things, extends poker machine licences from 10 years to 20 years; fixes EFTPOS withdrawal limits in poker machine venues at $500 a day; permits the doubling of gaming machines per venue from 420 to 840; and permits cashless gaming. It is a bill that deals with licences that are barely halfway through their current term — they are not due to expire until 2022, almost a full election cycle away — and yet we seem to be rushing this bill through. The government has yet to be able to provide any cogent reason why, and I fear that this bill will actually be of great detriment to our community. Certainly that is the concern in the emails I have been receiving from my community and my constituents.

As I go forward in regard to this bill I do not want to sound like a wowser — I mean, gambling is a personal choice. I am rarely accused of being a wowser, and I have certainly played on poker machines and I will have a bet from time to time. I support the rights of Victorians to gamble and I do not want to feel like I am shaking a finger at them like a nanny. But the rules need to be fair, and I think with the poker machines they are not — they are just not fair — and as a consequence we are seeing so many Victorians suffer from what has become quite insidious.

A few weeks ago I spoke at the first Women Against Pokies rally here on the steps of Parliament House. I took part because playing poker machines these days is nothing like having a bet on the Melbourne Cup or playing two-up on Anzac Day. The other speakers included four women — Anna Bardsley, Gabi Byrne, Joanne McKenzie and Libby Mitchell — all of whose lives have been severely damaged, as well as the lives of their families, by an addiction to poker machines. Unbeknownst to them when they started that is exactly what these machines are designed to do, and I know that we have all read the media reports and seen the documentaries on this. These machines are designed to addict and are programmed to mentally reward you even when you are losing.

Poker machine losses in Victoria exceed $2.6 billion each year. The pokies industry has drained $50 billion from Victorians over the past 25 years — $50 billion. My electorate of Northern Metropolitan Region is particularly affected. We have some of the highest gambling losses in the state. The residents up in the north of my region, in Whittlesea and Hume, together drop more than $200 million a year on poker machines. In the City of Darebin the losses amount to $84 million per year. Other councils in my region, such as Moreland, have written to me expressing similar concerns about the losses that their constituents and my constituents cannot afford to hand over to conglomerates like Woolies and Coles.

We saw that the Victorian Responsible Gambling Foundation issued a report last year and it was illustrating the harm of gambling addiction, especially in relation to poker machine use. It pointed out and noted the significant financial stress that related to this, but also the mental health, anxiety, depression, reduced work performance and family violence. It also noted that women suffer disproportionately from pokies, whether that is from family violence or addiction itself, or of course financial abuse. Very sadly, in this country we see 400 gambling-related suicides every year.

No-one in this chamber, I think, will oppose the suggestion that gambling can be addictive. We know that it damages individuals and families. In fact we spend millions of dollars each year addressing the harms of gambling. So I think we should be seeking to try and minimise those harms before rushing into this bill, which is going to double the licence lengths and also double the number of machines per venue, and this is all happening long before these licences are even due to expire.

The Tasmanian government conducted an inquiry into this issue quite recently. What I was really surprised about is that in Victoria we have never done an inquiry into gambling. I found that really quite surprising given the concern that our community has about gambling. The outcome of the Tasmanian inquiry was a recommendation for significant legislative reform.

On 3 November I asked the minister a question about this. I asked the minister why we were going ahead and extending these licences when they will not expire for another five years and why we were going to not only give them the licences but double their duration to 20 years. They confirmed that the reason for the early allocation of entitlements is to provide gaming businesses with the certainty required to make decisions about long-term investments, with particular reference to borrowing to finance venue refurbishments and renovations. Refurbishments and renovations — new carpets that they need to have 20 years security to purchase! This industry is thriving; I do not think they are having any trouble affording renovations in those businesses. Twenty-five per cent of Victorian losses go to Woolworths. I am pretty sure that they will have no issue with financing renovations, so I do not accept that that is a legitimate reason or basis to rush to 20-year contracts, certainly not with the levels of family violence and suicide relating to gambling we are seeing.

Gambling tax revenue in Victoria is forecast to be $1.9 billion in 2017–18, and it is expected to grow at an average of 1.8 per cent per year over the next four years. Some $1.1 billion of the revenue for this year is derived from pokies, and that is before the introduction of these proposed reforms, which will only increase that return. I get that that is significant in budgetary terms, I get that we need this and that it may be significant to our AAA rating. I understand that from a fiscal position we may want to lock in raising that money for a further 20 years, and I am not calling for a ban. I am just asking that we consider harm minimisation measures, which is almost what this bill says its objective is, for community safety, but this bill does not do that. I know it is a cliché, but prevention is the best cure, and it is often the most effective, particularly cost-effective. Early intervention will help Victorians before their issues escalate, and in doing so we are likely to reduce the spend flowing from gambling-related harm at the back end. If we can stop people from becoming problem gamblers, we are not going to have to spend millions of dollars on dealing with them once they are problem gamblers.

Today I will call for two things. I will call on the house to refer this bill to a parliamentary inquiry to be conducted by the Legal and Social Issues Committee. Principally that inquiry would consider poker machine-related harm reduction measures and look for solutions. If that motion is unsuccessful, I will move amendments in the committee stage. The amendments that I have drafted have been formulated on the advice of the Alliance for Gambling Reform, and I thank the Honourable Kelvin Thomson, the Reverend Tim Costello and Stephen Mayne for their advocacy in this area.

The amendments that I would seek to move have five key purposes: to provide for gambling entitlements to expire after 10 years, not 20; to provide for a clear prohibition on cashless gaming; to introduce a daily maximum EFTPOS withdrawal limit of $200 rather than $500; to reduce the maximum poker machine bet per spin from $5 to $1; and to reduce the poker machine venue maximum daily trading hours from 20 hours a day to 16 hours a day. These amendments retain Victoria's 10-year poker machine licences rather than extending them to 20 years. I feel by doubling the length of the licences we fetter our ability to reduce gambling harm in the future. Ten-year licences have not deterred industry involvement in this state, and I do not think they will in the future. In fact this industry is thriving, and I do not believe that the government has provided a good case for extending licences to 20 years.

The government did remove ATMs from gambling venues, but EFTPOS has been used as a means of sidestepping that. We removed ATMs that had a $400 daily withdrawal limit, but we are now putting a $500 daily limit on EFTPOS withdrawals. It is nonsense that this will in any way go towards reducing harm from problem gambling. That is $500 a day — $3500 a week — that we will allow people to take from a Visa card in a gaming venue. I am suggesting a $200 limit, which is $1400 a week; it is still considerable. The $200 limit has been adopted in Tasmania and it is regarded as best practice.

My amendments also limit the maximum bet per spin to $1. It is a measure that was recommended by the Australian Productivity Commission, which found that very few people without gambling problems bet more

than $1 per button push. Limiting the rate of loss is regarded as an effective harm minimisation strategy that is supported by the Australian Competition and Consumer Commission. We are also suggesting that poker machine venues, instead of being open for up to 20 hours a day, be open for up to 16 hours a day. I do not think that is too much to ask. At one of the early-opening venues in Sydney Road I have seen a queue of largely older women standing outside that venue waiting for it to open at 8 in the morning, and they are probably there for the rest of the day until they go home to cook dinner.

These amendments do not prevent the use of gaming machines, but they will deliver evidence-based gambling harm reduction measures. These amendments are for the victims of family violence and those driven to contemplate suicide. I think it is hypocritical not to accept these harm minimisation measures when you look at the extraordinary investment this government has made into reducing family violence and suicide in this state. In the absence of support for referral to a committee so we can consider harm minimisation, I implore members of this house to support my amendments, which will go some way to implementing some harm reduction measures.

Sitting suspended 12.57 p.m. until 2.03 p.m.

Mr DALIDAKIS (Minister for Trade and Investment) (14:03) — I rise to both speak to and obviously sum up on the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill 2017. At this point in time allow me to deal with a number of issues that obviously were discussed by members in their contributions. The bill, as some would be aware, seeks to amend the Gambling Regulation Act 2003 (GRA) to increase gaming machine entitlement terms from 10 to 20 years.

There has been a little bit of misinformation in relation to the position of the Victorian government and what it is doing in comparison to what other jurisdictions have done. There has been a little bit of mischievous behaviour — people claiming that the government has put forward a position with this legislation that is somehow contrary to the community at large but also to the community standards that we as members of Parliament both govern for and protect and also continue to endorse through the legislative arrangements that we obviously have the great honour of presiding over.

Let me just begin by outlining a number of statistics that no doubt you, Acting President Melhem, are very interested in. You have expressed a desire and an interest in this area, and I enjoy this opportunity to outline them. Let me start with the maximum number of pokies in pubs and clubs. In New South Wales that figure is already at 97 500, in Queensland that figure is at 44 205 and in Victoria that figure is down at 27 372. The maximum bet limit in pubs and clubs in New South Wales is $10. The figure in Victoria is $5. In relation to the statewide council caps, there is no cap in Queensland and there is no cap in New South Wales, but in fact we have a cap here in Victoria. In relation to ATMs in pokie venues, there are ATMs in pokie venues in Queensland and New South Wales. We do not allow for ATMs in pokie venues in Victoria. In relation to EFTPOS limits in pokie venues, there is no EFTPOS pokie limit in New South Wales or Queensland, but in fact we do have an EFTPOS limit here in Victoria.

In relation to licence length, we have heard criticisms about the licence length from some people in this chamber, but let me tell you that if you are in Queensland or New South Wales, there is no limit to the licence length of your pokies. If that is not enough, if you want to actually have a look at the maximum number of machines per club, in New South Wales there is no limit, in Queensland there is a limit of 300 pokies per club. In Victoria that limit is 105. The point is that we have very responsible measures in terms of our gambling machines in Victoria — far more responsible than other jurisdictions in Australia.

Ms Patten interjected.

Mr DALIDAKIS — It might be great for some members of Parliament to come into this place and try and grandstand and try and seek some kind of community benefit in relation to the positions that they put. Overall the government's position is to try and reach the margins, to try and actually make sure that we do not just skew one way or the other — we try and reach the centre. There is no doubt at all that the legislation that is before this place seeks to get the call right: between the right of the individual to be able to undertake gambling in their own time, in their own space, and the role of government to provide protections to ensure those people that suffer from addiction can do so in a way where they can have some assistance as well.

It might be something that people in this place object to. I have on a number of occasions expressed my own dislike for gaming machines, not just because I believe that gaming machines offer little intrinsic value to enjoyment as distinct from horse racing or gambling at the poker table. Whether it be a card game with friends for no money at all — just the desire to say that you are

better than your friends in the safety and privacy of your home — or whether it be at Crown Casino at the gaming tables, the fact of the matter is that we as a society have legalised this. People can argue whether we should have, people can argue whether we should not have. The point is that we have. As a result it is the government's job to reach the middle ground. I believe through the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill before this place that the government has.

There are some in this place that would like to try and argue that in fact we have been somehow forced into the positions that we have taken in regard to harm minimisation. Let me show you that that is not true at all. In fact over the years that there have been Labor governments in Victoria, at each and every stage and opportunity we have tried to make changes for the betterment of the community. Pre-2002 there were no limits on ATM withdrawals or EFTPOS withdrawals. In 2003 the then Labor government introduced a $200 transaction limit but no daily limit; of course the same applied to EFTPOS withdrawals. In 2010 that was changed to a $400 daily withdrawal limit in relation to ATMs, and in relation to EFTPOS withdrawals that was changed to a $200 transaction limit but with no daily limit. Then in 2012 that was changed to no ATMs in gaming venues and a $200 transaction limit with no daily limit. Come 2018 of course we will maintain no ATMs in gaming venues and a $200 transaction limit with a $500 daily limit.

So again you can see that over the course of time we have made the changes that the community has expected of us. We have made changes that we believe are in the best interests of both harm minimisation but also getting the balance right, and that is essentially what we are trying to do in this piece of legislation — get the balance right. We are trying to make sure that those people that can gamble responsibly have the opportunity to do so. We are trying to make sure that the nanny state — some people would like to see the end of people being able to make some choices for themselves — is dispensed with to ensure that people can actually make decisions.

In fact there are some people in this chamber that have argued, for example, for the decriminalisation of drugs. Fancy that, that they would argue for the decriminalisation of drugs and somehow try and curb the ability of people to engage in gambling. Some people could draw their own conclusions about the hypocrisy of those positions — not me, of course; I just pose that as a question.

What we have discussed is that the arrangements within the bill look to increase the gaming machine entitlement terms from 10 to 20 years. We believe this does a number of things, the first of which is that it sees the payments for the entitlement term made across two 10-year periods. Of course venue operators are able to surrender their entitlements after the first 10-year period without incurring penalties. The entitlement pricing for the second 10-year period will be determined prior to 2032 by a future government in this state. Should Premier Andrews wish to continue on for that period of time, I have no doubt that we will continue as the government of choice of Victorians because we continue to try and find the middle ground and the middle way. Of course there is no better way to remain in public office than to try and find that middle ground and that middle way at all times across all public policy pursuits in this place.

We are also looking to increase the number of entitlements that a club can hold from 420 to 840. Again, let me remind the chamber that there is a cap of 105 machines per venue, which is important to remember. As I indicated to the chamber earlier, in Queensland the number of machines per club is limited to 300 and in New South Wales there is in fact no limit whatsoever, so again Victoria is trying to strike a balance and trying to get the balance right between minimising harm in the community while also allowing people in the community to exercise their right to gamble using pokies if that is their preferred method.

There are of course a range of other attributes within the legislation, but let me just turn to harm minimisation measures. I have spent a little bit of time talking about what we are trying to do and in fact what Labor governments have done over the years here in Victoria. In terms of harm minimisation this bill looks to amend the GRA to limit the amount of cash that can be withdrawn in a gaming venue using EFTPOS to $500, as I indicated at the beginning of my contribution; $500 is an amount within a 24-hour period, confined to a debit card. Whilst Ms Patten's contribution strayed into the area of a credit card, let me remind this place that whilst a credit card can be used it must be linked to a debit or cheque account. People would understand that cards can have multiple uses, but in fact it is not able to be used on an EFTPOS terminal as a credit card in and of itself. It must be a savings or cheque account that is linked to the banking card also. It could be a credit union card or account also. I think that is important to remember.

We also need to be reminded that as part of this change the legislation prohibits gaming venue operators from cashing customers' cheques. It prohibits the advertising

or operation of cheque cashing services in or around a gaming venue. In terms of applying harm minimisation measures to cashless gaming systems, it also prohibits the purchase of cashless gaming tickets or credits associated with a card-based cashless system with a credit card; prohibits the offering of a cashless gaming ticket or credits associated with a card-based cashless system as an incentive to gamble or as a promotion; prohibits any encouragement of players receiving winnings in the form of cashless gaming tickets or credits on a card-based cashless system; and creates new powers to impose limits on cashless gaming, such as limits on the amount that can be loaded onto a card or ticket, and the amount that can be exchanged for cash and other the requirements that apply with respect to the operation of cashless gaming by a venue operator.

We need to make it very clear that these are all outcomes that the minister in the other place has negotiated against some of the wishes of the industry, but nonetheless she has negotiated them in the best interests of people that choose to undertake this form of gambling.

Harm minimisation is for people that may be affected, unfortunately, by gambling in and of itself, but let me remind you that we live in a democratic society. We govern to allow people to conduct themselves within a framework in society. I note that on social media some people have chosen to attack me and suggest that somehow we should relate this to driving a car without a seatbelt; what a preposterous example to try and use. Society operates within frameworks. Having gaming machines means that we have a framework. Part of this bill is designed to amend that framework to provide greater safety measures for those people that come into harm's way through gambling addiction. We should not be afraid of saying that that is exactly what happens. This does occur, no different from alcohol or substance abuse, no different from speeding and getting in a car crash. When people reach a measure that they breach, that is when a regulatory framework, a law, is designed to try and stop that type of abuse.

Harm minimisation is designed to try and help people and to try and stop people from suffering. Again, I am on record as saying I personally have no affinity with gaming machines. But that is my view; that is not to say that I should impose my view on the rest of society. Society and the people in it are afforded the right to determine their own life, just as we have seen with the voluntary assisted dying legislation — the ability of people to exercise self-determination. Whether we want to take advantage of that legislation or not, we are allowing people the right to choose to take advantage of that legislation. There is no difference with this form of gambling in society, being of course machines.

We have had a number of contributions to the debate. I will focus on the contribution of Ms Hartland from the Greens. Ms Hartland knows that I do have a great deal of respect for the public policy pursuits that she has undertaken in her career in this place. Of course there are concerns about the caps that we are applying, and I will no doubt deal with those through the committee stage of the bill, but I point out that we are increasing the number of municipal areas with full regional caps from 11 to 17. Regional caps will further be extended to areas that are vulnerable to harm within eight more municipalities. We have got more that we will say in the committee stage. I commend this bill to the house.

Motion agreed to.

Read second time.

Referral to committee

Ms PATTEN (Northern Metropolitan) (14:18) — I thank the minister for his summing up, although I did feel thou dost protest too much in your rampant defence of this bill.

The ACTING PRESIDENT (**Mr Melhem**) — Ms Patten, I ask you to formally move your motion.

Ms PATTEN — I move:

That the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill 2017 be referred to the Legal and Social Issues Committee for inquiry, consideration and report by 29 March 2018 and, in conducting its inquiry, the committee should consider the impact of —

(1) the duration and terms of licences for various gaming activities;

(2) cashless gaming;

(3) unlimited daily maximum EFTPOS withdrawal limits;

(4) maximum bet per spin limits;

(5) daily poker machine venue trading hours;

(6) harm minimisation measures and their effectiveness; and

(7) how other jurisdictions have undertaken to regulate these matters.

After listening to the minister summing up, this inquiry would be very, very useful in looking at the evidence around harm minimisation. Maybe the minister and the government are correct, and this is a wonderful model of harm minimisation for gambling. I am not convinced of that; neither is my community. Speaking about

hypocrisy here, I remain consistent in my thinking that we should be looking at harm minimisation when it comes to gambling. This inquiry will allow us to look at the evidence that has been collected and the reports and studies that have been undertaken not only in this jurisdiction but in other jurisdictions around Australia and internationally about getting the balance right between allowing people to enjoy gambling while ensuring that we protect those problem gamblers and those people whose lives are pulled apart, sometimes leading to death by suicide, as a result of gambling. I hope everyone supports this motion.

Ms HARTLAND (Western Metropolitan) (14:21) — We will be supporting this referral, obviously for the reasons Ms Patten has stated. If the government is so convinced that this is such a fantastic bill, it will not mind the scrutiny. Considering Mr Dalidakis has talked about how terrible New South Wales and Queensland are and how fantastic we are in Victoria, then the government presumably will not mind a bit of scrutiny on this.

Dr CARLING-JENKINS (Western Metropolitan) (14:22) — I rise to speak on the motion to refer the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill 2017 to the Standing Committee on Legal and Social Issues. Quite simply, I think that this would be a good move. This bill will be stronger if it is delayed to be given further consideration. It is too important a bill, as we just heard from Ms Hartland, not to be given due consideration. It is quite a big bill as well, and as a house of review, we should be taking it quite seriously. This is something that has been reflected in the community, and I want to point that out very strongly.

I am sure the Alliance for Gambling Reform have written to all of us here and have attempted to meet with all MPs. They have sent out a really strong case for stronger gambling reforms. In their correspondence to us, they described the unacceptable background around the problems in gambling in this state. They said:

> We seek your support for a cross-party Legislative Council inquiry into gambling harm in Victoria before such long-term legislation is passed.

They also said:

> The Victorian Parliament has a once in a generation opportunity to make a real difference to the lives of tens of thousands of Victorians by updating the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill to reduce the devastating impacts of poker machine gambling.

I think the best way to do that, and this has community consensus, is for it to referred to a committee for due consideration.

I have also received personal correspondence from a number of the councils across my own area of Western Metropolitan Region, and I want to put on the record two of those. One of those was from Cr Peter Maynard, now mayor of Wyndham City Council, and he very clearly pointed out the problems that we have in Wyndham:

> Wyndham is currently ranked 8 of 70 LGAs for gaming losses … the losses are increasing at a faster rate than Victoria.

These losses are having huge impacts on our community surrounding my electorate office. He also said that this bill represents an opportunity to address gambling harm, and we accept that. But unfortunately the council has a number of problems with it, particularly around the harm minimisation measures. He is calling on behalf of the Wyndham City Council for a parliamentary inquiry into Victoria's gaming machine arrangements to provide the opportunity to hear from communities and simply to get this legislation right.

Further, Cr John Hedditch from Brimbank City Council has sent an email which was very convincing as well. He said that there is no requirement to rush the bill through the house as existing entitlements do not run out for another five years. He pointed out that Brimbank fares worst of all in Victoria's local government areas when poker machine loss data is released. He also commented quite extensively on the social harms to the community as a result. So their preferred option as a local council is that the bill be referred to a standing committee so that any amendments that we have on the table today and any other amendments that the community might want to put forward can be fully considered and so that communities can be properly consulted.

I do not need to belabour the point. I think it was good to put those thoughts on the record. I wish to simply say that I am listening to my constituents' concerns and I am listening to the concerns of the Alliance for Gambling Reform and of the local councils in my area, and as such I support the recommendation before us to send this bill to committee for further consideration. I think that is a valuable move, and I hope that everyone in the chamber will support it.

Mr O'DONOHUE (Eastern Victoria) (14:26) — The opposition will not be supporting Ms Patten's referral motion. I hope that many of the issues she flagged in her seven points will be answered by the minister during the committee stage. I trust that the government has done a detailed analysis of the seven issues and many others in preparing this legislation. It is very important legislation; it sets the course for gaming machines in Victoria for many years to come. I am looking forward to an extensive committee stage with the minister to go through these issues. I trust that the advisers to the minister will have much information that they can provide.

I flagged in my second-reading contribution that issues around gaming machines are obviously very important. One of the reasons for the establishment of the Victorian Responsible Gambling Foundation by the previous government was the way gaming has proliferated through the community, particularly through the online environment and the challenges that presents. I think they are issues we also need to be cognisant of that are not part of this reference from Ms Patten. As I said, the issues that Ms Patten has canvassed as her terms of reference are all legitimate and reasonable issues that need to be discussed, and the committee needs to have a degree of satisfaction before we progress to the third reading. It is my intention to be an active participant in those discussions, and I look forward to the minister's fulsome answers to those questions.

Mr DALIDAKIS (Minister for Trade and Investment) (14:28) — Similar to the opposition, the government will not be supporting the referral. We believe that we have undertaken extensive stakeholder engagement in relation to the bill. As I pointed out in my second-reading speech we have far and away the greatest measures of harm minimisation in Australia, save for Western Australia, that as I will happily acknowledge has pokies only within its casino precincts. But for the eastern seaboard of Australia — Queensland, New South Wales and indeed Victoria — I have already demonstrated that the Victorian government's approach to gaming machines is significantly better and probably best practice in Australia, save for the Western Australian jurisdiction.

There seem to be people who wish to engage, and no doubt they will get an opportunity in the committee stage, which the shadow minister has inferred will take an extensive period of time, and I welcome that. I welcome the scrutiny and the transparency. But let me point out that under the Andrews government $150 million was committed to the Victorian Responsible Gambling Foundation — $148 million which was originally committed in the 2013–14 budget and a further $2 million that was committed under the implementation of YourPlay, bringing total funding to $150 million — the most extensive amount of funding of any of the eastern seaboard states in relation to problem gaming.

We can have an argument until we are blue in the face about whether or not people should have the right to game, but the fact of the matter is that we have gaming machines and we have people who are able to self-determine in a whole variety of ways, yet we have people wanting to decriminalise drugs but somehow wanting to recriminalise gaming machines. We have an interesting policy put forward by some in this chamber who wish to crack down on one form but open up another. All we are trying to do is make sure that the society that we live, work and operate within has a framework and a framework that we believe gets it right, that allows us to move —

Mr Ramsay — It's a framework of greed.

Mr DALIDAKIS — I will take up the interjection. Mr Ramsay clearly does not like pokies, and he was not here earlier when I put forward that my personal view is that I am not a big fan of them either, but the fact of the matter is that we have more people in society than just Mr Ramsay and me. I made specific reference to the groundbreaking legislation that we passed in this chamber last week in the voluntary assisted dying legislation, which will allow people to self-determine, and that is what we are allowing people to do within a framework of protections that provide people in the community with support if they need it.

The government position will be to not support the referral of this bill to a committee, and we look forward to the committee stage further probing this legislation.

Ms PATTEN (Northern Metropolitan) (14:32) — I appreciate the speakers on the motion. As Dr Carling-Jenkins said, there is no rush for this legislation. We are about to issue 20-year licences to organisations whose licences do not expire for another five years, so there is no reason to rush this.

If the minister and the government are so confident that this is a model piece of legislation, the best in Australia, then let us have a look at it. Let us hear the community's position on this. I see no reason to rush this through. The minister keeps telling us that this is model legislation and that this is going to improve things. That is not what the community is telling me and it is not what the community is telling most of us. I certainly have not had any correspondence

congratulating the government on this model. In fact, far from it, I have had quite the opposite. People want an opportunity to discuss this issue. We have never had an inquiry into gambling in Victoria, and I really think that the time is right. We have seen $200 million from two councils in one year in Northern Metropolitan Region given to those gambling organisations. That is a $200 million loss in two of the poorest councils in Victoria. I think this warrants an inquiry. I am disappointed that the government will not support that.

House divided on motion:

Ayes, 10

Bourman, Mr	Pennicuik, Ms
Carling-Jenkins, Dr	Purcell, Mr
Dunn, Ms	Ratnam, Dr
Hartland, Ms	Springle, Ms
Patten, Ms (*Teller*)	Young, Mr (*Teller*)

Noes, 28

Crozier, Ms	Morris, Mr
Dalidakis, Mr (*Teller*)	Mulino, Mr
Dalla-Riva, Mr	O'Donohue, Mr
Davis, Mr	Ondarchie, Mr
Eideh, Mr (*Teller*)	O'Sullivan, Mr
Elasmar, Mr	Peulich, Mrs
Finn, Mr	Pulford, Ms
Fitzherbert, Ms	Ramsay, Mr
Gepp, Mr	Rich-Phillips, Mr
Jennings, Mr	Shing, Ms
Leane, Mr	Somyurek, Mr
Lovell, Ms	Symes, Ms
Melhem, Mr	Tierney, Ms
Mikakos, Ms	Wooldridge, Ms

Motion negatived.

Instruction to committee

The ACTING PRESIDENT (**Mr Melhem**) — With respect to the amendments circulated by Ms Hartland and Ms Patten, amendments 1, 16 and 17 proposed by Ms Hartland and amendments 3, 4 and 39 to 42 proposed by Ms Patten are not within the scope of the bill, therefore pursuant to standing order 15.07 instruction motions are required for the relevant amendments moved by each member. I call on Ms Hartland to move her instruction motion.

Ms HARTLAND (Western Metropolitan) (14:40) — I move:

> That contingent upon the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill 2017 being committed, it be an instruction to the committee that they have power to consider amendments and new clauses to amend both the Gambling Regulation Act 2003 and the Casino Control Act 1991 to impose limits on the amount that may be wagered on a single spin of a gaming machine.

We have previously brought a bill to this house on $1 bets. We believe that it makes good social policy to actually reduce the amount of money that people can lose every day in a pokies venue, and that is why we have put forward this motion.

Ms PATTEN (Northern Metropolitan) (14:41) — I support Ms Hartland's motion and amendments. We know it is the problem gamblers who are doing $5 spins at the moment. Just slowing down the loss rate for people will alleviate a lot of pain and suffering in our community.

Motion agreed to.

The ACTING PRESIDENT (**Mr Melhem**) — I call on Ms Patten to move her motion and again remind members it is a procedural motion.

Ms PATTEN (Northern Metropolitan) (14:42) — I move:

> That, contingent upon the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill 2017 being committed, it be an instruction to the committee that they have power to consider amendments and new clauses to amend the Gambling Regulation Act 2003 to impose limits on the amount that may be wagered on a single spin of a gaming machine and to change the number of hours of gaming that are permitted at an approved venue.

Motion agreed to.

Committed.

Committee

Clause 1

Ms PATTEN (Northern Metropolitan) (14:47) — I move:

1. Clause 1, page 2, lines 1 and 2, omit all words and expressions on these lines.

2. Clause 1, page 2, line 17, omit "20" and insert "10".

I move these amendments in my name, which I understand have been circulated. These first two amendments provide for a 10-year licensing framework for gaming machines, rather than the 20-year licence that the government is proposing in this legislation. I do not think any of us know what gambling and poker machine technology and what the systems and the harms of gambling may be like in five years, let alone 20 years, and I think providing for such a long-term licence really fetters and disables us from having a much more active hand on these clubs and organisations. Keeping it at a 10-year licence, which I do not think is a small amount of time — 10 years is a

good long period, and I certainly have not felt like the industry has been stymied by a 10-year licence — enables us to keep a watch on this. If we do want to make changes to licensing at any time we feel there is a need to change licences, I would prefer we keep it at 10 years rather than have to wait for two decades before we are able to make changes to licensing arrangements.

Mr O'DONOHUE (Eastern Victoria) (14:49) — I would seek from the minister some advice in response to Ms Patten's amendments about what changes can be made to the regulatory framework of the gaming industry and what responsible gambling measures can be introduced to respond particularly to unforeseen technology changes that I think Ms Patten alludes to if this entitlement period does progress. As a follow-up to that, Minister, is there any opportunity at the 10-year mark for review or change to implement new responsible gambling initiatives if required? I think this is a live question that Ms Patten poses, and I would seek your response.

Ms HARTLAND (Western Metropolitan) (14:50) — The Greens will be supporting Ms Patten's amendments. They are quite sensible. One of the problems that I have with the idea of this extended period of licences is that in the western suburbs we have huge numbers of machines, especially in the minister's own electorate. Brimbank City Council is one of the areas that has some of the worst losses in the state, so the idea that we are not going to reduce the numbers of machines for 20 years or 25 years just seems quite ridiculous to me, so I think 10 years is a much more sensible approach.

Mr RAMSAY (Western Victoria) (14:51) — I have a question in relation to clause 1, on the purposes of the bill, not so much about Ms Patten's amendments. The question to the minister is in relation to if an extension is being sought for the licences, and I assume the Australian Hotels Association and other stakeholder groups have been quite vigorous in their advocacy for an extension.

I just want to refer to my little regional towns in western Victoria, where Colac has significant disadvantage. It has a very high rate of people on Centrelink payments. It has a lot of social housing, and I can duplicate that particular town to a whole range of small towns across my region and into the bigger cities. I refer also to Geelong, where there is a considerable number of gaming machines, and I do congratulate Brian Cook, the CEO of the Geelong Football Club, who saw fit to remove the gambling machines from the Geelong Football Club for the very reason that they found there was a considerable impact on those patrons that were spending money they did not have. Consequently the credit, or the debt if you like, of those people got to a level where in fact they were putting in jeopardy some of their financial resources, houses included. There were a lot of loan sharks also quite busily active, offering all sorts of inducements to borrow money so they could use the gaming machines, and consequently we found that they were getting in a position where they were unlikely to get out of their increasing debt levels.

In Colac and other towns where the gaming machines are actually in hotels, I find the gaming machines can actually open at 8.00 a.m. to allow patrons to go in and start losing money, which is well before the establishment opens legally for serving alcohol. I see people lined up at 8 o'clock heading into the poker machines to, hopefully, hit it big on the machine, yet they are doing so irresponsibly and addictively, in my view. The very people we are trying to protect in relation to social disadvantage are the very people that are so addicted to this type of recreational pursuit that they invariably require help at the other end.

So, Minister — I know that was a long contribution — I just want to flag with you: what modelling has been done in respect to the extension of these licences about the impact that gambling is having, particularly on those socio-economically disadvantaged communities where people have no self-control in relation to what they do and do require significant support and help in relation to debt reconstruction when they find themselves getting to a point where there is not only financial stress but domestic stress as well? We see an increase in domestic violence and family breakdowns because of this addiction, so what has the government done in relation to modelling to try and reduce the significant impact that gambling has, particularly on that section of the community that has no self-control and is addicted to that pursuit?

Mr DALIDAKIS (Minister for Trade and Investment) (14:54) — In relation to a number of the queries that were raised by the members that have previously spoken, let me firstly deal with Mr O'Donohue's questions about restrictions in terms of regulatory framework for future governments. There is no impediment, Mr O'Donohue, so a future government of any persuasion can change the regulatory framework as they see fit, as of course we would expect future governments to be entitled to do so.

It is important to note in relation to the issues that were raised about the 20 years — going back to both Ms Patten and also to Ms Hartland — that the

government views a 20-year entitlement term as being a period that enables harm minimisation measures to occur over a much longer period of time than they would have otherwise. As I said in my summing up of the second-reading debate, if venues wish to hand back their licences after the 10-year period, they are able to do so without any penalties whatsoever. Why are we looking at a 20-year period? Prior to the current entitlement term of 10 years of course Tatts and Tabcorp were awarded 20-year licences in 1992 to 2012. The reduction of 10 years in 2012 was due to the uncertainty around replacing the Tatts-Tabcorp licence duopoly with a venue operator model. As that venue operator model has proven to be relatively successful, the term can now revert back to an initial length of 20 years, and that is why the 20-year period has been sought.

Can I also say that the 20 years does not restrict the government from looking at the regulatory framework, as I indicated to Mr O'Donohue, and it also does not actually restrict a future administration from changing the harm minimisation measures. If a government wished to do that, of course they would be entitled and capable of doing so. There is nothing at all stopping a future government from implementing whatever harm minimisation policies they wish to or indeed looking at implementing a further regulatory framework for the industry.

Mr O'Donohue also raised the issue of new technology. Let me say that as new technology emerges and confronts the industry, again that can be regulated accordingly. I note of course in relation to the online space that that is something that the federal government has also been looking at, but it is something that does not prevent us from looking at that as a future issue down the track. At this point that is not inside the scope of the legislation before us.

Can I also say, as is the case with an early allocation, a longer entitlement will also support decisions about long-term investments by venue operators. We think that longer term investment is also important to provide certainty both within the sector and also in terms of the implementation of those harm minimisation policies that we are looking at. I think we have largely dealt with those areas.

Of course there was one from Mr Ramsay, who asked about modelling. What I can say to Mr Ramsay is that the government reviewed all harm minimisation measures through a public consultation process. Certainly I appreciate the issues that Mr Ramsay raised, as well as the issues raised by Ms Hartland in relation to socio-economic status and that affecting the issues of concern before us. I will point out that I think Ms Hartland was referring to Minister Kairouz earlier, because of course my electorate is Southern Metropolitan Region, so I just wish *Hansard* to reflect that.

Ms Hartland interjected.

Mr DALIDAKIS — It was clear to me, Ms Hartland, but I just wanted to make sure that that is reflected accordingly.

Dr RATNAM (Northern Metropolitan) (14:59) — My question to the minister is: given that we know about the harmful and devastating effects that these gambling machines are reaping across our communities, why are you seeking to extend these licences five years before they are set to expire?

Mr DALIDAKIS — I thank Dr Ratnam for her first question to me in a committee stage and welcome her to this place. Can I point out again, as I think I indicated in earlier contributions, that the extension of time brings us back to the original view that 20-year licences are appropriate.

We believe that providing 20-year licences now provides certainty — whilst I know that you will contest this — in the implementation of those harm minimisation policies that we are pursuing. We think it also provides certainty to the venue operators in order for them to be able to make the changes that they need to make for their local establishments.

Dr RATNAM — My next question is: given that you have outlined that you want to give more certainty to these gambling venues and licence-holders, why do you not want to give more certainty to the community about your commitment — if there is a commitment — to harm minimisation approaches? It appears that what you are actually doing is locking in levels of gambling losses for a longer period of time, mitigating and undermining any effort to actually introduce harm minimisation approaches. So why are you not committed to harm minimisation approaches by limiting the licence period rather than keeping it at an exorbitant level?

Mr DALIDAKIS — I thank Dr Ratnam for her further question. Let me also say that I am not prepared to accept the characterisation that Dr Ratnam has provided, but what I will say is that almost all of the major harm minimisation measures that apply to pokies have been implemented by a Labor government. I understand that there are people in this chamber who do not believe that they go far enough, but again we need to strike a balance in what we believe is in the best

interests of protecting those most vulnerable in the community. It is a very small percentage of people who actually play on gaming machines, but nonetheless we do have a responsibility and we acknowledge that. That is why we have harm minimisation processes and procedures and also why we try to help people as much as possible. But at the end of the day there is an opportunity for people to participate in a range of venue and gaming machine facilities that enable them to participate freely or of their own free will.

Can I also point out that in terms of the question that Dr Ratnam asked very specifically about the period, the length of time, we also believe that coming forward with that early allocation allows us to do a number of things: one, introduce the YourPlay precommitment scheme; two, implement a $5 maximum bet; and three, look at municipal and regional caps. Again, I referred to municipal and regional caps in my second-reading speech at the summing-up stage as well.

We also have done other things, as you would be aware. I will go through them again for completeness. Of course we announced that all ATMs would be banned from gaming venues, we introduced reduced gaming venue hours, we introduced a cash limit on winnings so that amounts over that limit have to be paid by cheque and we put a prohibition on gaming machine advertising. We also limited in-venue withdrawal limits to $200 per transaction, established the Responsible Gambling Ministerial Advisory Council (RGMAC), put in a requirement for venue staff to undertake responsible gambling training and reduced maximum starting credits on gaming machines from $9949 to $1000.

Whilst of course the current entitlement term does not expire until 2022, undertaking the gaming machine allocation process early allows us to continue to introduce further harm minimisation measures. I reiterate that I understand that for some members in this chamber and within the community those harm minimisation measures do not go far enough. That is a very different argument to the one that we are having in relation to this bill right now.

Ms HARTLAND — Minister, could you outline what these harm minimisation approaches are going to be? I have not actually seen much from the government that talks about harm minimisation?

Mr DALIDAKIS — I thank Ms Hartland for her question. I believe I outlined in the second-reading speech what we are doing and what we have already done. But again, they are cash withdrawal limits, machine limits and machine limits for regions and municipalities. These are all areas of harm minimisation that our government believes, as I said, strike the right balance. Again, I acknowledge that the Greens do not believe they go far enough. I understand that the Reason party also contests that, but nonetheless these are harm minimisation policies that we are pursuing and they are ones that I have already outlined.

Ms HARTLAND — As a follow-up on the withdrawing of money at venues, we have gone from a situation of having no ATMs in these venues, which was something that the Greens negotiated with government many years ago, to a situation where people are able to take out $500 in any 24-hour period. For someone who is on a fixed income a $500 withdrawal will wipe them out for the week. What evidence is there, what research was done, to show that $500 was an appropriate figure?

Mr DALIDAKIS — Again I thank Ms Hartland for her question. Can I say that right now, before the $500 limit is introduced, in fact it is unlimited. Can I also state that right now, if somebody wishes to go to withdraw funds from an ATM outside of that venue — because of course we removed ATMs from the venue itself — then they are at the free will of the bank or the credit union that they reside with in terms of the amount that they can withdraw from that banking relationship. What we have done here very specifically is reduce the EFTPOS terminal to $500. It strikes a balance — again, there is that word — between what people are able to withdraw in other circumstances, in other venues and at other ATMs as well, and what they can do at the venue very specifically.

Ms HARTLAND — Minister, it is well known that if people leave a venue to take money out of an ATM it will often break the cycle, which is why you do not want people to be able to access large amounts of money within a venue. I accept that you are saying you are now putting on a cap, but what I am asking is: what research has been done on this; why is it that you settled on a $500 figure, considering the huge amount of harm that is going to do; and why not settle on a lower figure?

Mr DALIDAKIS — I thank Ms Hartland for her question. The simple approach that the government has undertaken, with respect, is to try and provide access to a figure that allows a patron to be able to make use of a range of facilities at a venue. Of course there are both food and drink and sometimes entertainment opportunities, not just gaming, so we need to strike — there is that word again — that balance between being able to withdraw enough funds to be able to enjoy a range of opportunities at the venue as well as being able

to ensure that if people wish to gamble they are not able to take out too much. In relation to the $500 figure, of course that is very similar to the $400 figure that was arrived at back in 2010; allowing for CPI, it arrives at a figure close to $500, and that is why the $500 figure was then chosen.

Ms HARTLAND — Minister, what actual evidence has the government got, has there been any research and have you worked with any of the gambling help services or any of the people who actually work with people who are addicted to see what evidence there is for the actual figure that people should be allowed to withdraw on the basis of the harm that it is going to do?

Mr DALIDAKIS — As I have indicated to you previously, Ms Hartland, what we have tried to do is reach a balance between those people who are affected —

Ms Hartland — On a point of order, Acting President, I asked what research has been done and what organisations have been worked with to come to the assessment that this is the right figure. Has there been a university study? Have you worked with any of the anti-gambling groups, any of the groups that actually deal with people with addiction problems, to come up with this figure? Do not just say that you think it is a balanced number; what is the research, and has it been peer reviewed?

The ACTING PRESIDENT (**Mr Elasmar**) — Thank you, Ms Hartland, but the minister just started, and I do not know if he had finished his answer or if you interrupted him.

Mr DALIDAKIS — I understand that Ms Hartland is passionate about this area and I certainly do not resile from that, but it is the government's job to find a balance in relation to what we are doing. I understand that Ms Hartland does not believe that we have got that balance right, but the government needs to make a decision on these matters. The government has decided that the figure before us is the figure that we believe is an appropriate balance between the people who wish to engage in and enjoy the recreational pursuit that gaming provides them versus the people who obviously struggle and suffer under addiction. These measures are not taken lightly. People who suffer from an addiction, regardless of what that addiction is, need to be treated with both compassion and respect, but at the same time government policy cannot always be written for the people who suffer the most, because they are the people in the community who are the least, both statistically and numerically. The government needs to be able to arrive at a position that allows for people to participate in this activity, not prevent them from doing so because we are trying to protect a small minority of people rather than looking after the majority of the community.

Ms HARTLAND — I will try one more time, because the question was not answered. I asked: what evidence has the government based its decision on, what outside studies? Did you engage with university experts? Have you worked with the anti-gambling groups who actually deal with people with addiction problems? That was my question. I am looking for the evidence that you have based your decision on.

Mr DALIDAKIS — Again, I appreciate Ms Hartland's question, but I have already answered the question.

Ms Hartland — No, you haven't; that's why I've asked you three times.

Mr DALIDAKIS — With great respect, Ms Hartland, I told you how the figure was arrived at: we took the $400 figure from 2010, we upgraded that by CPI and we got to a figure that was close to $500. In fact I have answered that question. Whether you are satisfied with that answer is entirely a matter for you, but I have answered that question already.

Ms HARTLAND — My question has not been answered. I am asking about the evidence that the government has used to settle on this number. I do not think it is a difficult question; I do not understand why the minister cannot answer the question.

Ms PATTEN — Far from being a hypocrite on this issue, I actually support harm minimisation, which is why, as you quite correctly put it, I do support decriminalisation in other areas — because it is a harm minimisation and health measure. Ms Hartland asked what harm minimisation measures were being included, and the only one I heard was the $500 EFTPOS limit. Can you confirm whether that is the harm minimisation measure in this bill?

Mr DALIDAKIS — Again, we are going to be here for some time, Ms Patten. I outlined a number of harm minimisation policies in the second-reading speech. I do not believe I named you in my second-reading speech as being a hypocrite, but if you wish to ascribe that to yourself, you can. I was not necessarily targeting you, Ms Patten. There are a range of measures. I indicated to Ms Hartland when she asked a similar question that I have already outlined those. For the benefit of this chamber and for the benefit of those people in the gallery I will outline a number of those yet again.

We have regional caps, which we have announced; we have announced a prohibition on cashing personal cheques; we have capped the number of machines in this state for 25 years; we have introduced a $500 limit; and of course we have regulated cashless gaming. They are a range of issues and areas in which we have sought to make what we believe are positive changes in terms of harm minimisation. I understand and I respect that there are people in this place who do not believe that these measures go far enough. I understand that we have a role in society to try to protect those people who are our most vulnerable. As with any addiction, though, you cannot necessarily set your policy for those people who will suffer from addiction; you need to put your policy in a position that protects those people in terms of support and in terms of both programs and measures to help them through that addiction and hopefully out the other side, as reformed gamblers in this example.

We will continue to work with the community. Of course that does not even take into consideration both the initial $148 million and a further $2 million of funding on top of that to take it to $150 million in terms of the Victorian Responsible Gambling Foundation (VRGF) as well.

Ms PATTEN — Thank you, Minister; that was a lot clearer, although with the harm minimisation example you gave of the 25-year cap it seems to me that you are extending the licences to 20 years, not capping them. I find that a very interesting way of looking at extending licences to 20 years, saying, 'Instead of a 10-year cap, we have put a 20-year cap on them.' However, I appreciate that. On the cashless gaming regulation, could you indicate what advice you have received from your department on allowing cashless gaming in the first place?

Mr DALIDAKIS — I thank Ms Patten for her further question. Can I say that in relation to cashless gaming this legislation before us does provide us the ability to provide further regulatory reform as well. I think that is important to point out straightaway. Cashless gaming systems, such as ticket-in, ticket-out, significantly reduce cash handling by staff, and we believe that subsequently decreases the likelihood of cash-handling errors and provides better security around the handling and storage of cash in venues. We think that makes it a safer venue for people to gamble in. That is slightly different in terms of harm minimisation, but nonetheless we take into account the safety and security of employees and patrons as well.

We also think that when it comes to the issue of cash, given that venue operators have indicated their intention to introduce cashless gaming at some of their venues, we want to impose appropriate measures to ensure that potential harm is minimised. We see that there is real potential for danger in this area. We think we need the ability to regulate this area going forward. Harm minimisation measures that apply to cashless gaming systems include things such as prohibiting the purchase of cashless gaming tickets or credits associated with a card-based cashless system with a credit card — again referencing the fact that the card obviously has to be allocated to a debit or a checking account should they be wanting to withdraw money and then put it onto a cashless card.

Obviously the government is prohibiting the offering of a cashless gaming ticket or credits associated with a card-based cashless system as an incentive to gamble or indeed as a promotion to those individuals concerned. We are prohibiting any encouragement of players receiving winnings in the form of cashless gaming tickets or credits on a card-based system and of course we are looking to create new powers to impose limits on cashless gaming, as I have indicated already, such as limits on the amount that can be loaded onto a card or a ticket and the amount that can be exchanged for cash, and other requirements that apply with respect to the operation of cashless gaming by a venue operator as well.

Mr O'Donohue — On a point of order, Acting President, I want to clarify if I may, and I apologise if anyone is not clear where we are up to, that Ms Patten moved her amendments to clause 1. We seem to be putting a whole range of questions to clause 1 now. I have got a very extensive list of questions that I wish to put. I seek advice about whether the appropriate time is to do that now or whether we are dealing with the amendments at this juncture.

The ACTING PRESIDENT (**Mr Elasmar**) — You can put your questions now. Ms Hartland too has some proposed amendments to clause 1. I am prepared to deal with each one separately. If you have any questions to clause 1, you can raise them now or you can wait until after I have moved the amendments. It is your call.

Mr O'DONOHUE — Minister, in a previous answer you referred to the Responsible Gambling Ministerial Advisory Council. What references is the RGMAC currently working on?

Mr DALIDAKIS — Can I ask the member to relate that to a specific question on clause 1, on what the council is meant to be doing or otherwise in relation to the legislation?

Mr O'DONOHUE — Absolutely. I am more than happy to, Minister. In your answer to, I think, Ms Hartland, you talked about responsible gambling initiatives, and one of those that you cited with pride was the Responsible Gambling Ministerial Advisory Council. The Responsible Gambling Ministerial Advisory Council provides advice to the minister about responsible gambling initiatives, and given that this is a key topic of consideration before the committee, I ask: what references is the RGMAC currently working on?

Mr DALIDAKIS — I thank the member for his question. My reference to the ministerial council, I believe, was in the second-reading speech, not in an answer to Ms Hartland. Nonetheless that has nothing to do with the bill at hand, and there is no reference to the ministerial council in relation to the legislation right now.

Mr O'DONOHUE — Minister, we are in your hands. I have a number of questions I want to ask which relate to the gaming industry, its operation and regulation, which are all tied into this proposed 20-year licence extension. I am in your hands. I am going to ask questions. If we do not get satisfactory answers, I am more than happy to move that we report progress; I am more than happy for debate to be adjourned to another day. So I would ask you to reconsider your answer. I hope this does not set the tone for a combative committee stage, because I am seeking legitimate answers to realistic questions about the operation of the gaming industry in Victoria. This bill sets the course for a considerable period, and one of the things that the RGMAC will potentially do is inform future policy from the government. Therefore I again ask: what references is the RGMAC currently considering?

Mr DALIDAKIS — I am not trying to be combative; I am simply stating the fact that the ministerial council has no relation to the legislation before us. In relation to the extension and the 20 years that Mr O'Donohue mentioned, can I point out that it is essentially 15 years from now — it goes out to 2032. So it is a 20-year extension from 2012 but not a 20-year extension from 2017. I am not trying to be obtuse or obstructionist in any way, other than to say that the legislation, as it is set out before us, does not have a provision for the ministerial council. It is a separate body that the minister in the other place, the minister responsible for the act, has working with them in relation to matters of its concern. The legislation before us is the Gambling Regulation Amendment (Gaming Machine Arrangements) Bill 2017.

Mr O'DONOHUE — It is frankly not good enough, Minister. You yourself identified it as one of the government's initiatives, and you said it was one of the initiatives the government is proud of. It is completely unrealistic for you to then raise this issue and now say, 'I won't discuss it'. I did not raise it; you did, Minister. I am asking a follow-up question to a point you made. If you are not prepared to answer this, I suggest we report progress on the bill and you come back and talk to us when you are ready.

The ACTING PRESIDENT (**Mr Elasmar**) — Minister, would you like to add anything?

Mr DALIDAKIS — I have answered the member.

Mr RAMSAY — I raise an issue around harm minimisation and what the government has done in relation to modelling. Others have talked about research and case studies, and they have referenced those that can ill afford to become addicted to gambling and obviously have a greater propensity to become addicted if in fact the terms of the gambling licence are to be extended for 20 years. If I move the term 'addiction' over to Department of Treasury and Finance (DTF), which in my mind has a significant addiction to the amount of revenue that will be generated out of these gaming machines, Minister, my question is: what revenue is the state expected to receive from the extension of these licences going out to 2022?

Mr DALIDAKIS — I thank Mr Ramsay for his question. I might start by saying, Mr Ramsay, that the total amount will be dependent upon which venues decide to take up machines and the number they choose to apply for. The venue will effectively be responsible for being able to determine the amount that will be received by Treasury under the example that you posed. The amount will also be dependent upon which venues decide to defer payment, as this will incur an interest rate that will be added to the overall total, but that is a choice that the venue will be able to make.

Given these variables, I am not in a position to be able to speculate about any exact value that can be ascribed to that process. Of course one of the key objectives of the gaming machine arrangement reforms is to try and maximise value to the state but also to maintain the viability of the industry at the same time. This is, as you would appreciate, a delicate balancing act and one that we seek to try and make sure that we reach, but nonetheless it is a delicate balancing act in and of itself.

The total share of forecast gaming revenue from 2022–32 that is to be expected by the state is approximately 44.5 per cent. That might be something that gives you an idea of its potential value. Of course most of the state's share of gaming revenue will be

extracted through tax, at 40.2 per cent, with the premium obviously representing that 4.3 per cent figure.

The tech share has increased proportionally from the current 36 to 38 per cent by imposing a slightly higher tax rate on the highest earning clubs and hotels. The premium to be extracted by the state was determined on the basis of the industry's capacity and also willingness to pay. We recognise that gaming machine expenditure has declined in real terms and there is a risk that this trend will continue over the next entitlement term, and of course industry costs have risen in the preceding years as well. The premium will be apportioned among venues through a transparent and equitable formula on the basis of each venue's gaming revenue over recent years, therefore the most profitable venue operators will pay the highest price for their entitlements in terms of having machines at their location.

Beyond that, as I have indicated, it is probably not appropriate for me to speculate on an exact value, because that value will be determined by the locations and the venues themselves that are looking to take up that opportunity.

Mr RAMSAY — I am not going to labour the point, but the point I was trying to make here — and I will cut to the chase, Minister — was that my recollection of the last budget papers was that the state receives around $686 million per year from its proportion of tax on the machines. Your minders can indicate to you if in fact I am wrong on that. The point is that you have talked about making provision for around $150 million for harm minimisation work. In relation to moneys received and moneys spent, the cost of dealing with the problem of those that are addicted to gambling and need help, in respect of some of the social problems that always become apparent with those that are addicted to this pursuit, compared to the revenue that is generated to the Treasury is very unbalanced; it is one sixth — that is less than 20 per cent. I, like the others, am not clear about what other harm minimisation work is being done in relation to this given the extension of the licences and the significant windfall that the state receives each year out of the gambling machines.

Mr DALIDAKIS — I thank Mr Ramsay for the question. The quantum of revenue I believe has been certified in the state budget papers, if that is what we are looking to discuss. As I have indicated, we believe that the quantum will increase over time. In fact as I have said, the total share of forecast gaming revenue between 2022–32, and the gain in revenue that will be extracted by the state, will be approximately 44.5 per cent.

Mr Ramsay — What is that in dollars?

Mr DALIDAKIS — Well, I do not have the budget figures in my hand at the moment, but I am happy to ask the staff in the box to look at the figures and come back to you, Mr Ramsay. That should not be too difficult to do, but as you will appreciate it will be a forecast, because we are looking at a future figure as an uplift as to what has already been reported by Treasury in the budget papers right now.

Mr O'DONOHUE — I just want to ask the minister a few questions that follow nicely from Mr Ramsay's. You talked about the Victorian Responsible Gambling Foundation. As you will recall, Minister, that was established by the previous government under the then minister Michael O'Brien, and it was provided with $150 million in the 2011–12 budget over a four-year period. In the first budget of the Andrews government $148 million was provided, which if you take into account inflation is a funding cut of around 10 per cent for responsible gambling initiatives. My recollection of the budget papers, Minister, is that that is a four-year funding allocation with no ongoing funding. Could you confirm that, please?

Mr DALIDAKIS — I thank the member for the question, and I will take some advice on that particular issue in just a moment, Mr O'Donohue. Can I say that there are many areas across government that you, as a former minister, would be aware have ongoing funding requirements and a need at the end of the expiration of that funding to seek re-funding of that priority under a budget process. So I will seek advice from the department about whether it falls into that line.

I can confirm for the member that that four-year period will see the end of that funding and that new funding will have to be sought as part of the budget process at that point in time.

Mr O'DONOHUE — Thank you, Minister, for that confirmation. I preface my next question with an appreciation that a business case would need to be made for the re-funding of the VRGF or a similar body. I suppose the conundrum for the committee at this stage is that we are in effect banking future revenue for the state through this allocation before the house today but there is no similar banking of future revenue to guarantee the ongoing operation of the Victorian Responsible Gambling Foundation even at current levels, or indeed at future levels, to at least take into

account inflation. Can you provide any comfort to the committee that the VRGF, and the excellent programs that it runs, will receive funding into the future?

Mr DALIDAKIS — I thank the member for his question. Can I indicate to the member that in fact that four-year cycle will expire after the next election, so I suspect that an incoming government, whether it be a returned government under our administration or an incoming government under his, will deal with that in light of the budget commitments that they have made during the election process and, of course, looking at re-funding of the program at that point in time.

Mr O'DONOHUE — Minister, I will thank you for that answer and just make a statement that I appreciate that is the scenario we find ourselves in, but it is probably not ideal that the funding for the responsible gambling foundation will expire while the government will be booking revenue well beyond the end of the forward estimates period. It is a pity that those two arrangements could not have been matched up as part of the legislation before us, because again the VRGF has I think done a number of very positive initiatives.

I have other questions I wish to pose. Minister, I wish to address the issue of the increase in the number of entitlements that can be held by any operator from 420 to 840. Can you provide the rationale for that change?

Mr DALIDAKIS — I thank the member for his question. As the member would be aware, we are doubling the number of machines that venues can own from 420 to 840. We are doing that as an entitlement to potentially provide them with some security in terms of their own operating model, but of course we are limiting it to 105 machines per actual venue, so they can own more — double, in fact — but they cannot have more than 105 per venue in and of itself.

Mr O'DONOHUE — Thank you, Minister. Do you anticipate consolidation? The industry in the hotel sector is already quite consolidated. Do you anticipate further consolidation as a result of this change?

Mr DALIDAKIS — I think that it is fair to make the assumption that consolidation will occur, given that we have capped the number of machines across Victoria. If you have capped the number of machines across Victoria, the only way a venue can increase the number of machines that they own across their portfolio is if they increase from the 420 number to the 840 number. That by its very nature will see potentially less players within the marketplace across the depth and breadth of Victoria as they seek to increase their number.

Mr O'DONOHUE — Minister, representing a country electorate, I have some concerns that this could see out-of-town operators buying up country hotels and pubs in particular and running those operations removed from the local community. One of the hallmarks of operators in country communities has been their connectedness to those country communities. What assurance can you provide that that sort of effect will not take place?

Mr DALIDAKIS — I thank the member for his question. I note that the issue is one that will be of interest to many MPs in rural and regional areas. Can I point out that by capping the number of machines in the state for the next 25 years, we believe that the density of machines across the state will drop per population. We are not necessarily of the view that that will see a drop of machines in rural and regional areas, but as you would be aware we have also increased the number of municipal areas with full regional caps from 11 to 17. What that will do by its very nature is restrict the number of machines that can be kept within an area, so it will stop people from being able to buy up machines from one area and then put them into another area should that area have already reached its cap. Regional caps will further be applied to areas that are vulnerable to harm within eight further municipalities. The caps on those municipalities, as I have indicated, have more to do with harm minimisation, but nonetheless the impact of that is restricting the taking of machines from one area to double up in another.

Mr O'DONOHUE — I have got a couple more questions which flow on from this general point, if the committee will allow me to continue with those. The first point is around the issue of the caps, and following on from that is the removal of the 50-50 club-to-pub or hotel ratio. Minister, parts of my electorate are growing outer suburban communities, and that accelerating population growth, particularly in places like Casey and Cardinia in Eastern Victorian Region, but also Wyndham and other similar municipalities in the growth corridors of Melbourne, will see opportunities for more machines and venues in those municipalities, which often have demographics for whom pokies are attractive and can cause harm in the community. Has the government done any modelling on the impact of that accelerating population growth, particularly in our growth corridors, and what that may mean for the number of machines in those municipalities going forward over this period?

Mr DALIDAKIS — I thank the member for his question. Can I say that in relation to current entitlement holders they will have the first right of refusal under the allocation rules. Clubs will get the first

right of refusal, and there will be allocation rules there to provide assurances to clubs and of course pubs. We have placed a 25 per cent growth cap as well in the areas with a growing population to ensure that that population density per machine drops as the population increases.

Mr O'DONOHUE — Thank you for that, Minister. Maybe I should have this information in front of me, but can you tell me the municipalities where that 25 per cent increase cap will apply?

Mr DALIDAKIS — I do not have those municipalities at my disposal, but I will seek to get them and provide them to you during the committee stage.

Mr O'DONOHUE — Thank you, Minister. That would be most helpful. Minister, one of the hallmarks of the gaming industry, which I think regardless of one's perspective on it has been broadly accepted and seen as a strength, is the 105 entitlement maximum per venue, and that has been maintained. That sets us apart from the massive venues in New South Wales with 600 or 800 machines that in some cases come to look more like a casino than a pub or a gaming venue. Another hallmark has been the 50-50 split between clubs and hotels, and you addressed this in part in the previous answer. The machines operated by clubs on average have a much lower turnover per machine than the machines at hotels, particularly the larger metropolitan hotels compared to the 40 machines at a golf club in country Victoria. I think the removal of this cap raises a number of questions. It breaks a longstanding practice, which I think has been beneficial, where those machines can be transferred to hotels.

I have a number of questions. Has there been any modelling done as to the likelihood of the transfer of machines to hotels over the life of these proposed entitlements? A follow-up is: if we are seeing the transfer of entitlements from, for example, country clubs in a smaller town to a hotel perhaps in a larger regional town in the same municipality, my expectation would be that the revenue per machine would increase significantly. Have those two issues been examined and modelled by the department as part of this bill coming before the house?

Mr DALIDAKIS — I thank the member for his question. Can I just go back to the question he posed prior in relation to the areas specifically. The areas that we have placed a 25 per cent growth cap on are six: Whittlesea, Wyndham, Cardinia, Melton, Mitchell and Baw Baw.

In relation to the other question that Mr O'Donohue raised, the best answer I can provide is that the venues have the first right of refusal. There is a maximum of 105 machines per venue that is imposed, as the member is aware, and of course while we are increasing the number of machines that an operator can own from 420 to 840, that increase must be met over an increased number of venues because there are not allowed to be more than 105 machines in one venue. From that perspective we think that there is obviously an allocation rule that is met, and the clubs of course will be treated fairly, as they have the first right of refusal, as I indicated at the beginning of my answer. The minister ultimately will have discretion in consultation with clubs. We think that increasing the allocation of machines to an operator or an owner from 420 to 840 potentially has the outcome of allowing for more machines to stay in the club sector, as distinct from having them pulled out of the club sector and going into a different sector in terms of ownership structure.

Mr O'DONOHUE — Thank you, Minister. This is important information, and I thank you for that answer. I do not quite understand the logic that the increase of 420 to 840 machines will mean more machines will stay with the club sector, so could you please elaborate on that? Can I ask in relation to the municipalities with the 25 per cent cap why Casey was not included in that, given the southern part of Casey is anticipated to add an extra 100 000 people during the life of these entitlements, give or take? I am surprised that Casey is not on the list you mentioned, and I do not quite understand the rationale for how the club sector will be protected by going from 420 to 840.

Mr DALIDAKIS — I will take the question in relation to Casey on notice and pass it on to the minister concerned. I suspect that that question will have a far more detailed answer as well. I can imagine that as a member for Eastern Victoria Region you have a very keen interest in that response.

Ms Shing interjected.

Mr DALIDAKIS — One of a number of outstanding members, including Ms Shing and Mr Mulino, my parliamentary colleagues.

In relation to the take-up, as I indicated, clubs will have the first right of refusal. If the clubs all take up their existing allocations, there will in fact only be a small number of machines, as I am advised, that will be left over anyway. Certainly government is of the view that if a club is doing reasonably well and is wanting to add to their 420, then of course under this new model they can look to purchase more machines at different venues

and expand their club presence. I am loath to give examples, but of course there are a litany of club examples within the AFL industry that have looked to expand their presence and would fall into that category, but by no means is it limited to AFL clubs of course because the club industry as we know is far beyond that.

Mr O'DONOHUE — Thank you, Minister, but I think with your example you make the point and confirm the concerns that I was raising before, because who is going to have the resources and the capacity to buy machines? Is it the Collingwood Football Club or is it the Wonthaggi Golf Club? I think it will be the Collingwood Football Club, and with that will come a greater spend per machine. I appreciate that you are now providing helpful answers, but I do not think we understand the potential expenditure implications of some of these changes that we are exploring through these questions. The range of questions that I have been putting go to the point of the anticipated expenditure as a result of the extension and these changes that the government is bringing about with this legislation.

Mr DALIDAKIS — I thank the member for his question. By way of an example of how that would benefit other clubs as distinct from the golf club that was mentioned, we see, for example, racing clubs in rural and regional areas as having an opportunity to look at taking that up within the club sector.

Mr O'DONOHUE — I appreciate that, Minister, but it does not really answer the question. What are the revenue projections for the entitlements? Leaving aside other externalities, what are the anticipated changes to revenue from these entitlements as a result of the changes that are being made to the regulatory environment?

Mr DALIDAKIS — I thank the member for his question. As I indicated to Mr O'Donohue's colleague Mr Ramsay, we are not in a position to speculate about the exact value to government in relation to the licences themselves. The total amount will be dependent upon which venues decide to take up machines, the number that they choose to apply for and also which venues decide to defer payments. As I indicated to Mr Ramsay, that will also incur an interest rate that will be added to the overall total. So there are a range of areas that we would be speculating about, but as I indicated to Mr Ramsay in his earlier question about the impact on revenue in relation to entitlements, our estimation is that the total share of forecast 2020–32 gaming revenue to be extracted by the state will be approximately 44.5 per cent.

Mr O'DONOHUE — I have got a number of other questions on clause 1. Again I appreciate your response in relation to the revenue for the state, Minister, and you have provided that percentage, but you have not actually given any indication of the anticipated revenue through the actual machines themselves. There must have been modelling done by the DTF and a range of other organisations about the impact on the anticipated revenue changes through each entitlement on average as a result of these regulatory changes that are proposed through this legislation, and I would ask you to answer that question.

Mr DALIDAKIS — What I indicated earlier to Mr Ramsay is that we would look to undertake to provide a figure in terms of revenue to the budget that would be required to be uplifted as per the existing revenue figure going forward. I indicated to Mr Ramsay that we will attempt to provide that figure to the committee. Can I indicate to Mr O'Donohue, just in response to that question, that that forecast gaming revenue that I gave is revenue to the state at that particular point in time, not necessarily revenue derived by obviously the sale of entitlements. We are not in a position, as I indicated, to estimate what that figure is at this point because it is dependent upon the venues themselves and the range of issues that I have already identified.

Mr O'DONOHUE — I appreciate that, but again leaving aside a range of externalities, if we had a recession next year or the year after that, it would impact revenue through these entitlements. But DTF would have done modelling on the anticipated expenditure through these entitlements. With the amount of money spent playing the machines, what impact would these changes we are discussing at the moment have, and what anticipated change would that have on expenditure through the machines? I just ask you again if you could answer that question.

Mr DALIDAKIS — I thank the member for his question. I am genuinely not trying to avoid answering this question. It may be easier for me to take this question on notice and seek a formal response from the minister in the other place in relation to this issue, because as I have indicated, I am not in a position where I can speculate about the value of the licences. In relation to the revenue, I have indicated a percentage that we believe we will get. I have indicated to Mr Ramsay in a prior question and also to Mr O'Donohue in the preceding question that in terms of revenue we would have to look at what the existing revenue is now and look to forecast what the growth would be in that revenue. I have already indicated a percentage share of forecast gaming revenue from 2022

to 2032, which is the second 10 years of the extension of 20 years, noting in fact that we are already five years into what would become that 20-year period. So if Mr O'Donohue is happy, I am happy to take that question on notice and seek a formal response from the minister in the other place.

Mr O'DONOHUE — I am happy to do that, Minister. Perhaps if I could just round this out, could the minister in the other place provide advice about the modelling done and the likely impact of going from 420 to 840 entitlements for an individual operator, which will see, as you say, a consolidation of operators, which will probably see more investment and therefore more expenditure per machine? Concurrently the removal of the 50-50 split between clubs and hotels is likely to see the transfer of entitlements from low-revenue clubs to high-revenue hotels, or at a minimum perhaps from low-revenue clubs to high-revenue clubs. That analysis would have been done by DTF, and so it would be available to the minister. I thank you for taking that on notice, and I look forward to the minister's response.

Ms PATTEN — Just following on on a slightly different tangent from Mr O'Donohue, I note in the second-reading speech that it is noted that club venue operators will only be able to acquire more than 420 entitlements where other clubs are not disadvantaged. Was there any consideration or are there any other considerations around a disadvantage for the community in more clubs being opened in an area, or is it just that they do not disadvantage existing clubs?

Mr DALIDAKIS — I thank the member for her question. Can I indicate, as I have earlier, that there are a range of issues that we need to be aware of. Firstly, no venue can have more than 105 machines, so an operator choosing to purchase more is limited by the number of machines it can put in one venue. The operator will also be limited depending upon which region it is in as there are caps on regions, as I have already indicated in an earlier answer to Ms Patten. The third thing that is important to note is that should, as I said, all existing clubs and/or pubs take up their existing licences, then there will be very few machines or licences that are able to be purchased over and above the existing allocation. So initially whilst the uplift from 420 to 840 will allow venues to expand into different areas and allow them to increase the size or number in terms of machines, it will not actually allow them to necessarily increase within a small geographic footprint from where they operate, because there are other limiting factors that I have already identified.

Mr O'DONOHUE — I just want to ask, Minister, will the bill and these change arrangements have any impact on the 15-year monitoring licence that Intralot has?

Mr DALIDAKIS — The answer to that is no.

Mr O'DONOHUE — Thank you, Minister. The last auction or allocation of entitlements by the previous Labor government, the Auditor-General said, short-changed taxpayers by over $3 billion. Indeed the asset was worth in excess of $4 billion — I think it was $4.1 billion if my memory from that 2012 report is accurate — and the state collected around $980 million in round figures, again if my memory is accurate. So, give or take, there was a $3 billion short-change — a $3 billion loss to taxpayers — as a result of that flawed process. Again, without sounding too political, given that the Labor Party is now in charge of this process again, what comfort can the committee and the broader community have that taxpayers will receive a fair value through this process?

Mr DALIDAKIS — I am tempted to say it is a new government. What I can say to you, Mr O'Donohue, is that unfortunately — or fortunately, depending on which way you look at it — I was not part of the previous Parliament or previous Labor government. As I said, some people may look on that as a fortunate thing. Nonetheless, what I can say is that Ernst & Young independently assessed the impact on industry viability of the overall state share, including both tax and the premium, and found that 44.5 per cent is an appropriate figure that can be borne by the industry. So very specifically, in response to your question, what comfort you can have is that we have had it independently assessed and we believe that we are striking the right balance going forward.

Mr O'DONOHUE — Thank you for that. Minister, Crown Casino has around 2500 entitlements on-site. Is the government committed to 24/7 Victorian Commission for Gambling and Liquor Regulation (VCGLR) on-site presence at Crown Casino for the foreseeable future?

Mr DALIDAKIS — I thank the member for his question. Whilst the scope of the legislation before us does not actually deal with that question, can I indicate to the member that in good faith it is certainly the government's intention that there be people on-site to assist people if they are in need. That will of course be impacted by sick leave or other factors, but yes, it is intended that there be 24/7 support at the casino, as there is right now. But again, I give that response in

good faith to the question, despite the fact that it has little to do with the legislation before us.

Mr O'DONOHUE — I thank the minister. I appreciate it is not strictly within scope, but it is I think relevant to the broader issues being canvassed. Just to clarify, the principal role of the VCGLR inspectors on-site is to ensure compliance with the licence and the operating of the gaming venue, not to provide care or help to those in need, although they may well do that as well. So just to be clear, is it government policy that the VCGLR inspectors at the casino will be on-site 24 hours a day discharging their obligation to monitor compliance with the casino licence and the other gaming activities taking place?

Mr DALIDAKIS — I thank the member. I am happy to clarify. Yes; in terms of the VCGLR the answer is yes. In terms of the harm minimisation, which I was focused on, again I have given that answer prior but appreciate that you were looking for the answer in relation to the regulator.

Dr RATNAM — Minister, can you tell us if donations from the gambling industry to your political party have any role in the extension of these licences?

Mr DALIDAKIS — I am not answering the question. It is completely out of scope and it is actually offensive.

Ms HARTLAND — I do not think it is an unreasonable question. I would have thought this government would want to be about transparency, and clearly there is a problem with the relationship between this government and other governments and the gambling industry. I do not think it is an unreasonable question.

Mr DALIDAKIS — I will now put on the record that I find the question completely offensive, and to try to link what the government does in terms of public policy with matters that the state party undertakes is not one that I find benefits this chamber.

Dr RATNAM — Minister, can you outline what consultation occurred around the proposals for the 20-year licences in this legislation?

Mr DALIDAKIS — I thank Dr Ratnam for her question. The government has undertaken stakeholder engagement across the sector itself, and as I indicated earlier, as part of that stakeholder discussion it was sought to extend the licences to 20 years, which it was originally from 1992 to 2012, when they changed the model. When they changed the model they then extended it to 10 years to assess whether that model was successful. The government has assessed that model as having been rolled out and successful and has sought to extend it to 20 years. That takes it from 2012 to 2032, which means we are part way through that 20-year process. As I have already indicated, after 10 years if there are clubs and/or pubs that wish to hand back their licences, they will be entitled to do so without penalty.

Dr RATNAM — Just a follow-up question to the minister regarding consultation: can you list the councils that you have consulted in proposing these changes in the legislation?

Mr DALIDAKIS — As I am advised, there was an extensive public consultation as well, and many local government authorities provided to that public consultation their own submissions.

Dr RATNAM — As a follow-up, you state that many local government authorities were consulted. Can you please provide a list of those local governments that were consulted?

Mr DALIDAKIS — That information is publicly available because they made public submissions.

Mr O'DONOHUE — Minister, how many entitlements are currently unallocated?

Mr DALIDAKIS — As I am advised, Mr O'Donohue, there are approximately 500 entitlements that are yet to be taken up.

Mr O'DONOHUE — Just to clarify, Minister, they would not be entitlements yet to be taken up; they would be entitlements that have been surrendered, presumably because of non-compliance with a range of things. How many of those 500 come from the club sector and how many from the hotel sector?

Mr DALIDAKIS — I am happy to take that on notice and have that figure provided to you, as it may take some time to collate.

Mr O'DONOHUE — I am also happy, Minister, for you to seek advice from your advisers about the question.

Dr RATNAM — I have a follow-up question to a previous question that was asked earlier on in this discussion around the evidence behind the proposed limit, if you can call it that. Given that no research seems to have been done — no research or evidence was cited in that answer — can you guarantee that these proposals will not actually cause more harm from gambling?

Mr DALIDAKIS — The problem with the question that Dr Ratnam poses is she is asking me to look into a crystal ball and provide a hypothetical. The whole point of harm minimisation policies is to try and reduce the potential harm to the community as much as we can, but when we are dealing with human fallibility, we are dealing with the potential for people to respond and react in a variety of different ways. I am not sure that anybody can provide the assurance to that which Dr Ratnam is seeking.

Dr RATNAM — Just to follow up on that, I am not asking you to gaze into a crystal ball. What I am asking you, Minister, is to provide a response about whether any research or evidence-based practice was considered in these proposals that have been made. From the local and international evidence we have seen the impact of harm minimisation approaches. We have got concrete evidence that, for example, reducing maximum bet limits reduces the cumulative impact of the losses by millions of dollars. What we are asking for is modelling, research or evidence that will ensure that we are not actually locking in the current level of harm or an increased level of harm. I am asking: can you guarantee that gaming losses are not actually going to go up with the locking in of licences for much longer periods of time?

Mr DALIDAKIS — I thank Dr Ratnam for her further question. I again indicate this question has been asked and answered. The fact of the matter is there is a cap on the number of pokies in clubs and pubs across Victoria of 27 372. To put that into comparison, in Queensland that figure is 44 205 and in New South Wales that figure is 97 500. The fact remains that we have a maximum bet limit of $5, we have statewide council caps, we have omitted ATMs from pokie venues, we have put in EFTPOS limits in venues, we have limited the licence to 20 years and we have, by the way, restricted the number of machines per venue to 105. This is in contrast to what happens in both New South Wales and Queensland.

Again, I respect that you, Dr Ratnam, and some of your colleagues, including Ms Patten in particular, do not believe that those harm minimisation policies go far enough. I understand and accept that point of view. Unfortunately, though, as I have indicated already, we believe that there is a balance between looking after those people that are least able to look after themselves — those people that are suffering from the addiction — and the rights of people within the community to be able to participate and partake in gambling in a responsible manner. We have to get the policy right between looking after their interests and looking after the needs of those that are suffering from addiction.

Dr RATNAM — Thank you, Minister, for that response. However, what I am asking about is the impact that these extended licences will have on broader harm minimisation approaches. You refused to answer the question about whether this is actually going to have any impact in terms of harm minimisation or actually lock in the current levels of harm and increase the levels of harm, which is a real concern. But in terms of locking in these licences, there are interactions with other harm minimisation approaches that have to be considered which do not seem to have been considered in this proposal — for example, differential rates. This government decided to refuse the right of councils to impose differential rates on gaming venues, which could have actually reduced the harm of gambling and proper planning regulations that limit the number of gaming venues, particularly in disadvantaged communities.

How can locking in licences for 20 years ensure that those other measures that could actually impact on minimising harm will have any effect, when in fact what you are doing is locking in the thing that is causing the most harm? So have those licences and the extension of those licences been considered in terms of the other harm minimisation policies and plans that could actually be enacted, like differential rates and proper planning regulation? Has that actually been considered in the drafting of this legislation?

Mr DALIDAKIS — I suspect that that was a set speech, but nonetheless can I point out to Dr Ratnam that in fact harm minimisation can be made at any time during the period, as exampled by next year, of course, when the new limit will take effect right in the middle of the current entitlement term, so those opportunities already exist. Dr Ratnam may not have been in the chamber earlier, but I have already answered this question. There are already limits on the number of machines that can be located in certain municipalities. That has nothing to do with the term that we are discussing. In fact if you want to have a look at the number of pokies per head of population, that figure is decreasing as our population grows, and that cap on the amount of pokies stays.

Ms PATTEN — Minister, during the consultation process that you undertook and the research and investigation that occurred in the development of this legislation, were you aware that the Australian Productivity Commission and the Australian Competition and Consumer Commission (ACCC)

recommended that the maximum bet per spin be limited to $1?

Mr DALIDAKIS — Was I personally? Yes.

Ms PATTEN — Thank you, Minister. Could you advise whether those strong recommendations were considered when developing this legislation?

Mr DALIDAKIS — As I indicated to the member, of course I was aware of the Productivity Commission's report, which was some time ago, I might add. In relation to the stakeholder consultation, it was informed as part of that that the $1 bet was not going to be part of that consultation, so the government had already foreshadowed that at the point of public consultation when we went through with our review.

Mr O'DONOHUE — Minister, how many people have signed up to the YourPlay initiative?

Mr DALIDAKIS — I did mention the YourPlay initiative in my second-reading speech. I indicated at the time that it was part of the additional $2 million of funding that the government contributed to the original $148 million, taking it up to that magical $150 million figure that Mr O'Donohue referred to as being a figure that was also provided by the previous government in its budgetary process. Can I suggest that I take that on notice, given that the YourPlay feature is not a function of the legislation before us? If you are happy with that, I am happy to provide that on notice to you.

Mr O'DONOHUE — Minister, I am happy to proceed on the basis that the answers to these questions will be provided at the end of the committee process. Otherwise I will seek to report progress until those answers are provided.

Minister, obviously the oversight of the operation of the entitlements in the commercial context is critical to the integrity of the whole system for both operators and the community to have confidence that the system operates as intended and the machines operate as intended. Can you advise the house how many inspectors are currently employed by the VCGLR and, of those, how many are based in regional Victoria?

Mr DALIDAKIS — I thank the member for his question. The reason for the delay is not that I am wanting to avoid questions of the nature that Mr O'Donohue has put in the committee stage; it is that I am troubled by the fact that we are at clause 1 of the bill and that the bill, as I read it, does not actually deal with the issue that Mr O'Donohue raised in his question. It is my desire for us to get back to the bill at hand, which is looking to amend the Gambling Regulation Act 2003 in relation to provisions around machines themselves and associated issues around those machines. I appreciate that the issue that Mr O'Donohue raised in relation to how those machines could be regulated will be one that some people believe is relevant. I am not able to see how that is so, and whilst I have provided answers previously in good faith to Mr O'Donohue, it is my desire for us to actually return to the bill at hand.

Mr O'DONOHUE — Well, Minister, I would suggest to you that it would be in all our interests if you would work with the committee to provide answers to reasonable questions that are put. The context of those reasonable questions is that on page 1 the bill says it is:

> A Bill for an Act to amend the **Gambling Regulation Act 2003** in relation to gaming machine entitlements, Responsible Gambling Codes of Conduct, self-exclusion programs, standard conditions, agreements, cashless gaming and forms of money and credit, references to the Melbourne Statistical Division and to make related amendments to other Acts and for other purposes.

I put it to you, Minister, that those words on their face indicate that this is a very broad piece of legislation impacting the gaming industry as it pertains to electronic gaming machines (EGMs) in its entirety. If you do not accept that proposition, I would put it to you that the appropriate regulation of these entitlements is intrinsic and central to the operation of these reforms.

I do not seek to be difficult and troublesome. This committee stage has been going for a period, but given what we are considering, I put it to you it has not been a very lengthy committee stage thus far. I am not asking questions to be vexatious or to delay proceedings; I am simply asking what I consider to be reasonable questions seeking reasonable information that relates to this legislation. So I would ask you, Minister, to provide an answer to my previous question.

Ms PATTEN — Minister, I noticed from the second-reading speech that among the harm minimisation measures that this bill seeks to amend is the one that means if someone wins $1000 or more on a machine the money must be paid to them by cheque. This bill amends that so that it is $2000 before they are paid by cheque. Can I just confirm that that would mean that if someone were to win $1500, they would be paid that in cash on the day at the venue?

Mr DALIDAKIS — As I am advised, the rationale for going up is that there was indication that people were playing up and then looking to play down to get under that $1000-limit mark to continue to get cash, so in the interests of the player it was decided to extend it back up to $2000 but at the same time to reduce the

ability for people to withdraw money, which is why we introduced the limit for EFTPOS terminals at the same time.

Mr O'DONOHUE — I did not receive an answer to my question about how many VCGLR inspectors there are and how many are based in regional Victoria.

Mr DALIDAKIS — I thank the member for his question. The member did in his question seek a response on the number of people working in the area that he inquired about. Clause 1 of the bill sets out the purposes of the bill, which are to amend the Gambling Regulation Act 2003 to make special provision for gaming machine entitlements that take effect on or after 16 August 2022 and to make further miscellaneous amendments to the Gambling Regulation Act, the Casino Control Act 1991 and the Victorian Commission for Gambling and Liquor Regulation Act 2011. I put it to Mr O'Donohue that in fact the question that he put, whilst it is important in relation to the regulation of the environment — and I do not dispute that — still does not have any relevance to the legislation before us, as we discussed.

Mr O'DONOHUE — I strongly disagree, Minister. If the committee cannot obtain answers to reasonable questions that relate to these entitlements, I think the committee needs to report progress, because without appropriate regulation, those entitlements are devalued. All the things we are talking about in relation to the revenue that these entitlements are projected to deliver to the state of Victoria and how many machines are in different municipalities are underpinned by an appropriate regulatory framework. I am very confident that the advisers in the box would have the answer to that question. I ask you to provide an answer to a very straightforward question that goes to an important part of the regulatory framework that means that these entitlements can be sold or issued by the state of Victoria, which will receive revenue in return.

Mr DALIDAKIS — We have been on clause 1 of this legislation for over 2 hours now. The question that the member has put has no relevance to the legislation. It is entirely relevant to the regulation of the industry, and in good faith I certainly respect the question that Mr O'Donohue is putting, but again I point out that in terms of the legislation that sits before us this question has no relevance to it whatsoever.

Mr O'DONOHUE — I move:

That the committee report progress.

We can then wait until the minister is able to provide an answer to that question.

Ms HARTLAND — I will be supporting the motion, because I think we have not had good answers. We have been asking fairly basic questions, and the issues around regulation and the inspectorate et cetera, I think, play into all of this, because clearly we do not have faith in that process. So until we actually start getting real answers, we will report progress.

Mr GEPP (Northern Victoria) (16:33) — I will speak against the motion. As the minister said, the details of the bill are clearly set out and Mr O'Donohue's question is about subsequent regulation of the environment post enactment and not directly related to the bill.

Motion agreed to.

Progress reported.

STATE TAXATION ACTS FURTHER AMENDMENT BILL 2017

Second reading

Debate resumed from 21 November; motion of Ms PULFORD (Minister for Agriculture).

Mr RICH-PHILLIPS (South Eastern Metropolitan) (16:37) — I am pleased to rise this afternoon to speak to the State Taxation Acts Further Amendment Bill 2017, part of the moving feast we are dealing with through the course of today. In many respects the bill we have before the house this afternoon is very similar to that which we saw earlier this year, because while the bill makes a number of technical amendments in areas such as the Congestion Levy Act 2005, the Duties Act 2000, the Fire Services Property Levy Act 2012, the Payroll Tax Act 2007 and the Taxation Administration Act 1997, most of those amendments are of relatively minor import and are not particularly controversial. In fact with respect to the Payroll Tax Act there are amendments which are supported and welcomed by members of this house and members of the community. But it is in other areas with respect to valuation of land that there are concerns about the direction that this legislation is taking us.

The main provisions of the bill, which as I said amends the Congestion Levy Act, the Duties Act, the Fire Services Property Levy Act, the Land Tax Act 2005, the Payroll Tax Act, the Taxation Administration Act, the Unclaimed Money Act 2008, the Valuation of Land Act 1960 and the Victorian Civil and Administrative Tribunal Act 1998, are with respect to the valuation of land functions. They will be centralised with the valuer-general away from local government, with land

to be valued annually rather than biannually, as is the present situation.

The changes to the Land Tax Act relate to an absentee owner surcharge to provide similar tax exemptions for trusts where beneficiaries are absentees as for corporations where owners are absentees; also with respect to the Land Tax Act, the changes relate to closing loopholes used by land banking developers who could lease land for a peppercorn rent for a charitable purpose to avoid land tax. With respect to the Payroll Tax Act, the bill extends an exemption for apprentices and trainees who are engaged by a for-profit group training organisation so that they are treated the same as when engaged by a not-for-profit group training organisation.

There are technical changes with respect to the Congestion Levy Act, and they relate to confirming exemptions for Melbourne Zoo and to clarify provisions with respect to exemptions for parking spaces used by shiftworkers. There are administrative changes in sections of the Taxation Administration Act, particularly in relation to the receipt of documents, given the change in the way Australia Post now offers postal services, with the shift from next-day delivery to within seven business days. That has necessitated a change in taxation administration so that documents that are posted to the State Revenue Office are received within statutory time frames. That is just a minor administrative change.

The bill is largely administrative in nature, with the exemption of the valuation provisions. On the valuation provisions, it is largely deja vu. When the Treasurer brought his budget down earlier this year it was with the expectation with the then State Taxation Acts Amendment Bill 2017 to put in place a regime which would allow for land tax assessments and valuations to be done on an annual basis rather than every two years. The reason for this was to ensure that increases in valuations of land were picked up more frequently and came into play in the land tax assessment regime more frequently than is the case with the assessments being done every two years.

The second provision was to take the responsibility for valuation of land — which is currently undertaken by local government for rating purposes and in some instances is undertaken by local government valuers and in other instances is undertaken by contract valuers but on behalf of the local government authority — out of the hands of local government authorities and put it in the hands of the valuer-general. At the time those provisions came through with the State Taxation Acts Amendment Bill back in May in association with the budget, they were strongly opposed by local government. As that bill progressed through the Council at that point in time the government backed away from those proposals. It knew it could not get that bill through this house with those provisions in it, and it did not proceed at that time with those provisions.

There was extensive commentary at the time from the Municipal Association of Victoria (MAV) and from a number of councils strongly opposing the centralisation of the valuation functions. They were opposed for a number of reasons. Firstly, for councils which employ valuation staff there was the fact that those staff would lose their employment, which obviously was a fundamental concern of those councils. Likewise there was the cost impost associated with the shift from local valuation to valuation by the valuer-general. I might add that the issue of employment extended to contract valuers as much as it did to on-staff valuers — the fact that local valuers that had been engaged by councils would also potentially lose that function as the official responsibility transferred to the valuer-general. So that was equally applicable to those council officers.

There was also concern about the inherent conflict of interest with Valuer-General Victoria as a government agency undertaking valuations for the purposes of land tax assessment. It is in the interests of the government that land valuations are high because land tax is imposed on a progressive scale and, as those people who pay land tax can attest, as valuations have increased — as they obviously have done certainly in the last decade, with the rapid escalation of property prices in Victoria — the very steep, progressive nature of the land tax scale has meant that land tax receipts have increased enormously. Many business owners who hold property for investment purposes know of properties that have increased in value from maybe half a million dollars or three-quarters of a million dollars to maybe a million or a million and a half, as has not been at all unusual in the Melbourne property market over the last 10 or 15 years. The increase in land tax has been multiples of the original amount.

So land tax has been incredibly lucrative for the government over the last decade to 15 years, and therefore there is an incentive for government in taking on that valuation of land function through the valuer-general to ensure that those valuations are high and continue to increase. This of course is a complete conflict of interest. Where the revenue base of the state through the land tax is dependent on those valuations, to have the state undertaking those valuations is an inherent conflict of interest.

That is one of the issues that was raised as a concern by local government. It is fair to say that that situation does not occur with local government now. They establish their budgets on a nominal dollar basis and then strike a rate, a cents-in-the-dollar rate, against the total value of property in their municipality, but the actual valuation of land is not a driver for local government. As the aggregate valuation of land in a municipality changes, they simply strike a different rate having regard to their budgetary needs. So with the valuations that are undertaken by local government, either through on-staff or contract valuers, there is not the conflict of interest in those valuations being undertaken in the way that will be created with the shift of responsibility for valuations to the valuer-general.

The coalition's view is that nothing has changed since this bill came forward in May. They were bad provisions back in May when they were first proposed by the Treasurer and they remain bad provisions. The centralisation of valuation is flawed for the reason of the conflict of interest. The shift from two-yearly valuations to annual valuations introduces an inefficiency into the valuation process and is seen in the community for what it is: a one-off revenue grab. To bring forward revenue from a two-year cycle to a one-year cycle is simply a short-term revenue grab for the state in order to take advantage of what has been a rising property market. We believe that those provisions are not acceptable. No case has been made by the Treasurer as to why these provisions should be supported.

I note that since the provisions were rejected by this place back in May–June and the government withdrew those provisions before passing the state tax bill, the Treasurer has further engaged with local government and has had some success in persuading some bodies like the MAV to reduce its opposition to these provisions. But I know that we still have many constituent councils who do oppose these provisions — who opposed them back when they were first introduced and continue to oppose them for the same reasons. So while the peak body may have been neutered in its opposition, there continues to be opposition from individual local government authorities, and we believe that opposition merits the consideration of this house.

It is our intention when the bill proceeds into committee, if the bill proceeds into committee today, to seek to omit the valuation provisions of this bill. The bill is largely about the valuation changes that the Treasurer could not achieve earlier this year. The key part of the bill which will be the subject of the coalition's amendments is part 9 of the bill, which extends from clause 37 to 82, with the consequential amendments, and it is our intention that these clauses be omitted.

We believe that the other provisions of the bill are reasonable. The provisions with respect to payroll tax are reasonable; however, we will not be supporting the valuation provisions, and when the bill proceeds to the committee stage we will be seeking the omission of those clauses and the omission of those provisions. On the basis of exploring those in consideration in committee, we will then consider our final position on the legislation.

Mr MULINO (Eastern Victoria) (16:50) — This is an important bill that improves the operation of a number of taxes, that rationalises a number of taxes and that significantly improves the certainty of the state's revenue base, which of course is so important for the many important physical, economic and social infrastructure reforms that this state is delivering at such a rapid pace.

In this year's spring taxation bill a number of changes were included. One of those, which I will speak about in a moment, reflects a number of changes that have been brought about due to a policy measure that was introduced earlier in the year — changes that reflect stakeholder concerns that have been raised and changes that address policy concerns raised in this place.

This bill contains measures that deal with land tax, in particular the valuation mechanism and the frequency with which valuations occur. It also deals with the payroll tax exemptions for group training organisations, with the congestion levy and how it applies to Melbourne Zoo and with a number of land tax exemptions and measures that strengthen the tax base in that area, and it also cuts back on a number of ways in which different entities have tried to avoid appropriate payments.

I will run through each of these measures, but I did want to flag from the outset that the government has listened to stakeholders and brought back a measure in relation to land tax that is materially different to that which had been introduced earlier. The key component of this bill is to centralise land valuations and to deal with those valuations on an annual basis. It is a little bit ironic that those opposite will harp on every single budget about anything that changes markedly in relation to tax revenue. Some aspects of land tax do change based upon the fact that land tax valuations occur every two years and, when we do introduce a measure that attempts to smooth that out, those opposite complain that it is a cynical revenue grab.

It is important both from the perspective of the government and from the perspective of taxpayers that there be reasonable smoothing where that is possible. This move to annual land tax valuation changes is an entirely appropriate measure in that regard. I think if you went back to the debate on the last few budgets, you would find any number of members opposite complaining about proportional changes to any number of measures, including land valuation. As we all know, in the current environment a number of those proportional changes are attributable to the fact that some valuations are only occurring every two years. I would really be very interested in those opposite reconciling some of their comments in this debate, if Mr Rich-Phillips's contribution is any guide, with some of their earlier complaints.

The other change in relation to land valuation is to centralise that process. Centralisation of land valuation is an entirely reasonable, rational administrative change, which brings us into line with best practice in other jurisdictions. Indeed at the moment we sit very much outside of what is not just best practice but standard practice in other jurisdictions. When one thinks about it, it really does not make sense to have land valuation undertaken according to a whole range of different standards by dozens of different entities.

We have listened to concerns raised by councils and by other stakeholders in relation to the transition to an annual evaluation regime and to a more centralised regime. We have provided much more significant compensation for councils in relation to the costs of the new arrangements, and indeed councils will find themselves better off relative to current arrangements, where they have to pay for half of the cost of biennial valuations. In addition, councils will have the opportunity to opt out of centralisation arrangements until 30 June 2022 to assist with transitioning to new arrangements. But I do want to stress that moving to centralised land valuation is a transition that makes sense from a public policy perspective, it makes sense in terms of the standard of valuations that taxpayers will be subjected to, it will provide much greater consistency to taxpayers and it is a very sensible move.

Another measure included in this bill is that there will be a reduction in the payroll tax liability of for-profit group training organisations which recruit and hire apprentices and trainees. Currently the exemption is limited to not-for-profit group training organisations. This will encourage the take-up and placement of apprentices and trainees. It is, I might just add, one of a number of measures that this government has brought into effect which have very effectively promoted the take-up of apprenticeships and traineeships.

Indeed one need only look at an announcement this week, which dealt with requirements on providers of services to major infrastructure projects, that provided that very support. This is yet another mechanism which reflects this government's deep commitment to training apprenticeships and trainees, and of course that is so critical to this generation coming through and indeed to many older workers as well.

Another measure in this bill is the congestion levy and the Melbourne Zoo exemption. The congestion levy applies to parking spaces within regions defined in the legislation. At the time of the expansion of the area in 2014, there was an exemption given for all visitor and staff parking at the Melbourne Zoo. Due to drafting errors, the legislation did not exempt all spaces as intended. This change will ensure that all visitor parking is exempted as intended. This will remove a cost pressure from obviously one of our most popular tourist and public-use facilities.

There are also a number of land tax exemptions. There is an exemption for land leased for sporting and recreational activities, there is a land tax exemption for land owned by not-for-profits and there is also the land tax exemption for future charitable purposes. We will be tightening all of these exemptions so that they operate as intended. Currently land that is leased for outdoor sporting, recreational, cultural or similar activities may be exempt from land tax if the proceeds from the lease are applied for charitable purposes. The current exemption applies regardless of the actual owner of the land. Through this bill we are cracking down on land bankers by narrowing the exemption to land owned by not-for-profits and charities. This is to avoid instances of land tax avoidance, where some landholders have exploited this provision by leasing properties at non-market rents for non-genuine activities.

In relation to the land tax exemption for land owned by not-for-profits, we are expanding the number of not-for-profits that will be able to claim a partial exemption in respect of their land. Currently property that is owned by not-for-profits that is primarily used for a cultural, sporting or recreational purpose is exempt from land tax. This reform would change that extension to applying to any land 'exclusively' used for that purpose, including where it is only a portion of a landholding. There is also an update of land tax exemptions for land that is owned by a charitable institution and is declared to be held for a future charitable purpose. It will now require that the proposed future charitable use be undertaken within two years.

I do want to make a couple of comments about clause 23 of the State Taxation Acts Further Amendment Bill 2017. A couple of comments were made in the other place, some of those comments by Mr O'Brien, around the operation of this clause and the de minimis principle. I just want to make a couple of clarification remarks in relation to the exemption for sporting, recreational and cultural land owned by certain non-profit organisations. Section 72 of the Land Act 2005 currently provides an exemption if the commissioner of state revenue determines that the land is owned by a non-profit organisation established primarily for outdoor sporting, recreational or cultural purposes and is used primarily or substantially by the organisation for those purposes. The provision does not provide a partial exemption if the land is used only partly for sporting or outdoor recreational or cultural purposes. This amendment will allow an exemption to apply where only part of the land is used for these exempt purposes.

There are difficulties in clearly demarcating a part of land that is primarily or substantially used for a given activity; hence the proposed amendment replaces the primarily or substantially used test with the 'exclusively used' requirement. A part of land will therefore be entitled to the exemption if it is used exclusively for the exempt activities. The 'exclusively used' requirement is already found in section 74 of the act, which provides an exemption for land or a part of land which is used exclusively for charitable purposes. In the context of land tax exemptions the term 'exclusively used' includes any ancillary use of the land, meaning that any ancillary or incidental use will still make the land fully exempt.

The test for deciding whether a use is ancillary will depend on whether that use is dependent upon, directly connected to or reliant upon the primary purpose for which the land is used. For example, non-profit sporting clubs will generally provide clubrooms, which include change rooms and a kiosk or cafe. Such uses are ancillary to the primary sporting use of the land and would meet the test of being 'exclusively used', and therefore the land will be fully exempt from land tax. Equally where a non-profit sporting club hires out its venues for functions which are not directly connected to or reliant upon the primary sporting use of the land, so long as the land is used for the exempt purposes for the vast majority of the time the land will continue to be fully exempt.

The provisions contained in this bill will provide an appropriate balance, and notwithstanding the fact that the test will be 'exclusively used', it will allow for some incidental use. As is currently the case with other land tax exemptions, there may be a small number of instances where these provisions will tax a part of the land that is not used for the exempt activities. Land used for activities that are unrelated to the exempt purpose were never intended to be exempt from land tax, and the proposed changes maintain that position. The provisions in this bill that relate to land tax exemptions are very clear and strike an appropriate balance.

There is also the absentee owner surcharge. We are going to ensure that where land is owned under a subtrust structure the head trust will only be liable for the absentee owner surcharge on the proportion of the absentee beneficiary's interest in the trust land. There are also some other minor administrative changes.

What we see with this bill is a whole raft of changes that strengthen the application of a number of provisions so as to protect the state's revenue base. They more clearly define certain exemptions, particularly in relation to land tax, so that those provisions apply more clearly as they were intended to. It also, as I discussed earlier, moves to a system of annual land valuations and, over time — by 30 June 2022 — centralised land valuations, allowing for a suitable transition period. This brings us very much into line with other jurisdictions. It is a very sensible change which will provide for a higher quality and more consistent method by which land is valued. Indeed it provides for greater smoothing of land valuations, which is to the benefit of both taxpayers and government, which relies upon land tax and land valuations relating to other forms of taxation for so much of its revenue. These are very sensible reforms that deal with a number of material improvements to tax measures, and I recommend this bill to the house.

Debate adjourned on motion of Mr MELHEM (Western Metropolitan).

Debate adjourned until later this day.

GAMBLING REGULATION AMENDMENT (GAMING MACHINE ARRANGEMENTS) BILL 2017

Committee

Resumed from earlier this day; further discussion of clause 1 and Ms Patten's amendments 1 and 2:

1. Clause 1, page 2, lines 1 and 2, omit all words and expressions on these lines.

2. Clause 1, page 2, line 17, omit "20" and insert "10".

Mr DALIDAKIS (Minister for Trade and Investment) (17:08) — Earlier there was a question from Mr O'Donohue and there was some discussion about the question. In terms of good faith, again I recognise that the questions that Mr O'Donohue has put in relation to the bill have been in good faith. So to endeavour to move this process along, the question that Mr O'Donohue asked me was in relation to the number of inspectors. I am advised that as of 31 October this year there were 52 compliance inspectors and 12 licensing inspectors, combining for a total of 64.

Mr O'DONOHUE (Eastern Victoria) (17:09) — Just one final question on that point. Are they all based out of the Victorian Commission for Gambling and Liquor Regulation head office?

Mr DALIDAKIS — Yes, they are.

Mr O'DONOHUE — I do not have many other questions on clause 1, Minister, but do you have any other information on the other questions that you have taken on notice, such as how many of the approximately 500 machines are allocated to clubs versus pubs, the references to the Responsible Gambling Ministerial Advisory Council and the number of people who have taken up YourPlay?

Mr DALIDAKIS — I can inform Mr O'Donohue that they are all club entitlements.

Ms HARTLAND (Western Metropolitan) (17:10) — During the break I had the opportunity to have a discussion with a number of the groups that have been watching the debate, and I am just waiting for a copy of an FOI release that they have received which indicates that there was, as I understand it, no correspondence between departments over the issue of evidence. I asked before about what evidence the government had that this was an appropriate way to deal with it. So I want to go back to that again and ask the minister: can you provide what evidence the government has used to decide that this is the best way to deal with these issues?

The ACTING PRESIDENT (**Mr Elasmar**) — I am aware of that, Ms Hartland, but I will ask the minister if he wishes to add to his previous answers. Minister? No answer.

Mr O'DONOHUE — There were a couple of other questions you took on notice, Minister, and the only other question I have on clause 1 is: do you have the answers to those other questions? How many people have signed up to YourPlay, and what references is the Responsible Gambling Ministerial Advisory Council currently working on?

Mr DALIDAKIS — I will seek further advice in relation to YourPlay. I can advise Mr O'Donohue that in terms of additional areas that are being looked at, new gambling products and community and charitable gaming are the references that the council are looking at at this point. In relation to YourPlay, I can tell you that there have been 3.7 million gaming machine sessions in which players have used YourPlay. I understand that breaks down to 45 997 cards that have been activated. That breaks down further to 12 891 cards that have been registered, 33 106 cards that are casual cards and 2942 players who have sent personalised messages as reminders displayed on the machines.

Committee divided on amendments:

Ayes, 7

Carling-Jenkins, Dr	Pennicuik, Ms
Dunn, Ms	Ratnam, Dr (*Teller*)
Hartland, Ms	Springle, Ms
Patten, Ms (*Teller*)	

Noes, 31

Bourman, Mr	Mulino, Mr (*Teller*)
Crozier, Ms	O'Donohue, Mr
Dalidakis, Mr	Ondarchie, Mr
Dalla-Riva, Mr	O'Sullivan, Mr
Davis, Mr	Peulich, Mrs
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Purcell, Mr
Finn, Mr	Ramsay, Mr (*Teller*)
Fitzherbert, Ms	Rich-Phillips, Mr
Gepp, Mr	Shing, Ms
Jennings, Mr	Somyurek, Mr
Leane, Mr	Symes, Ms
Lovell, Ms	Tierney, Ms
Melhem, Mr	Wooldridge, Ms
Mikakos, Ms	Young, Mr
Morris, Mr	

Amendments negatived.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I am going to ask Ms Patten to move her amendment 3 to clause 1, which is a test for her amendments 40 and 41.

Ms PATTEN (Northern Metropolitan) (17:20) — I move:

3. Clause 1, page 3, after line 8 insert—

"(viii) to impose limits on the amount that may be wagered on a single spin of a gaming machine; and"

This amendment is to set a $1 per spin limit on gaming machines. This is a position that has been supported by the Australian Competition and Consumer Commission. It has been supported by the Productivity Commission. It has been recommended by many

organisations. We know that this will not affect most of the recreational gamblers but it will have a positive effect in slowing down losses for problem gamblers.

Ms HARTLAND — The Greens will be supporting this amendment on the basis that this is similar to a bill that we presented in 2014 and for the same reasons that Ms Patten has outlined. It is our understanding that 88 per cent of people who go and gamble use a $1 bet process themselves. It is that 12 per cent of people who are seriously addicted who lose huge amounts of money each week that this will assist.

Mr DALIDAKIS — Whilst I acknowledge what Ms Patten is attempting to do with her amendment, the government cannot support the amendment for reasons that I have already outlined today.

Committee divided on amendment:

Ayes, 8

Carling-Jenkins, Dr (*Teller*)	Pennicuik, Ms
Dunn, Ms	Purcell, Mr
Hartland, Ms (*Teller*)	Ratnam, Dr
Patten, Ms	Springle, Ms

Noes, 30

Bourman, Mr	Morris, Mr
Crozier, Ms	Mulino, Mr
Dalidakis, Mr	O'Donohue, Mr
Dalla-Riva, Mr	Ondarchie, Mr
Davis, Mr	O'Sullivan, Mr
Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms (*Teller*)
Finn, Mr	Ramsay, Mr
Fitzherbert, Ms	Rich-Phillips, Mr
Gepp, Mr	Shing, Ms
Jennings, Mr	Somyurek, Mr
Leane, Mr	Symes, Ms
Lovell, Ms	Tierney, Ms
Melhem, Mr (*Teller*)	Wooldridge, Ms
Mikakos, Ms	Young, Mr

Amendment negatived.

The ACTING PRESIDENT (Mr Elasmar) — I am going to ask Ms Patten to move her amendment 4 to clause 1, which is a test for her amendments 39 and 42.

Ms PATTEN — I move:

4. Clause 1, page 3, before line 9 insert—

> "(ix) to change the number of hours of gaming that is permitted at an approved venue; and".

This amendment, effectively, will require poker machine-licensed clubs and pubs to remain closed for a few hours each day — in fact 8 hours each day. Having seen the queues of people standing outside those pubs and clubs at 7 and 8 o'clock in the morning or people leaving those pubs and clubs at 5 and 6 o'clock in the morning not looking happy and not carrying wads of cash, I might tell you, I believe that this is actually appropriate. With the government's absolute insistence that this bill is all about harm minimisation, I would see this as a very strong harm minimisation model to just restrict the opening hours of the clubs to 16 hours a day. No doubt Woolworths, with their hundreds of clubs, will be able to stagger them so you will be able to stumble from one to the other, but I think this is a reasonable amendment, and I commend it to the house.

Ms HARTLAND — The Greens will be supporting this amendment, because we all know that people need to break the circuit of their gambling. If they are allowed to stay there for 20 hours a day, they will stay there, they will lose all their money and they will not be able to feed their children. Closing these clubs for 10 hours a night is not an unreasonable thing. We can either keep ripping money out of the community or we can actually be responsible. This is harm minimisation. What the government is proposing is not harm minimisation.

Mr DALIDAKIS — The government will oppose this motion for a range of reasons that we have already outlined, including the fact that we believe that people fundamentally have the right to self-determination. That includes shiftworkers, who deserve the right to be able to undertake gambling at their own desire. As such, the government will continue to oppose these amendments.

Amendment negatived.

The ACTING PRESIDENT (**Mr Elasmar**) — I will now ask Ms Hartland to move her amendment 1 to clause 1, which is a test for her amendments 16 and 17.

Ms HARTLAND — I move:

1. Clause 1, page 3, after line 8 insert—

> "(c) to amend both the **Gambling Regulation Act 2003** and the **Casino Control Act 1991** to impose limits on the amount that may be wagered on a single spin of a gaming machine; and".

My amendment is also in relation to spin rates and dollar bets. The reason that I am putting this forward is quite clear: this will actually assist people who have serious gambling problems. We know that the majority of people actually do their own form of dollar bets, but there are 12 per cent of the population who cannot do that, and dollar bets will slow their losses down dramatically. It will not affect the profit line of most of the large clubs, especially places like Woolworths, so I

think it is quite a reasonable harm minimisation process.

The government clearly does not think any of this is about harm minimisation. This bill is damaging; we are trying to make sure that people are not profoundly affected by this bill.

Mr DALIDAKIS — Again, this is a very similar motion to the one that Ms Patten moved unsuccessfully. The government will continue to oppose this for the reasons already outlined.

Committee divided on amendment:

Ayes, 8

Carling-Jenkins, Dr	Pennicuik, Ms
Dunn, Ms	Purcell, Mr (*Teller*)
Hartland, Ms	Ratnam, Dr
Patten, Ms	Springle, Ms (*Teller*)

Noes, 30

Bourman, Mr	Morris, Mr
Crozier, Ms	Mulino, Mr
Dalidakis, Mr	O'Donohue, Mr
Dalla-Riva, Mr	Ondarchie, Mr
Davis, Mr	O'Sullivan, Mr
Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms
Finn, Mr	Ramsay, Mr (*Teller*)
Fitzherbert, Ms	Rich-Phillips, Mr
Gepp, Mr	Shing, Ms
Jennings, Mr	Somyurek, Mr
Leane, Mr	Symes, Ms
Lovell, Ms	Tierney, Ms
Melhem, Mr	Wooldridge, Ms
Mikakos, Ms (*Teller*)	Young, Mr

Amendment negatived.

Clause agreed to; clauses 2 to 86 agreed to.

New clause

Ms PATTEN — I move:

30. Insert the following New Clause to follow the heading to Division 1 of Part 8—

'**A Gaming tokens**

(1) In section 3.5.19(1) of the Principal Act, for "use only gaming tokens" **substitute** "not use gaming tokens other than cash".

(2) After section 3.5.19(1) of the Principal Act **insert**—

"(1A) A venue operator must not allow a game to be played on a gaming machine if a gaming token other than cash can be used in order to operate or gain credit on the gaming machine.

Penalty: 60 penalty units."

(3) Section 3.5.19(2) of the Principal Act is **repealed**.'.

Amendment 30 which I have moved in my name effectively actually prohibits the use of cashless gaming tokens to operate gaming machines. I do not think that the government has been able to provide any substantive evidence around the effects of cashless gaming. I do not feel that they have been able to provide us with any surety that this is not going to further the harms — further the billions of dollars of losses to gambling, further the family violence, the suicides, the poverty and the job losses that result from problem gambling in our state.

Moving to cashless gaming tokens may also enable people to not really consider how much they are gambling at any one time. There seemed to be no evidence about how much money one could put on gambling tokens — I appreciate that you could only put $500 on at that venue, but that is not to say that you could not top them up at other venues — or what those gaming tokens would be and whether Woolies could be selling them in the fresh fruit aisle and then moving them into the gaming machines.

This is a considered amendment. It is to avoid risk in this area. We already know the dangers and problems that gambling is causing our society. Bringing in cashless gambling at this juncture is not warranted, and I do not think it is proven to be safe. I commend this amendment to the house.

Ms HARTLAND — The Greens will be supporting Ms Patten's amendment. I have just received an email and an attached letter that goes to the issue of evidence. It reads:

> Any assessment by the Department of Justice and Regulation (within the last 12 months) of cashless gaming and ticket-in, ticket-out systems on electronic gaming machines in terms of their impact on the harm that will be caused to people gambling, problem gambling behaviour and money laundering risks at electronic gaming machine venues should cashless gaming or ticket-in, ticket-out systems be introduced in Victoria.
>
> The department undertook a thorough and diligent search for documents, however the documents you seek do not exist.

That says to me that there has been no evidence gained and there has been no research about how this will affect people. For those reasons, the Greens will be supporting Ms Patten's motion.

Mr DALIDAKIS — I thank Ms Patten for the intention that she is trying to pursue; however, the

government will be opposing the proposed amendment. I spoke at some length around cashless gaming earlier in the debate. I shall not take up the time of this chamber again other than to say that the earlier comments explain why the government opposes this amendment.

The ACTING PRESIDENT (**Mr Elasmar**) — The question is that amendment 30 moved by Ms Patten, which is a test for her amendments 31, 32 and 33, be agreed to.

New clause negatived.

Clauses 87 to 93 agreed to.

Clause 94

The ACTING PRESIDENT (**Mr Elasmar**) — I call Ms Hartland to move her amendments 2 to 9, which are a test for her amendments 10 to 15.

Ms HARTLAND — I formally move:

2. Clause 94, line 25, omit '— '.

3. Clause 94, line 26, omit "(a)".

4. Clause 94, line 27, omit "(i)" and insert "(a)".

5. Clause 94, line 30, omit "(ii)" and insert "(b)".

6. Clause 94, line 31, omit "approval; or" and insert "approval.".

7. Clause 94, page 94, lines 1 and 2, omit all words and expressions on these lines.

8. Clause 94, page 94, line 3, omit "units." and insert 'units.".'.

9. Clause 94, page 94, lines 4 to 23, omit all words and expressions on these lines.

It is quite clear why the Greens are putting up these amendments: we believe that the amount of money that people can currently lose under the government's bill — $500 at a time — is excessive. It should be rolled back. We have gone from a time when there were no ATMs in these venues so as to break the cycle of people's gambling to having a situation where people can take out $500 every 24 hours. That is just going to enable people who already have a problem, and again the government has presented no evidence at all that this is a harm minimisation measure.

Mr DALIDAKIS — Again, people have moved amendments with the very best of intentions and Ms Hartland is no different. The government has put its position very clearly. We will be opposing the amendments that Ms Hartland has moved. Again, the government's contributions through this lengthy debate, including the summation to the second-reading debate, speak to why the government is opposing the amendments.

Committee divided on amendments:

Ayes, 7

Dunn, Ms (*Teller*)	Purcell, Mr
Hartland, Ms	Ratnam, Dr
Patten, Ms	Springle, Ms
Pennicuik, Ms (*Teller*)	

Noes, 30

Bourman, Mr	Morris, Mr
Crozier, Ms	Mulino, Mr
Dalidakis, Mr	O'Donohue, Mr
Dalla-Riva, Mr	Ondarchie, Mr
Davis, Mr (*Teller*)	O'Sullivan, Mr
Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms
Finn, Mr	Ramsay, Mr
Fitzherbert, Ms	Rich-Phillips, Mr
Gepp, Mr	Shing, Ms
Jennings, Mr	Somyurek, Mr
Leane, Mr	Symes, Ms
Lovell, Ms	Tierney, Ms (*Teller*)
Melhem, Mr	Wooldridge, Ms
Mikakos, Ms	Young, Mr

Amendments negatived.

The ACTING PRESIDENT (**Mr Elasmar**) — I call on Ms Patten to move her amendments 34 and 35 to clause 94, which are a test for her amendments 36, 37 and 38.

Ms PATTEN — I move:

34. Clause 94, page 94, line 9, omit "$500" and insert "$200".

35. Clause 94, page 94, lines 11 to 13, omit all words and expressions on these lines.

I certainly raised this in my second-reading speech, and I have raised it in committee. We had a situation where we got rid of EFTPOS and we set the limit at $400. We are now allowing EFTPOS in gaming rooms, and we are allowing people to withdraw $500 a day — every 24 hours. That is $3500 a week. This is a considerable amount of money. We know that if people actually have to leave the venue, it clicks them out and they can start rethinking and reconsidering going back into the venue.

I am asking, and I think very modestly, for that withdrawal limit to be reduced to $200. I note that the minister in some conversation during the committee process said that they needed to keep it to $500 because people might want to watch a show — there might be

other entertainment that might cost them more money. I would suggest that that is not relevant to this situation. Reducing EFTPOS in gaming venues to $200 a day I think again is around harm minimisation, and I think it hits the right balance. I commend my amendment to the house.

Ms HARTLAND — We will be supporting it.

Mr DALIDAKIS — I thank Ms Patten for her considered amendment. We will continue to oppose her considered amendment, and our opposition to that is because our bill is more considered.

Amendments negatived; clause agreed to; clauses 95 to 104 agreed to.

Reported to house without amendment.

Interjections from gallery.

The ACTING PRESIDENT (**Mr Melhem**) — Order! Order! Mr Costello, you know better than that. I ask you to leave the gallery now.

Interjections from gallery.

Mr Dalidakis — Choose not to go to a venue.

Ms Hartland — On a point of order, Acting President, I would ask the minister to withdraw that last comment. He is implying that addicts have some control over it. It was disgusting. He should withdraw it.

The ACTING PRESIDENT (**Mr Melhem**) — Thank you, Ms Hartland. There is no point of order.

Mr DALIDAKIS — I move:

That the report be now adopted.

House divided on motion:

Ayes, 31

Bourman, Mr	Mulino, Mr
Crozier, Ms	O'Donohue, Mr
Dalidakis, Mr	Ondarchie, Mr
Dalla-Riva, Mr	O'Sullivan, Mr
Davis, Mr	Peulich, Mrs
Eideh, Mr (*Teller*)	Pulford, Ms
Elasmar, Mr	Purcell, Mr (*Teller*)
Finn, Mr	Ramsay, Mr
Fitzherbert, Ms	Rich-Phillips, Mr
Gepp, Mr	Shing, Ms
Jennings, Mr	Somyurek, Mr
Leane, Mr	Symes, Ms
Lovell, Ms	Tierney, Ms
Melhem, Mr	Wooldridge, Ms
Mikakos, Ms	Young, Mr
Morris, Mr	

Noes, 6

Dunn, Ms	Pennicuik, Ms
Hartland, Ms (*Teller*)	Ratnam, Dr
Patten, Ms	Springle, Ms (*Teller*)

Motion agreed to.

Report adopted.

Third reading

Mr DALIDAKIS (Minister for Innovation and the Digital Economy) (18:04) — I move:

That the bill be now read a third time.

The ACTING PRESIDENT (**Mr Melhem**) — The question is:

That the bill be now read a third time and do pass.

House divided on question:

Ayes, 31

Bourman, Mr	Mulino, Mr
Crozier, Ms	O'Donohue, Mr
Dalidakis, Mr	Ondarchie, Mr
Dalla-Riva, Mr	O'Sullivan, Mr
Davis, Mr	Peulich, Mrs
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Purcell, Mr
Finn, Mr (*Teller*)	Ramsay, Mr
Fitzherbert, Ms	Rich-Phillips, Mr
Gepp, Mr	Shing, Ms
Jennings, Mr	Somyurek, Mr
Leane, Mr	Symes, Ms
Lovell, Ms	Tierney, Ms
Melhem, Mr	Wooldridge, Ms
Mikakos, Ms	Young, Mr (*Teller*)
Morris, Mr	

Noes, 6

Dunn, Ms	Pennicuik, Ms (*Teller*)
Hartland, Ms	Ratnam, Dr
Patten, Ms (*Teller*)	Springle, Ms

Question agreed to.

Read third time.

Sitting suspended 6.09 p.m. until 7.35 p.m.

DOMESTIC ANIMALS AMENDMENT (PUPPY FARMS AND PET SHOPS) BILL 2016

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

[*Statement of compatibility expunged by order of Council on 12 December*]

[*Statement of compatibility expunged by order of Council on 12 December*]

[*Statement of compatibility expunged by order of Council on 12 December*]

[*Statement of compatibility expunged by order of Council on 12 December*]

[*Statement of compatibility expunged by order of Council on 12 December*]

[*Statement of compatibility expunged by order of Council on 12 December*]

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (19:37) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Andrews Labor government is putting animal welfare first by ending industrial scale breeding of puppies and kittens, and introducing lifetime traceability for dogs and cats — so dodgy breeders cannot hide.

We are following through on the promise we made to Victorians at the last election to make our laws stronger and toughen protections for vulnerable animals — because we know that dogs belong in a family, not a factory.

Any dog and cat advertised in Victoria will soon be required to have a source number that will track — for life — where and by whom the pet was bred. This breeder identification will be permanently attached to the animal's microchip record.

Underground and dodgy backyard breeders will have nowhere to hide.

This bill enables Victorians to distinguish between legitimate breeders, and illegal and unregistered breeders.

For the first time in Victoria, people looking for a furry family member will be able to validate whether their cat or dog comes from a legitimate source. The government remains steadfast in its commitment to reform Victoria's dog breeding and pet shop industries.

Many of you will have followed the story of Oscar, a small dog kept for breeding that was eventually purchased by Debra Tranter, a campaigner against the factory farming of companion animals.

Oscar had infected ears, dental disease and inflamed infected gums, his fur was matted, his skin covered in abscesses. Very much in contrast to the happy dog he is today.

Since 2010, a growing number of people have called on their elected representatives to shut down puppy farms, end the sale of dogs and cats from pets shops, and promote the adoption of our beloved pets through pounds and shelters.

Too many breeding dogs and cats have lived in unchecked squalor, and too many animals have been put down because they didn't have a home.

The community has sent a strong message to the government, and to all members of Parliament, that the appalling conditions experienced by many dogs in puppy farms is not acceptable.

With a $5 million funding boost from the Labor government, RSPCA Victoria's special investigations unit has conducted 75 investigations, assessed more than 1600 animals and referred 53 establishments to councils for further investigation.

There have been 10 matters before the courts and the number of domestic animal businesses has been dropping steadily.

On coming to government, we fast-tracked changes to require councils to refuse registration to any breeder found guilty of animal cruelty, and brought forward increased powers for local councils to seize animals.

We introduced new rules requiring mandatory pre-mating veterinary checks for all female breeding dogs, in addition to a ban on breeders producing more than five litters from a dog over her lifetime.

This bill introduces amendments to the Domestic Animals Act 1994 (the act) to deliver the government's election commitment to reform the dog breeding and pet shop industries in Victoria, and to address issues with unregulated online sales of dogs and cats.

Since the introduction of the bill last year, there has been a shift in the pet breeding industry. The tide has turned for those breeding our pets without regard to their welfare.

The government has consulted extensively on all elements of the bill. We have taken the time to listen to the needs of stakeholders, and the changes within the bill reflect this.

I thank RSPCA (Victoria), Dogs Victoria, the combined cat applicable organisations, the Victorian Aviculture Council and other bird club organisations, Municipal Association of Victoria, Animals Australia, Oscar's Law, Community Fostercare Networks, and other rescue groups, farm working dog representatives, the Victorian Farmers Federation, the Australian Veterinary Association, Banksia Park Puppies, the Pet Industry Association Australia and more for their time. I would like to acknowledge the commitment of all stakeholders to the welfare of our pets.

We're getting it done and ending cruel and barbaric puppy farming.

No puppy breeding domestic animal business will be able to keep more than 10 fertile females with council registration alone. Our mandate to stamp out large-scale dog breeders in Victoria is clear, and the bill fulfils this commitment.

According to the scientific literature, large-scale, commercial, dog breeding establishments, can fail to provide sufficient socialisation and enrichment to ensure the mental wellbeing of their breeding dogs. These dogs suffer from behavioural problems, poor socialisation and bonding with humans.

The developmental literature shows that puppies during the first 16 weeks of life learn many of their social cues from their mothers. Poor socialisation in the mother can lead to poor socialisation and adaptive behaviours in the puppies. Poorly socialised puppies can be fearful, timid, aggressive and are potentially unsuitable for a family environment.

This government knows that Victorians consider their pets as members of the family. We believe that the legislation regulating the breeding of dogs and cats should reflect this. All breeding dogs and their puppies must be afforded the best possible welfare outcomes.

The bill provides that the council must refuse registration of a breeding domestic animal business premises if there is already a breeding domestic animal business, an animal shelter or a pet shop being conducted or proposed to be conducted on that rateable property.

Existing dog breeding businesses will have until 10 April 2020 to reduce their fertile female numbers to 10, by not replacing retiring dogs. This natural retirement of dogs will prevent a situation where breeders might have had a large number of dogs on hand when the cap came into effect.

However, the 10 fertile female limit will be imposed on any new business from 10 April 2018.

When Victorians take home a puppy or kitten, they should know their new family member has been reared by a breeder that values its welfare.

That's why any domestic animal business wishing to keep 11 fertile females or more, must pass a further inspection and be recommended for a special 'commercial breeder' exemption by the chief veterinary officer. There will be stricter reporting requirements, increased qualifications for all staff members and clear guidelines on the living and retirement arrangements for all dogs on these properties.

A commercial breeder will be allowed no more than 50 dogs and will need to demonstrate that their facilities and staffing provide socialisation that resembles a home-like environment. Only the responsible minister can approve these establishments to operate.

The amended bill maintains our commitment to prevent illegal 'underground' backyard breeding, while minimising regulatory burden for those people with only a few breeding females. Owners of one or two fertile females, will not be required to register as a domestic animal business with council. Instead, a person who keeps one or two fertile females and breeds from them will be redefined as a microbreeder. This definition is required for the information register, which I will speak about later.

People that have three to 10 fertile females, who are not members of applicable organisations, will continue to be required to register as a domestic animal business and comply with the state's relevant code of practice. This is unchanged from the current act.

The government has been working closely with organisations, such as Dogs Victoria, since the introduction of the bill to improve the welfare of dogs and cats kept by members. We recognise that the overwhelming majority of applicable organisation members are committed to high standards of animal welfare and to providing the best care for the animals under their care. To build trust that applicable organisations keep to the high standards as set by the government, changes are being made to the application process for all applicable organisations. This includes codifying the need for an organisation's code of ethics, to be binding on all members.

The government has worked closely with Dogs Victoria to improve their code of ethics, which previously failed to

adhere to the standard required of applicable organisations. And in doing so, we have also listened to the concerns of hobby breeders.

Dogs Victoria said its members didn't want to be known as domestic animal businesses, and further, that they didn't want to have to register with their local councils. We heard that, and amended the bill. Dogs Victoria have since issued a position statement indicating that the organisation is 'pleased that the government has taken on board most of [its] concerns'.

Ahead of the debate in the other place, Dogs Victoria highlighted its work with the government 'to achieve several vital changes to the bill to ensure that reputable, registered Dogs Victoria breeders can continue to breed healthy pedigree dogs in Victoria' and stated that this bill will 'make it more difficult for illicit puppy mills to operate without detection'.

A new category of breeders, known as recreational breeders, is being introduced. Recreational breeders will be members of applicable organisations, who keep up to 10 fertile females. The bill will enable applicable organisations to continue regulation of its members, rather than council.

Recreational breeders will register directly on the Victorian government's information register, visible to new intelligence officers, authorised officers and the RSPCA Victoria's special investigations unit.

Importantly, dodgy puppy farmers will no longer be able to use membership of Dogs Victoria to be invisible and hide from authorities.

The amended bill also clarifies arrangements for farm working dog owners. The government knows the critical work that these dogs perform on our farms. That's why the bill clarifies that a primary producer, or his or her contractor, keeping farm working dogs to drove, protect, tend, or work stock on a farm will not constitute a domestic animal business.

Early into the development of this legislation, enforcement agencies highlighted the increasing presence of puppy and kitten brokers in Victoria. Brokers are individuals who source or buy or act as agents for breeders of puppies and kittens, both in Victoria and interstate, and sell those animals into our community. We have included rearing in the definition of a domestic animal business in this bill to clarify that anyone holding a puppy or kitten for sale must meet minimum standards in terms of their care. Anyone fitting the definition of a rearer, including puppy and kitten brokers, will have to register with their local council and comply with the relevant provisions of the act. This government is committed to ensuring these reforms can be implemented clearly, simply, and uniformly.

Labor promised to break the puppy farm business model. We committed to remove breeder access to pet shops, thus removing the primary source of market access for illegal breeders. The bill creates an offence for a breeder to sell a cat or dog to, or through, a pet shop.

Forcing illegal breeders into the open will highlight their operations. Anyone advertising a dog or cat will be required to publish both the animal's microchip number and the breeder's unique source number obtained from the information register in any form of advertising they do for their puppies and kittens, be it online or in a trading paper.

The government is also ensuring that unscrupulous individuals are not able to circumvent the intent of this legislation by registering an illegitimate shelter as a means of funnelling puppies and kittens into a pet shop. To do this, the bill prohibits the co-registration of a breeding domestic animal business with a shelter, pound or pet shop domestic animal business on a single rateable property or by the same person anywhere in the state. This inhibits the establishment of a supply chain created by, for example, establishing a breeding establishment in one municipality, a shelter in a second, and a pet shop in a third.

Many in the community have argued that pet shops are a convenient outlet for illegal breeders as they provide broad access to the community without exposing the breeding operation. Online sales can be less attractive as the buyer may wish to visit the breeding property or view the parents of the puppy or kitten, risking potential exposure of the illegal operation.

This bill introduces provisions which bans the sale of breeders' puppies and kittens in pet shops. As we promised Victorians, it prohibits pet shops from selling, or acting as an agent for a seller, or accepting or receiving a dog or cat for sale unless the dog or cat has been sourced from a registered pound, animal shelter or registered foster carer.

The government did not want to disrupt the good work that some foster and rescue organisations do in cooperation with pet shops. The sale and/or rehoming of dogs and cats from pounds and shelters can often be hampered by restricted opening hours and a more rural location, for example.

But the days of dodgy breeders selling through pet shops are numbered.

We are giving consumers certainty that their puppies and kittens have come from good homes.

The bill establishes a new state government information register, called the pet exchange register, that will include details of all Victorian domestic animal businesses and those advertising cats and dogs.

The Department of Economic Development, Jobs, Transport and Resources will develop and maintain the pet exchange register. The register will facilitate the sharing and cross-referencing of information across municipalities, enabling local councils to appropriately enforce restrictions on the co-registration of domestic animal businesses, for example. Centralising the data will reduce costs for local councils by removing their need to maintain individual domestic animal business databases.

To offset the cost of the register, the payment to the Treasurer from all domestic animal businesses will be increased from $10 to $20 from 1 July 2019.

While local councils will enter information regarding domestic animal businesses and registered foster carers, all other advertisers of dogs and cats will be required to self-enrol on the pet exchange register. All advertisers includes those advertising for profit and those giving a pet away.

The pet exchange register will generate unique source numbers that must be included in all pet advertisements. A prescribed fee, set at $20 annually, will be required to generate an advertiser's unique source number. Some aspects will be public facing and allow prospective owners to verify the source of their future pet. A prospective pet owner will be able to visit the pet exchange register website and enter the advertiser's source number, the register will then validate the number. If valid, the pet exchange register will confirm the advertiser's registration and council. While behind the scenes our authorised officers will be able to monitor data and respond to complaints. Our community will be able to access more information than ever before about the source of their pet.

The new register ensures traceability of all advertisers of dogs and cats in Victoria, including those being sold by microbreeders, recreational breeders, community foster care networks and rescue groups. The pet exchange register is a Victorian first and will assist us to identify unscrupulous individuals and organisations. The register, and associated provisions will commence no later than 1 July 2019.

To meet privacy requirements, full access to the database will be restricted to the secretary, authorised officers of local councils or the state government for the purpose of administering and enforcing the act. Access for local council officers will provide full records for their own municipality and a restricted view of registration details for domestic animal businesses in other municipalities. Authorised officers of the RSPCA (Victoria) will also be able to access the register to support their role in the investigation and closure of illegally operating breeding businesses.

That's why RSPCA Victoria is backing the government's changes. We are putting traceability front and centre in the legislation.

RSPCA Victoria says that right now, they cannot account for where up to 70 per cent of the puppies born in Victoria every year have been bred — that's around 60 000 puppies a year. As the RSPCA Victoria CEO, Dr Liz Walker, has said, 'If we don't know where a kitten or pup was bred, we can't possibly know what conditions they or their mum have been living in — it might be perfect, or it could be horrifically cruel. The first step in putting an end to poor welfare breeding in Victoria is to map where puppies and kittens are actually being bred'.

The publication of advertisements for dogs and cats not containing the required information under the act is an issue continually highlighted by enforcement agencies, animal welfare groups, and the community. Prior to the election, the government committed to working with online sellers to address animal welfare concerns about the sale of dogs and cats.

To address this issue, it will be an offence for both the advertiser and the publisher of an advertisement for a dog or cat without a valid microchip number and source number generated by the pet exchange register. This applies to where these numbers are absent from the advertisement and where false numbers are used. In creating an offence for a person publishing an advertisement without a microchip number and source number, or where these numbers are false, we are again removing market access for illegal breeders and shining a light on the black market trade of puppies.

In order to integrate individual foster carers into the reform scheme, this bill introduces clear definitions of foster care as separate from an animal shelter. We have placed limits on the number of dogs and cats that an individual person can have in foster care at a given point in time. The limit has been set at five adult equivalents, where an adult animal is a dog or cat 16 weeks or older. A litter under 16 weeks is considered a single individual. This limit is in line with the restrictions developed in the formation of the breeding code.

We know that some people with big hearts, sometimes take on too many animals. This aims to prevent the unintentional hoarding of high-needs animals that often results in significant welfare cases. A person providing care to more than five adult equivalent dogs or cats, or a combination of dogs and cats, at any given time — in addition to their own pets — is required to register as an animal shelter.

In recognition of the integral role that foster carers, foster care networks, and rescue groups play in caring for and promoting the rehoming of abandoned, stray and unwanted animals, the government is also introducing a voluntary registration scheme for foster carers.

Foster care networks provide an important service to our community. These organisations are mostly volunteers and help rehome thousands of animals every year. That's why we want to make it easier for community foster care networks to do what they do.

Under the provisions in the bill, an individual foster carer may apply to their local council for registration. This is a voluntary process. Those individuals that choose to register will be provided with a significantly reduced registration rate for the animals in their care and access to pet shops to help improve rehoming of dogs over the age of 6 months or cats over the age of 8 weeks, should they wish. The reduced rate for animals in foster care will reduce costs to individual foster carers for the first 12 months that the animal is in their care. In return, registered foster carers will be required to meet minimum vaccination, worming, desexing and record-keeping requirements. The bill provides for regulations to prescribe these requirements.

This government is committed to reducing unnecessary euthanasia and promoting rehoming of dogs and cats. We want to see as many dogs and cats presented to the community for adoption as possible. This bill does not regulate community foster care networks, nor does it require these networks to register with councils as domestic animal businesses. The voluntary scheme is designed for individual foster carers only. Community foster care networks will operate as they do now and continue their important role in finding permanent homes for pets in Victoria.

The bill does however create an opportunity for community groups and organisations to apply for a permit to sell animals from public venues. Currently, under the act, caged birds, cats, dogs, mice, rabbits, guinea pigs, and reptiles can only be sold from a private residence or a registered pet shop. The act requires that a 'pet shop' must be located in a permanent location, and open not less than five days a week (excluding public holidays).

The bill will introduce an animal sale permit, approved by the minister, to allow sales to occur in Victoria where animal welfare and consumer protections are in place. An organisation or person that intends to hold an animal sale at a place other than a private residence or a pet shop will need to

apply to the minister for a permit. The application must include a copy of an agreement entered into between a veterinary practitioner and the applicant confirming that the veterinary practitioner will attend the sale, if required.

During consultation, it became evident that these community groups would benefit from a reduction in the administration around the proposed animal sale permit. Without compromising on animal welfare, the amendment to the bill has simplified the system so groups can hold events — such as adoption days, or the working dog auction in Casterton — at public venues.

I have been left in no doubt of the passion and care Victorian bird clubs and organisations and their members have for their birds. Under current legislation, sales and many club events by these bird organisations were not permitted. The bill provides these passionate Victorian bird breeders flexibility to manage their clubs and sales as they have been doing for many years in inadvertent contravention of the law.

The government has worked with aviculture clubs and peak bodies to devise a scheme which will allow simple one-time registration of an organisation. To be gazetted as a declared bird organisation, an organisation will need to demonstrate that it educates its members about, and requires its members comply with, an appropriate welfare code of practice. Authorised officers under this act remain legally responsible for enforcement.

The central purpose of the new declared bird organisation system is to simplify identification of illegal trading outside of legitimate bird club events. Under this scheme, caged bird hobbyists will be able to continue doing what they love, while 'flea market' type sales will remain illegal and easily identifiable to authorities.

Finally, associated with the new policies and provisions outlined, the bill introduces enhanced enforcement and administrative amendments to support implementation of the new provisions. The bill also recognises the significant costs on enforcement agencies for the care, rehabilitation and rehoming of dogs and cats seized from puppy farms. The bill contains amendments to provide a clear mechanism for cost recovery through the courts.

The bill is a major shift in the management of dogs and cats in breeding businesses and pet shops in Victoria and represents this government's strong commitment to animal welfare.

The bill delivers on a number of election commitments.

We're finishing what we started — delivering on our election commitment to end puppy farming, ban the sale of breeders' puppies and kittens in pet shops, and better regulate the online sale of dogs and cats.

The bill enables Victorians to verify, for the first time, that the advertiser of their future pet is legitimate, enhancing the traceability of our cats and dogs like never before.

The bill demonstrates that Victoria is leading the way in promoting the welfare of dogs and cats.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 December.

HEALTH AND CHILD WELLBEING LEGISLATION AMENDMENT BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) 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), we make this statement of compatibility with respect to the Health and Child Wellbeing Legislation Amendment Bill 2017.

In our opinion, the Health and Child Wellbeing Legislation Amendment Bill 2017, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. We base our opinion on the reasons outlined in this statement.

Overview

The bill amends the Child Wellbeing and Safety Act 2005, the Health Complaints Act 2016, and the Public Health and Wellbeing Act 2008.

Part 2 of the bill amends the Child Wellbeing and Safety Act 2005, particularly part 5A of that act, which provides for a reportable conduct scheme. That scheme requires the head of an entity (entities required to comply with the scheme are set out in schedules 3, 4 and 5 of the act) to notify reportable allegations about the entity's employees (as defined in section 3) to the Commission for Children and Young People (commission), and to investigate those allegations. The commission also has power to initiate its own-motion investigations into reportable allegations and to advise the Department of Justice and Regulation of substantiated reportable allegations for the purposes of assessments and reassessments of working with children checks. The bill makes a number of amendments, including to clarify:

the range of kinship and foster care arrangements that are covered by the scheme (see clause 3(1)(b));

the definition of the 'head' of an entity to which the scheme applies (see clause 3(1)(c));

that part of an entity or a part of a class of entities can be exempt from the scheme (see clause 4). This would mean, for example, that parts of an entity not sufficiently connected to children or parts of an entity located outside of Victoria can be exempt;

that regulations under the act may enable information to be shared with interstate, territory or commonwealth bodies, for example, the Australian Capital Territory and New South Wales ombudsmen, that are responsible for

administering reportable conduct schemes in those jurisdictions (see clause 6);

that secretaries of departments may delegate their powers, functions or duties in their capacity as the head of an entity (see clause 7).

The bill also makes a number of minor and technical amendments with respect to prescription of the entities which must comply with the child safe standards (see clauses 3, 8–15) including to ensure that entities that engage in child employment to assist the organisation to provide or produce goods are also captured (clause 3(1)(a), 3(3) and 12(2)).

Part 3 of the bill amends the 'no jab, no play' provisions of the Public Health and Wellbeing Act 2008. These provisions require early childhood services to ensure that a child is age appropriately immunised or has an appropriately certified medical contraindication to immunisation before a child is enrolled in the service. The bill amends the act to provide for a definition of 'age appropriately immunised' that aligns with the commonwealth immunisation requirements, but also allowing for the state to specify other child immunisation requirements (see clauses 16, 17, 20 and 22). The effect of the amendment is that an extract from the commonwealth Australian Immunisation Register is required to evidence a child's immunisation status under the 'no jab, no play' provisions (unless other documentation or requirements are declared by the Secretary to the Department of Health and Human Services as being acceptable). Clauses 19 and 21 provide for additional obligations upon parents to provide up-to-date immunisation certificates and upon early childhood services to ensure that occurs. The bill also amends the Public Health and Wellbeing Act to provide for reporting and collection of information relating to anaphylaxis (clauses 18 and 23).

Finally, the bill makes amendments to the Health Complaints Act 2016 to provide who may bring proceedings under the act.

Human rights issues

Rights of children (section 17)

Section 17(2) of the charter provides that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

The bill makes amendments to the reportable conduct scheme and the operation of child safe standards under the Child Wellbeing and Safety Act 2005, which are aimed at the protection of children. Clause 4 of the bill enables the exemption of part of an entity from the reportable scheme. The purpose of this provision is to ensure that parts of an entity such as those not sufficiently connected with children or those operating outside Victoria, are not inappropriately subject to the scheme. Any such regulations would be subject to examination by the Scrutiny of Acts and Regulations Committee, pursuant to section 21 of the Subordinate Legislation Act 1994. Accordingly, I consider that the provisions are compatible with the rights of children in section 17(2) of the charter.

Part 3 of the bill makes amendments to the 'no jab, no play' provisions of the Public Health and Wellbeing Act. The human rights implications of those provisions including in relation to section 17(2) of the charter have already been the subject of a statement of compatibility, particularly in light of the importance of children being appropriately immunised and the potential impact upon unimmunised children accessing child care. The amendments made by this act, including a definition of 'age appropriately immunised' that encompasses state immunisation requirements and additional obligations upon parents and early childhood services with respect to provision of up-to-date certificates, does not impact upon that assessment. The prescription of state immunisation requirements will be subject to the charter, including the rights of children to such protection as is in their best interests under section 17(2).

Rights of families and privacy (sections 13 and 17)

Section 17(1) of the charter provides that families are the fundamental group unit of society and are entitled to be protected by society and the state. Section 13(1) of the charter protects against unlawful and arbitrary interferences with one's privacy, family and home.

The reportable conduct scheme in the Child Wellbeing and Safety Act 2005 already captures specified foster care and kinship care arrangements. The amendments in clause 3(1)(a) of the bill clarify the scope of coverage. The extension of the scheme to these arrangements engages the rights in sections 17(1) and 13(1) of the charter, as it has the potential to impact the privacy of the individuals concerned as well as their relationships with each other, particularly between the carer and the child. However, any such interference is lawful and reasonable in light of the importance of the protection of children in out-of-home care.

Information privacy (section 13)

Section 13 of the charter also protects against unlawful and arbitrary interferences with privacy.

Clause 6 of the bill expands an existing power at section 16ZC of the Child Wellbeing and Safety Act 2005 for regulations to prescribe other persons or bodies with whom the commission, entity head and a regulator may share information. Clause 6 clarifies that regulations can also be made that enable information sharing with commonwealth, interstate and territory persons or bodies. Those regulations will be subject to examination by the Scrutiny of Acts and Regulations Committee, pursuant to section 21 of the Subordinate Legislation Act 1994. Further, any information that is shared will be subject to the information privacy protections under the relevant commonwealth, interstate or territory laws and will be limited to sharing for prescribed matters and where relevant to the person's or body's statutory functions. The sharing of information between the commission, entities and regulators complying with the reportable conduct scheme and relevant interstate, territory and commonwealth bodies is important to ensuring the protection of all Australian children. For example, to enable cross-border information sharing with police and reportable conduct schemes in other jurisdictions. Having regard to these matters, as Minister for Families and Children I consider that these provisions are compatible with the right to privacy.

The anaphylaxis reporting requirements in clauses 18 and 23 will involve the reporting and collection of information about anaphylaxis. To the extent it may involve personal information, it is necessary in order to pursue the important public health and wellbeing objectives of the scheme and any such information will be the subject of privacy protections contained in the Health Records Act 2001. New section 130C

permits the disclosure of the information collected by the secretary. This disclosure is lawful and is not arbitrary as the secretary may only provide the information to a prescribed body if the secretary considers it is in the public interest to do so. Accordingly, as Minister for Families and Children I consider that the provisions are compatible with the right to privacy in section 13 of the charter.

Jenny Mikakos, MP
Minister for Families and Children

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (19:40) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill will improve the operation of three important regulatory schemes introduced by the Andrews Labor government — no jab, no play, the reportable conduct scheme and the statutory scheme for responding to complaints made about health service providers. It will also provide for mandatory reporting of cases of anaphylaxis to the Department of Health and Human Services by hospitals.

Public Health and Wellbeing Act 2008 — no jab, no play

The proposed amendments focus on ensuring Victorians' health and wellbeing, and particularly that of our children, is safeguarded.

Victoria's no jab, no play laws came into operation on 1 January 2016. They have promoted immunisation coverage by requiring all Victorian children to be fully vaccinated to attend child care and kindergarten. In 2018 almost 95 per cent of children starting school in Victoria will be fully immunised. It is a significant achievement. I want to acknowledge the great work that has been done by parents, early childhood services and healthcare providers to get us this much closer to the 95 per cent 'herd immunity' target necessary to halt the spread of dangerous and virulent diseases such as measles.

The proposed amendments to the Public Health and Wellbeing Act 2008 in this bill tighten and simplify immunisation requirements in two ways. Firstly, they will provide that the only document early childhood services and primary schools will be able to accept on enrolment will be an Australian immunisation history statement. Secondly, mandatory periodic checks will be introduced to verify that children are receiving their scheduled vaccines on time throughout their early years in education and care.

Immunisation history statements, containing data from the Australian Immunisation Register, are easily available online or can be posted by Medicare to all families living in Victoria, including to our residents who don't have Medicare cards.

They are simple for early childhood services and primary schools to read and interpret and most families already provide them to these services to confirm their child's immunisation status.

Prior to these amendments the law has allowed parents and guardians to provide a letter from their doctor to certify their child has a medical condition, such as a form of anaphylaxis or a compromised immune system, that prevents them from being immunised.

This year a Melbourne doctor has provided what he claims were 'medical contraindication' letters to a number of Victorian families — we know of 42 cases — with the stated intent of assisting these families to avoid the no jab, no play laws. This doctor is currently under investigation by the Australian Health Practitioners Regulation Agency — AHPRA — and his medical registration has been suspended.

Vaccinations are safe and save lives. So we also want to ensure the existing no jab, no play laws are tightened to safeguard against any other doctors with unorthodox views on vaccination; views outside accepted medical practice and unsupported by scientific evidence.

The new requirements for immunisation history statements will mean all medical contraindications must be certified by an authorised medical practitioner through the Australian Immunisation Register and be noted on a child's immunisation history statement. A letter from a doctor will no longer be sufficient to enable enrolment in a Victorian early childhood service.

The amendments also provide the Secretary to the Victorian Department of Health and Human Services with the power to declare alternative documents to be acceptable in rare situations where an immunisation history statement doesn't fully explain the child's circumstances. For example, there are a small number of children with severe behavioural issues who can't be safely vaccinated. Families with children in this situation can obtain a letter from the Secretary to the commonwealth Department of Human Services and, under the proposed amendments, this will be able to be declared an acceptable document under no jab, no play. The power will enable Victoria to make exceptions to the general legislative requirements where necessary.

Under the Public Health and Wellbeing Act primary schools are also required to record the immunisation status of all children in their care, so they can protect unimmunised children during an outbreak of vaccine preventable disease. Under these amendments immunisation history statements will become the only documents parents can provide for this purpose. Letters from doctors or other immunisation providers will no longer be sufficient.

Victoria has a routine schedule of vaccines provided free to children at two, four, six, 12 and 18 months and at four years of age under the national and Victorian immunisation programs. Under this bill parents will be required to provide, and early childhood services will be required to collect immunisation history statements so that they can verify that children have received their age-appropriate vaccines. The frequency of these checks will be prescribed in regulations to be developed in consultation with the early childhood sector and public health experts. This new measure will provide an important additional prompt to both parents and services to ensure that children remain fully vaccinated throughout their time in early childhood education and care.

Victoria's no jab, no play laws support both the health and education of young children. The amendments contained in this bill will ensure the government's focus on the health and safety of our children continues. The amendments will not affect the 'grace period' provisions under our no jab, no play laws that enable vulnerable and disadvantaged children to participate in early childhood education and care while their carers are supported to have them fully immunised. The laws will also continue to support children who can't be immunised for medical reasons to attend child care or kindergarten protected by the high immunisation rates that provide herd immunity.

The new requirements for provision of immunisation history statements on enrolment are intended to commence the day after the bill receives royal assent and the provisions for mandatory periodic checks of immunisation status will commence on 1 November 2018. This will allow time for consultation with key stakeholders and for the necessary regulations supporting the amendments to be developed.

The Department of Education and Training regulates most early childhood education services in Victoria. The Department of Health and Human Services is working with the Department of Education and Training to ensure families, early childhood services and vaccination providers are informed of the new requirements and are consulted about the frequency of the new mandatory checks.

Public Health and Wellbeing Act 2008 — Hospital reporting of anaphylaxis cases

The bill includes amendments to the Public Health and Wellbeing Act 2008 to introduce a requirement for hospitals to report cases of anaphylaxis to the Secretary to the Department of Health and Human Services. This will ensure the department can respond and take timely action where necessary, in response to reported cases of anaphylaxis.

Anaphylaxis is the most severe form of allergic reaction and can be fatal. In Victoria, food-related anaphylaxis accounts for approximately 48 per cent of the total anaphylaxis presentations to emergency departments. Food-induced anaphylaxis is most common in children, with the majority of hospitalisations occurring in children under four years of age. Other presentations at hospitals for anaphylaxis can be due to insect stings and adverse reactions to drugs.

In June 2016, Coroner Audrey Jamieson made a recommendation that the government should establish reporting requirements for cases of anaphylaxis in hospitals. The recommendation followed an inquiry into the tragic case of a 10-year-old boy who died after consuming a coconut drink that contained milk. The boy was allergic to milk and the product's labelling failed to declare that there was milk in the drink. A product recall was ultimately initiated, however this did not occur for some weeks as the department was not informed of the incident until several weeks after it had occurred.

Hospital admissions due to anaphylaxis have been increasing at an accelerating rate since 1993. According to retrospective data submitted to the department by hospitals, the number of cases of anaphylaxis in hospitals is increasing from year to year. In 2014–15 there was an increase of 16 per cent from the previous year, and similarly in 2013–14 there was a 16 per cent increase on the previous year.

The information provided to the Department of Health and Human Services as a result of this legislation will play an important role in allowing the department and researchers to monitor and understand these trends, as well as taking timely action to limit the impact of any public health risk.

The bill requires the hospital entity to make the report to the department, and obligation applies to both public sector and private sector hospitals. The provisions also impose an obligation on the 'person in charge' of the hospital, to ensure that the necessary processes are in place for the required reporting. The 'person in charge' for a public sector hospital is the chief executive officer, and for a private sector hospital is the proprietor of the hospital.

Regulations will contain the details to operationalise the reporting arrangements, including matters such as the manner and form of reporting and reporting timelines.

The proposed reporting will enable timely response to public health issues that arise in relation to anaphylaxis — for example, where there is a case that arises from an unsafe or mislabelled food product, the new reporting to the department will allow prompt action to remove that item from sale unless and until it is appropriately labelled and safe to consume.

Health Complaints Act 2016

The new Health Complaints Act 2016 was introduced on 1 February 2017. That act established the role of health complaints commissioner and created a new health complaints system with tougher laws to warn and protect the Victorian community from harm and unscrupulous unregistered health service providers.

In the first five months of office, the commissioner has already reported receiving a 500 per cent increase in complaints about non-registered health service providers, when compared with the same period in the previous year. This indicates that the Victorian community has confidence that the new health complaints system will address issues with heath service providers.

The new laws provide the commissioner with a range of important approaches to assist in resolving and responding to complaints, including an own motion power to investigate and to 'name' risky providers in certain circumstances with the aim of protecting the public.

Where necessary, it is important that the commissioner also has the ability to prosecute providers who are breaching the act and putting the community at risk. This is a necessary part of an effective regulatory toolkit. The bill makes clear that this power is available to the commissioner, just as it was available to the previous health services commissioner. This is consistent with the power that the commissioner already has under the Health Records Act 2001 to take action under that act.

These amendments are intended to commence the day after the bill receives royal assent. The amendment will ensure the commissioner can effectively crack down on those providers as intended and where necessary, by prosecuting them under the act where the circumstances call for this.

Child Wellbeing and Safety Act 2005

Child safety is everyone's responsibility.

The government has driven significant reform to protect the most vulnerable members of our community, children. Child safe standards were introduced from 1 January 2016 and the first phase of the reportable conduct scheme commenced on 1 July 2017.

Both reforms were introduced in response to recommendations of the report of the Family and Community Development Committee of the previous Parliament, entitled *Betrayal of Trust: Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations*.

Both reforms are overseen by the Commission for Children and Young People, and they work to protect children from abuse in organisations that provide services to children.

This bill proposes amendments to the Child Wellbeing and Safety Act 2005 to support the implementation and operation of the reportable conduct scheme and child safe standards.

The reportable conduct scheme improves oversight of responses to allegations of child abuse, sexual misconduct and other child-related misconduct in organisations that exercise care, supervision and authority over children.

Since the reportable conduct scheme commenced on 1 July 2017, the commission and the Department of Health and Human Services have closely monitored issues associated with implementation. This bill responds to those issues to ensure the scheme operates as intended and to ensure the original policy intent is reflected in the scheme.

In particular, the definition of 'employee' under the scheme will be amended to ensure that the range of formal kinship and foster carer arrangements is covered. The amendments will make clear that kinship care arrangements are captured, whether they arise from a kinship care placement:

by the Secretary to the Department of Health and Human Services;

by an Aboriginal agency authorised under section 18 of the Children, Youth and Families Act 2005;

by the Children's Court; or

as a result of a voluntary child care agreement under part 3.5 of the Children, Youth and Families Act 2005.

These amendments do not create an employment relationship between kinship and foster carers with the entities they are associated with, nor of any other person who is defined as an 'employee' under the scheme.

The bill will amend the definition of 'head' of an organisation in scope of the scheme, to ensure the definition is clear while being sufficiently flexible to accommodate the wide range of organisational structures that are in scope of the scheme. The mechanism to identify the appropriate position in an organisation uses a hierarchy to provide clarity. It also provides for a process for the organisation to nominate a 'head' — and the commission to approve that nomination — in circumstances where a 'head' is not otherwise identifiable.

The bill will also enable regulations to prescribe additional persons or authorities to whom information about reportable conduct may be disclosed. If appropriate, this will enable regulations to be made with respect to:

interstate organisations, in recognition of the importance of cross-border information sharing with police and reportable conduct schemes in other jurisdictions; and

commonwealth organisations, in anticipation of the future oversight of national disability insurance scheme providers.

The bill will make other amendments to:

enable secretaries to departments to delegate duties, functions or powers, such as their obligation as entity 'head' to notify and respond to reportable conduct allegations under the reportable conduct scheme;

provide for regulations to exempt part of an entity from the operation of the scheme, such as where some of the entity's activities do not deliver services to children or do not provide services in Victoria; and

make minor technical amendments to clarify the application of the child safe standards to certain organisations.

The amendments to the reportable conduct scheme will commence the day after the bill receives royal assent. The amendments to the operation of the child safe standards will take place on 1 November 2018, or at an earlier date to be proclaimed. This will enable the necessary consequential amendments to be made to the child safe standards, and for these to be published in the *Government Gazette*.

This bill will support the Commission for Children and Young People and organisations to meet their responsibilities under the reportable conduct scheme, in order to better protect children from the risk of abuse in organisations that exercise care, supervision and authority over them.

I commend the bill to the house.

Debate adjourned for Ms WOOLDRIDGE (Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Thursday, 7 December.

ROAD SAFETY AMENDMENT (AUTOMATED VEHICLES) BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) 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 Road Safety Amendment (Automated Vehicles) Bill 2017.

In my opinion, the Road Safety Amendment (Automated Vehicles) 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 Road Safety Amendment (Automated Vehicles) Bill 2017 will make a number of amendments to the Road Safety Act 1986 to establish a permit scheme to authorise testing and development of automated vehicles on Victorian roads (trials). There are several important preliminary issues to clarify in relation to Road Safety Amendment (Automated Vehicles) Bill 2017.

Firstly, the bill establishes a permit scheme to authorise trials of automated driving systems installed into motor vehicles to enable them to perform the entire dynamic driving task for sustained periods of time without any human input. The bill will not alter the provisions in the Road Safety Act 1986, or regulations and rules made under it, that relate to a human driver using driver correction or driver assistance functionalities in a motor vehicle.

Secondly, the applicant for an automated vehicle permit will almost always be a company (within the meaning of the Corporations Act 2001 of the commonwealth) which will not have rights protected by the charter (section 6(1) of the charter). However, it is possible that a private individual may wish to trial an automated driving system that has been installed in their private motor vehicle on a public road.

Thirdly, the Road Safety Amendment (Automated Vehicles) Bill 2017 has the potential to protect and promote human rights of any private individual who buys or is a passenger in a motor vehicle that has automated driving functionality.

For the purpose of this statement of compatibility, only amendments that are relevant to a person will be discussed.

Human rights issues

Right to equality — section 8

Importantly, the bill will potentially protect and promote human rights as it is enabling the development of new technology that will increase mobility for people with a disability, such as vision impairment, who cannot drive a motor vehicle, or use other forms of transport such as buses and trains.

Freedom of movement — section 12

Section 12 of the charter provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The bill will impose sanctions for trials of automated vehicles without an automated vehicle permit or in breach of conditions of the automated vehicle permit. The imposition of these sanctions is relevant to the right to freedom of movement under section 12 of the charter because the bill will make it an offence for a 'person' to test, develop or trial a motor vehicle while it is in automated mode on a public road without an automated vehicle permit.

However, the right to freedom of movement is not limited because the affected person would be free to drive the vehicle or use other forms of transport.

As stated above, in relation to the rights to equality, the bill will protect and promote human rights as it enables the development of new technology that will increase mobility for those who cannot drive a motor vehicle or use other forms of transport.

Privacy — section 13

Section 13 of the charter provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with.

This right is relevant to the process when a person applies for an automated vehicle permit and personal information relating to the human supervisor is collected to determine the applicant's suitability to obtain a permit.

These provisions do not limit the right set out in section 13 of the charter. An application for an automated vehicle permit is entirely voluntary. If a person wishes to apply for an automated vehicle permit, then the new provisions set out the procedure that must be followed. Thus, any personal information would be collected or disclosed with the free consent of the applicant and the human supervisor for the trial. The provisions serve an important function, namely to monitor trials and to ensure public safety and security.

In addition, the collection, use and disclosure of personal information is authorised by the bill and the Road Safety Act 1986, thereby ensuring that the Privacy Act 1988 of the commonwealth and the Australian Privacy Principles would apply minimising the opportunity for unlawful interference with privacy.

Property rights — section 20

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

The bill will make it an offence to test and develop automated vehicles on a public road without a permit. In addition, clause 10 of the bill expands the use of existing offences in the Road Safety Act 1986 to enable Victoria Police to impound an automated vehicle used on a road or road-related area without an automated vehicle permit or in breach of a condition of the permit. Such impoundment may ultimately result in the sale or disposal of the vehicle, if it is uncollected or deemed to be abandoned following reasonable enquiries and public notification requirements made within the specified period.

The purposes of these provisions is to enable Victoria Police to remove unauthorised and potentially unsafe automated vehicles from the roads for public safety and security. Moreover, the police will only have the power to impound

vehicles in limited circumstances, as prescribed in the bill and the Road Safety Act 1986.

In light of the above circumstances, it is my opinion that any deprivation of property under these provisions would be in accordance with the law, would not be arbitrary, and would be compatible with section 20 of the charter.

Rights in criminal proceedings — section 25

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The charter therefore reinforces the principle that in criminal proceedings, the prosecution bears the burden of proof. The right is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that accused people are required to prove matters to establish, or raise evidence to suggest, that they are not guilty of an offence.

Clause 5 of the bill provides that any body corporate that holds an automated vehicle permit that is testing the automated driving system on a public road or road-related area will be responsible for the trial and any driving offences committed through the use of the automated driving system during the trial. Therefore, the bill will prevent a potential problem whereby any person in the motor vehicle (whether a supervising driver or a passenger) may be responsible for any offences or errors made by the automated driving system.

This is particularly important as the strict liability offences in the Road Safety Act 1986 and the regulations and rules made under it could result in the human occupant of the automated vehicle losing their licence and facing significant financial penalties.

This proposed section is based on the premise that the passenger or test driver may not have the capacity to take back control of the automated driving system or the ability to prove who or what was doing the driving at the time of the offence. Therefore, in my opinion, this provision does not limit the presumption of innocence protected by the charter.

Clause 5 of the bill also provides that if a holder of an automated vehicle permit is a person, then that person will be responsible for the trial and any driving offences committed through the use of the automated driving system during the trial. Given that non-compliance with the bill and the Road Safety Act 1986, and the regulations and rules made under that act can result in death and serious injury, the expansion of the strict liability offences in the act or the regulations and the rules made under it to a person who is a holder of an automated driving system permit is justified and balanced in the interests of public safety.

Hon. Jaala Pulford, MP
Minister for Agriculture

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (19:42) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

From automation to autonomy

The era of automated driving of motor vehicles has already begun. The driving task has become easier with the evolution of driver assistance and driver correction functions, and these functions will continue to improve.

Cruise control has been widely used in vehicles for years and has recently evolved into adaptive cruise control, where speed is automatically adjusted to keep a safe distance from the vehicle ahead.

Parking assist functions can also now parallel park your car for you and drivers are no doubt pleased that we can hand over responsibility for that particular task.

Blind spot monitoring and lane change assist technology too is becoming more common and evolving into auto lane change where you only need to put on your indicator and the car does the rest.

There are even cars available now that you can summon from your garage while you relax and drink your coffee.

Collectively, these innovations have the potential to significantly improve road safety and driver convenience.

But the future is not just driver assistance and driver correction, it is automated and autonomous driving. Innovations are evolving and coalescing into a driverless future, where the vehicle's driving system is capable of navigating the road network without human input. This creates great potential for transport system efficiency improvements with better integration, asset utilisation and road space allocation. Autonomy is expected to deliver improved transport and time use choices for many sections of the community and, based on current developments, an improved environment as the vehicles are largely electric with little or no emissions.

The safety opportunities and implications

I am pleased to say that the road toll this year is an improvement on last year, but it is still unacceptable. We must pursue every available option to get our road toll down towards zero, and technology has an increasing role to play.

Human error plays a significant part in road injuries and fatalities. In the long term, automated vehicle technology has the potential to eliminate accidents that are caused by lapses in attention, speeding, erratic driving and impairment by alcohol or drugs. In the short term, the technology needs further development and testing to ensure that it is safe.

This means testing in realistic conditions, with real traffic on real roads. Trials are underway in many countries around the world but these vehicles will also need to operate safely under our conditions with our infrastructure, right down to the particular width of the road markings.

In November 2016, the Transport Infrastructure Council agreed to support on-road trials of automated vehicles for all levels of automated driving.

In December 2016, the government released a *Future Directions* paper which set out a plan to support trials of automated vehicles operating at any level of automation — including where a driver is not present in the vehicle.

This bill provides for these trials.

Permits and permissioning

The priority for automated vehicle trials in Victoria is safety — we will not compromise community safety and security. A permit will be required to test these new technologies on our roads. In order to gain a permit, prospective participants will need to satisfy VicRoads that all safety precautions have been taken and an appropriate safety management plan is in place. The bill gives VicRoads wide powers to require tests to be carried out, assessments to be performed and training undertaken before a permit is issued.

Permits will be able to limit the times and highways where trials can operate, as well as any conditions determined by VicRoads. Permits will also be able to require the use of a supervising driver for a trial, in much the same way that learner drivers are supervised.

The bill also gives VicRoads powers to suspend, cancel and vary permits. As it is likely that any error in an automated driving system (ADS) may be present in more than one vehicle in a fleet, these powers are important to ensure the safety of all road users. Regulations will be made setting out more detailed procedural requirements for the granting, refusal, renewal, suspension and cancellation of ADS permits.

Some jurisdictions are providing for trials by granting exemptions from safety laws. However, this is a problematic approach that could create uncertainty in enforcing any breaches of permit conditions. Victoria's approach does not diminish obligations and protections — it reallocates accountabilities from the driver to the parties trialling the vehicles.

Permit holder responsibilities

Our existing laws are predicated on a human driver being responsible for the driving decisions and how the vehicle behaves on the road. People are fined and can lose their licence to drive if they don't drive safely. But what if there is no human in the vehicle making the decisions?

This bill does not abrogate responsibilities. Instead, it clearly transfers responsibility from the human driver to the ADS where the vehicle is performing the dynamic driving task. The ADS is the responsibility of the trial permit holder, for example, a car or technology company.

The bill clarifies that the duties of a driver under the Road Safety Act 1986 will also apply to the ADS permit holder. The permit holder effectively steps into the shoes of the driver. Accordingly, if an accident occurs, the bill places responsibility on the permit holder to report the particulars of the accident to the police as soon as possible.

If the rules are broken while the vehicle is operating under ADS direction then the permit holder pays the fine and, much like human drivers, offences can result in the permit being withdrawn. The licence demerit point system for humans will not apply to ADS vehicles or test drivers participating in trials, but that is because there are tougher alternative enforcement measures that will apply to permit holders. This transfer of responsibility also holds true for road safety offences and more serious offences under the Crimes Act 1958, such as culpable driving.

The bill also clarifies that the person who is the supervising driver holds legal responsibility for the vehicle at any time when the vehicle is not operating in automated mode.

It is expected that initially most permits will require that a supervising driver with a full licence be in the driver's seat and be able to take over should there be any warning or failures in the ADS.

However, in time, we can expect to see cars on our roads with no one behind the steering wheel — or no steering wheel at all. That is why we must act now to trial these vehicles in a safe, coherent and contained manner.

Supporting technology development and fostering innovation

This bill demonstrates the Victorian government's commitment to supporting the development of emerging technology and fostering innovation in the transport sector. It complements existing initiatives such as the Australian Integrated Multi-modal Eco-System (AIMES) and the iMove Cooperative Research Centre (CRC).

AIMES is a world first, live, multi-modal, national research and testing precinct for emerging transport related technologies, including connected and automated vehicles. It is located right here in Melbourne and brings together government, industry and academic organisations to test and implement new technologies in a safe and effective manner.

Transport for Victoria has committed $1 million over the next 10 years to the iMove CRC. Through collaborative research and development projects, iMove will focus on utilising emerging technology and data to improve the movement of goods and people.

The trials and projects conducted through these channels will bring economic benefits to the state by establishing global connections and attracting foreign investment. This is all helping to build a strong and modern transport technologies sector in Victoria, that will support thousands of jobs and help move millions of people.

The bill

Part 1 of the bill deals with preliminary matters.

Part 2 of the bill introduces concepts such the ADS — the technology that is capable of performing the dynamic driving task. The bill makes clear when the ADS is and isn't driving, and the associated duties.

Part 2 provides for the permit scheme, the penalties for breaching permit conditions or not having a permit, the powers of VicRoads as the regulator and permissioning body, and the power to make regulations.

Part 3 amends the Crimes Act 1958 to clarify that any relevant offences under that act will apply to the ADS permit holder when the vehicle is being operated in automated mode.

Conclusion

The far-reaching social, economic and environmental benefits promised by automated vehicles are expected to transform how people and goods move around our transport network.

There is a lot to be done to deliver on the exciting promises of motor vehicle automation and autonomy. The technology promises so much. This bill is a key step that provides a framework to facilitate trials in an efficient, flexible and responsive way.

Every step towards automation in Victoria will be taken with the clear understanding that safety is paramount. If an ADS in a vehicle is making the driving decisions, we need to have confidence that it does so safely, every time.

The trial scheme in this bill will build community and industry confidence without compromising safety.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 December.

WATER AND CATCHMENT LEGISLATION AMENDMENT BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture); by leave, ordered to be read second time forthwith.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) 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 Water and Catchment Legislation Amendment Bill 2017.

In my opinion, the Water and Catchment Legislation Amendment 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 amends the Water Act 1989 (the Water Act) and the Catchment and Land Protection Act 1994 (CaLP act) to implement the government's commitment in its *Water for Victoria* plan to incorporate Aboriginal values and uses of water resources and waterways and expand the inclusion of traditional owners and other Aboriginal Victorians in water resource and catchment planning and in the development and reviews of strategies. The bill will also amend the Water Act to improve processes for declaring serviced properties and clarify the legal framework for charges for provision of the salinity mitigation and offsetting scheme.

Human rights issues

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

Cultural rights — section 192(2)

Section 19(2) of the charter act provides that Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community —

(a) to enjoy their identity and culture; and …

(d) 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.

The bill will amend the Water Act and CaLP act to recognise and support the inclusion of Aboriginal Victorians in water and catchment management. Water and catchment management authorities will have a statutory requirement to consider Aboriginal culture and values when undertaking certain statutory processes and functions and when making decisions relating to both long and short-term use of water resources. In doing so, water and catchment management authorities will be required to consult directly with specified Aboriginal parties and take into consideration any relevant recognition and settlement agreements made under the Traditional Owner Settlement Act 2010, any Aboriginal cultural heritage land management agreements under the Aboriginal Heritage Act 2006 and any relevant determination of native title.

The bill will also provide that, so far as possible, at least one Aboriginal Victorian or Aboriginal person with experience or knowledge of Aboriginal values and traditional ecological knowledge of management of land and water resources is to be appointed as a member of the Victorian Catchment Management Council and for Aboriginal Victorians to be appointed as members of any consultative committee relating to the preparation or review of a sustainable water strategy or a review following a long-term water resource assessment. Additionally, the bill will provide for at least one representative from a relevant traditional owner group to be appointed as a member of a consultative committee for the preparation of a management plan for a water supply protection area.

As the bill explicitly recognises the cultural values of Aboriginal people and encourages their involvement in decision-making where it impacts on the values and uses of water by Aboriginal people, the bill promotes cultural rights under the charter.

Property rights — section 20

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

Water corporations are able to declare properties within their water, sewerage, waterway management and irrigation districts as serviced properties and impose fees and charges for services and benefits provided to the property owners. Water corporations have identified that there are properties

within their water and sewerage districts that have received a service for an extensive period but have not been formally declared as serviced properties.

The bill will provide for a one-off opportunity for water corporations to identify these properties to be serviced properties. To be identified as a serviced property under this proposal, a property must have been receiving a service and been charged for that service for at least two years or more. The bill will also validate any service fees imposed to date. While a water corporation will be required to place, in the Victorian *Government Gazette*, a notice of the plan identifying land as a serviced property, there will be no requirement to advise the landowner directly.

The amendments will not interfere with a person's property rights affected by a declaration as the properties are already being provided with a service and charged accordingly. The identification of land as serviced property will merely formalise current arrangements. As there will be no deprivation of property, the right to property is engaged, but is not limited.

The bill will also clarify the legal framework for the imposition of charges for salinity mitigation works and measures provided to address legacy salinity problems and to offset the impacts of current irrigation in northern Victoria, the determination of salinity impact zones and the administration of the revenue from the charges. The bill will also validate past charges. The charges have been used to fund salinity mitigation works and measures and to meet Victoria's obligations under schedule B of the Murray-Darling Basin agreement. The amendments will not result in a deprivation of property, as they relate to charges for the provisions of works and services only.

Fair hearing — section 24

Section 24 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 decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Amendments proposed by the bill may limit or prevent the bringing of proceedings in the particular circumstances but only in relation to those matters set out below. The fair hearing right is relevant to these amendments as the right has been held to encompass a right of access to courts to have one's civil claims submitted to a judge for determination. However, the right to access the courts is not absolute and may legitimately be limited by the needs and resources of the community and individuals.

In the case of salinity mitigation charges imposed under section 287A, the bill will validate past charges. The proposed amendments will not affect the outcome of current litigation in the Supreme Court. As the bill will clarify that the impost of charges to date has been done so lawfully, any limitation to the right to a fair hearing is reasonably justified.

The amendments proposed by the bill relating to fees under tariffs imposed under section 259 for serviced properties affect, in all cases, only properties that have been receiving a service for two years or more. The validation is in the public interest because any broad refusal to pay the fees would mean that the fees would need to be paid by other property owners. The validation does not preclude a person challenging a fee under a tariff on other grounds. Various grounds for objection to a tariff or fees under a tariff are set out in section 266 of the Water Act. Any limitation to the right to a fair hearing is therefore reasonably justified.

Accordingly, it is my view that the bill is compatible with human rights as set out in the charter.

Hon. Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) (19:44) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

On 19 October 2016, the Andrews Labor government released *Water for Victoria*, which is the first comprehensive statewide water plan for more than a decade. *Water for Victoria* sets the strategic direction for water management in Victoria and aims to maximise the wide range of shared benefits that water and waterways provide.

This bill reflects in law a number of the flagship policy positions of *Water for Victoria* including —

> greater recognition and involvement of Aboriginal Victorians in the management and planning of waterways and catchments;
>
> greater recognition and consideration of the recreational value of water for communities;
>
> clear planning for future challenges such as climate change, population growth and changing demands for water.

We now have the opportunity to take these policy positions and enshrine them in law through this bill. This is further demonstration of our commitment to actively represent the rights and values of the community and in particular our traditional owners.

Aboriginal inclusion

Water for Victoria recognises the importance of water for Aboriginal Victorians and their knowledge of water management over thousands of generations.

This bill will ensure that wherever possible, Aboriginal Victorians will have a voice at the table in consultative committees and on the Victorian Catchment Management Council, through formal representation and through targeted consultation, to impart their knowledge and share their values.

To ensure that inclusion of Aboriginal Victorians becomes a business as usual practice, the bill will amend the Water Act 1989 and the Catchment and Land Protection Act 1994 to make it mandatory for the relevant statutory agencies —

to incorporate Aboriginal uses and traditional ecological knowledge in management of waterways and catchments;

as a statutory duty, to consider Aboriginal values and look for opportunities to provide benefits for Aboriginal users of water and waterways when carrying out their other statutory functions in managing water resources;

to include, where possible, Aboriginal Victorians in consultative committees and on the Victorian Catchment Management Council; and

to ensure consultation with traditional owner groups, native title holders and specified Aboriginal parties for the preparation of management plans and strategies for waterways and catchments.

Recreational benefits

The bill will ensure that recreational values are embedded in the management of water and waterways by water corporations and catchment management authorities.

Every time a water corporation or catchment management authority is required to take into account the community's social values of water and waterways, in addition to environmental and economic values, they will also have to consider what are the community's recreational values and uses of water and waterways and how to provide for them.

Communities will benefit by having a broader range of factors considered and balanced through water planning processes. Decision-making processes will be extended to thinking about the recreational benefits that water and waterways provide to the community.

Water resource assessments and sustainable water strategies

The bill will ensure that we are able to plan for future challenges such as climate change, population growth and changing demands for water.

Long-term planning is essential for security of supply for cities and towns, industry, agriculture and the environment. Long-term water resource assessments are a key tool for monitoring the state of Victoria's water resources.

We are about to embark in 2018 on the first of the long-term, 15-yearly assessments of Victoria's water resource that were first committed to by the then Labor government back in 2005.

These long-term assessments will examine if there have been any changes to —

how much water Victoria has for agricultural, industrial and household purposes, called consumptive purposes, and for the environment; and

if there are any changes, whether they have fallen disproportionately on the consumptive or environmental side of the ledger.

These assessments will be rigorous as they can lead to the minister having power to permanently reduce the total amounts of water that can be taken by people holding rights to take water or released to the environment under environmental entitlements. The bill does not affect the commitment that any permanent qualification of rights to water in this way will be used as a last resort option only.

Water for Victoria recognises that it would be premature to commence the long-term water resource assessment for northern Victoria, while we implement commitments under the Murray-Darling Basin plan to return water to the environment, until the basin plan is reviewed in 2026.

Water for Victoria also recognises the significant rebalancing of water rights that has already occurred as part of implementing the basin plan and the state-initiated programs to return water to the environment. To align the long-term water resource assessment for northern Victoria with the commonwealth's review of its basin plan during 2026, the bill will require the long-term water resource assessment for northern Victorian to commence by 1 February 2025, so it can be completed 18 months later in mid-2026.

The date by which the long-term water resource assessment for southern Victoria must be commenced will remain at 3 August 2018.

Sustainable water strategies

We are also about to embark on the statutory reviews of the first generation of sustainable water strategies, which will include community consultation on how we balance and share the environmental, Aboriginal cultural, economic and social and recreational needs for water within our existing rights framework. These reviews will overlap in time with the long-term water resource assessment program.

The bill will therefore give the minister three choices for responding to any concerns raised by a long-term assessment. Under changes in this bill the minister will be able to proceed directly to a formal post-assessment review, which includes the option of permanently qualifying rights to water or, if appropriate, review or remake a sustainable water strategy, in consultation with the community. If the minister considers that reviewing or making a new sustainable water strategy has not been able to identify sufficient actions to address the concerns determined by the long-term assessment, the minister will be able to return to the option of undertaking a formal, post-assessment review (including the option of permanently qualifying rights to water).

The bill retains Victoria's commitments —

to undertake long-term water resource assessments every 15 years — to support environmental interests;

to not be able to permanently qualify rights to water before 3 August 2021 and not more frequently than every 15 years — to continue to give long-term certainty and security to those holding water rights; and

to review or remake sustainable water strategies, in consultation with the community, at least every 10 years — to provide opportunities for the community to influence decision-making on how we manage our water resources.

Salinity mitigation charges

The bill will clarify and improve the legal framework under which the minister may require irrigators in the Mallee region of Victoria to meet or contribute to the state's costs of offsetting and mitigating the salinity impacts of their irrigation.

The Mallee region, bordered by the Murray River and South Australia, is highly sensitive to the salinity effects of irrigation. Irrigation in this area pushes saline water through the groundwater and into the Murray River.

Since 1993, Victoria has operated a highly effective scheme to offset the salinity impacts of irrigation by determining salinity impact zones across the region and imposing charges on irrigators that vary according to the zone and the amount of water they can use on their farms.

Through the charges, irrigators pay for the state to invest in works and measures to offset and mitigate the damage their irrigation causes to the river and its surrounds. This salinity mitigation and offsetting scheme has enabled the development of 35 000 hectares of new irrigated agriculture in salinity impact zones in the Mallee region.

The bill will clarify the legal framework for the imposition of these charges, the determination of salinity impact zones and the administration of the revenue from the charges. The bill will also validate past charges. The existing legislation is currently the subject of litigation in the Supreme Court and, while the bill will not affect the outcome of that litigation, this opportunity is being taken to strengthen the legislative scheme to avoid such challenges in the future.

Other items

The bill will also increase efficiency in the administration of the Water Act with a number of red tape reduction initiatives and housekeeping amendments. These initiatives will include, for example, improving processes for declaring serviced properties, how districts are declared and how fees and charges may be paid by instalments, improving regulation of declared recreational areas and providing an exemption for seeking approval to dispose of matter into an aquifer by means of a bore.

The bill also removes a barrier to Melbourne Water Corporation preparing plans for special water supply protection areas, which plans can influence the planning schemes for land in its water supply catchments. This barrier was identified by the program of work for the Yarra River (Birrarung) protection project. The amendment is being included in this bill as it will apply to all of Melbourne Water's catchments, not only the Yarra River catchment.

As part of simplifying the processes for determining and making changes to irrigation districts, the bill provides that fees under tariffs may only be imposed in relation to a serviced property. Currently salinity mitigation and irrigation drainage fees can be imposed in relation to any property within an irrigation district.

A short-term mechanism is provided to bring properties receiving an irrigation drainage or salinity mitigation service, or benefited by such a service, under the new regime. The opportunity has also been taken to clarify the status of other properties in any district that have received a service for at least two years. Where a property meeting this criteria is included in a plan lodged in the central plan office and notice of the plan is gazetted, the bill clarifies the property is a serviced property and will validate any fees under tariffs that have been imposed on the relevant properties.

I commend the bill to the house.

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

Debate adjourned until Thursday, 7 December.

COMMERCIAL PASSENGER VEHICLE INDUSTRY AMENDMENT (FURTHER REFORMS) BILL 2017

Committed.

Committee

Clause 1

Ms PATTEN (Northern Metropolitan) (19:47) — I ask that my amendments be circulated.

The ACTING PRESIDENT (**Mr Elasmar**) — I ask Ms Patten to move her amendment 1 to clause 1, which is a test for her amendments 6 and 7.

Ms PATTEN — I move:

1. Clause 1, page 2, line 29, omit "(a)." and insert "(a) (subject to a scheme applying to certain unbooked commercial passenger vehicle services).".

I spoke to this issue in my second-reading speech when my concern was around the unbooked hailing of taxis, where taxidrivers could possibly take advantage of customers because they could set any fare they like and they could haggle on cost, and given the changing nature of this technology, rank and hail business was just, I felt, not really dealt with in the legislation. I was concerned on a number of levels around this.

I have since spoken to the government and to the department, and I am quite satisfied with a number of the regulations that they are developing around CCTV within rank and hail cars as it were, but I am still convinced that the fare issue that I raised in my second-reading speech has not been properly dealt with, so I am putting forward amendments that basically set up a fare system for the rank and hail section of this industry. This is where it is completely anonymous, so the passenger does not know who the driver is and, vice versa, the driver does not know who the passenger is, where in most other situations it will be prebooked. In this situation, as has been done in the past, the Essential Services Commission (ESC) has set fares in this area. My amendments basically bring back into the legislation that the Essential Services Commission will continue to set the fares for unbooked commercial passenger vehicle services. My first amendment goes towards that. I think this adds to the bill; I think it brings greater surety and safety.

Again, as I mentioned in my second-reading speech, we do not want the situation where a driver can insist that a passenger pay $100 for a short fare, which under the current legislation would be quite legal, or where we have got passengers out at the airport haggling, bargaining and auctioning, saying, 'No, I'll pay $100', 'No, I'll pay $150'. These amendments put in place a fare structure which I think is fair for those rank and hail bookings where the rest of the legislation that has regulation around the platforms and around the applications and around all of the other service providers is in place. I commend these amendments to the committee.

Ms PULFORD (Minister for Agriculture) (19:52) — I just indicate for the benefit of members of the committee that the government will be supporting Ms Patten's amendments. We accept that the proposition that Ms Patten has put to us is fair and reasonable, and the inclusion of a further measure for rank and hail to provide additional protection to ensure that passengers are not at risk of being ripped off is something that is acceptable to the government.

Mr DAVIS (Southern Metropolitan) (19:52) — I must say, having received these amendments just in the last 5 minutes, we are at somewhat of a disadvantage to be able to reconcile those with the other amendments that I circulated previously. It is quite difficult to reconcile the different parts. Let me lay out some objectives first. The objective that Ms Patten is seeking to achieve is something that the coalition supports. People will recall in my second-reading speech when I made it very clear that I was concerned about the hail and taxi rank issue and the challenge of the community facing tuk-tuk style bargaining. Particularly I laid out my concern for older and vulnerable Victorians who may face specific challenges.

The issue of the booked fares is quite a different case, whether that is done through a ridesharing service or a taxi booking service. It is much clearer, the amounts are much more likely to be precisely known and the details are less likely to be trouble for the person in question. We had sought to achieve a similar objective, in fact going somewhat further than Ms Patten is seeking to do. Not only had we sought to lay out the requirement around metering, the fairness associated with the metering charge and the known rate at which the metering would occur, but we had also sought to ground that in a code of practice that would ensure that older and vulnerable citizens were protected from unfair charging for the provision of unbooked commercial vehicle services and unfair practices in relation to the provision of unbooked commercial passenger vehicle services.

As I say, with the way that the timing has transpired here, it is a little hard — and I may need the assistance of the clerks and the Acting President — to resolve any technical inconsistencies or aspects in our amendments that may be impacted by some of Ms Patten's amendments. I have many skills, but being able to reconcile 40 or 50 complex changes and consequential changes to the bill while standing observing this document for the first time ever is probably not one of them. So I am asking, perhaps if the Chair is prepared to explain, how this will impact on some of the other amendments that we had sought, particularly the division 4 amendments at clause 30. With the committee's indulgence, we are happy to try to resolve those challenges of consequential movements.

Ms PATTEN — If I could just comment on Mr Davis's comments, my amendments stand as largely similar to the amendments that I foreshadowed in my second-reading speech on Tuesday. There are actually some small omissions around CCTV cameras, and the other change to that is the change from the Commercial Passenger Vehicle Commission (CPVC) to the Essential Services Commission. I think on reflection having listened to everyone's second-reading contributions, it was highlighted to me that that was a better body to continue to keep up with the fare structure and setting up the fare structure. These amendments are not dissimilar to the amendments that I circulated on Tuesday. Going by the running sheet, it would appear that again this clause 1 amendment does test my consequential amendments. As I said, they are not dissimilar to the amendment that I put up on Tuesday.

Mr DAVIS — Notwithstanding that, what I am seeking assistance with is that there is now a brand-new raft of amendments that cascade through the bill. I have a set of amendments that cascade through the bill, and I have just seen this right now. It is a little difficult to reconcile all of those cascading amendments on the run, if I can be direct about this. That is why I am seeking assistance from the clerks and the Acting President, who may have already done that work. If they can put on the record that these amendments in no way imperil my amendments or the nature of any interaction, that would be very helpful.

The ACTING PRESIDENT (**Mr Elasmar**) — My understanding and the advice I have is that the amendment moved by Ms Patten has no effect at all on your amendments, and I understand this amendment is also a test for her amendment 4 to clause 18, which again is a different issue.

Ms PULFORD — I was just going to propose, if it is the will of the committee, to give Mr Davis some time to perhaps reconcile this. I invite you, if you so desire, to speak to our adviser from the department.

Mr Davis — I am interested in the interpretation of the clerks.

Ms PULFORD — Yes. What the Acting President has just informed the house certainly tallies with the advice that I have just sought on the same question. The amendments that you proposed go to quite separate clauses and effects. I was just going to suggest that if members were so inclined, there is something I would like to share with the house on another matter, particularly to satisfy an area of concern and interest to Ms Dunn, and we could do that while you contemplated the amendments and talked to the clerks. Is that helpful?

Mr Davis — I appreciate that.

The ACTING PRESIDENT (**Mr Elasmar**) — My understanding as well is that Ms Dunn is not continuing with her amendments. Is that correct?

Ms DUNN (Eastern Metropolitan) (20:00) — Yes, the Greens, I can confirm, will be withdrawing our amendments. In terms of your offer, Minister, I will put on record our concerns, which are particularly around geographic equity in relation to the rebate scheme and how that would look. If you could perhaps confirm how that would look, that would be wonderful.

Ms PULFORD — I thank Ms Dunn for her introduction of some language that I would like to share with the committee. This has come about as a result of some discussions that Ms Dunn has been having with Minister Allan over recent days, and in some respects it has its origins in the discussions around the first tranche of legislation of this reform, which if my memory serves me correctly, we resolved in late June — the best part of six months ago.

In relation to the commercial passenger vehicle (CPV) service levy rebate scheme, during the passage of the previous bill the government committed to a rebate scheme to ensure that the application of a per-trip levy will be geographically equitable. The per-trip levy is applicable to commercial passenger vehicle service transactions — that is, trips — but is not charged at the point of sale like the GST. Instead it is entirely up to service providers as to how they set fares and tariff rates in order to recover the cost of their operations, including the levy but no longer including licence costs. To maximise the demand for services and to maximise competition it is expected that service providers will modify their fare structures and rates so that the recovery of operating costs is spread across different customer groups. The dual effect of reducing licensing costs and the imposition of the levy will therefore not be easy to observe on face value. Measuring the impact will require an examination of all fare rate charges by service providers in the main geographic areas of interest.

In effect the purpose of the rebate scheme is to ensure that there are no material increases in fare rates in regional and country areas due to the imposition of the levy. The bill requires the Commercial Passenger Vehicle Commission to monitor fares for commercial passenger vehicle services, as per division 2, 'Fare monitoring', pages 90 to 92 of the bill. The CPVC — the regulator — must monitor fares with a view to keeping Victorian consumers and the government informed about the economic performance of the commercial passenger vehicle industry and supporting the efficient operation of the industry by monitoring, describing and analysing trends in fares and identifying and highlighting potential areas of misuse of market power.

Under fare-monitoring requirements the regulator must prepare annual reports on the conduct of its fare-monitoring activities. In addition the regulator may at any time on its own initiative prepare a special report on its fare-monitoring activities. The regulator has power under section 264 to require the provision of any information or the production of any documents that may assist it in performing its functions. Transport for Victoria and CPVC propose that CPVC prepare quarterly reports on commencement of fare deregulation, with a particular focus on monitoring fares in geographic areas that previously would have formed part of the regional and country zones. If there is any increase in fare rates on average, then this will be identified. It is important to note that the bill requires transparency in relation to the fare-monitoring activities and the outcome of those activities. The regulator must submit a copy of any report prepared to the minister and then publish a copy of that report on the regulator's website. Accordingly, the government will be accountable for judgements made on if, when and where rebates are applied.

Ms DUNN — Acting President, I am wondering if I can ask a further question in relation to the rebate at the moment.

The ACTING PRESIDENT (**Mr Elasmar**) — Go ahead.

Ms DUNN — Minister, my apologies if you have said this already, but I just wanted some confirmation. In my discussions with the Minister for Public Transport in the other place, our specific concerns ranged to geographic inequity. In terms of the discussions around that, we were provided with some information that stated that in effect the purpose of the rebate scheme is to ensure there are no material increases in fare rates in regional and country areas due to the imposition of the levy. In particular the objective of the scheme is to ensure that fares for short trips starting and finishing in these zones — that is, short, local trips — do not increase in any material way. I just wanted confirmation on the record that that is the case in terms of the application of the rebate in measuring geographic inequity.

Ms PULFORD — Yes, I can confirm that is the case.

Ms DUNN — Minister, my question is in relation to what has been known as an UberZONE. To put it into context, at recent major events such as the AFL Grand Final at the MCG Uber has been provided with a demarcated space called an UberZONE at which passengers could get an Uber. I am just wondering what the distinction is in relation to an UberZONE. How is this not a taxi rank? And in relation to vehicles at this particular demarcated space, will distance or time rate caps be applied to rideshare services that are caught in an UberZONE or an equivalent demarcated rideshare boarding area?

Ms PULFORD — I thank Ms Dunn for her question. There is a legal distinction that I will take committee members through. Taxi zones, as you have described them, are parking arrangements applied by local councils rather than taxi zones as such. Holding bays that you have referred to — an UberZONE I think is the way that you described it — are subject to commercial arrangements between Uber and the location in question, so for instance the Victorian Racing Club. The point of distinction is that turning up at the end of a day at the races for a taxi is not a booked service, whereas the way that these holding bays or UberZONEs operate is that it is a meeting point for a service that has been booked.

Ms DUNN — Thank you, Minister, and I thank you for your confirmation in relation to that. I will use UberZONE just for simplicity, because we all understand what that means. If someone was to enter a vehicle but not book it and that driver was to take the fare in a different way, which was outside of the booking requirements, can you advise in relation to the enforcement and compliance around that particular driver undertaking that activity?

Ms PULFORD — If I could just make sure I properly understand your question, you are asking about where — again, for the sake of simplicity — an Uber is in a pick-up zone but has not got a prebooked arrangement so is operating in effect like a hail cab?

Ms Dunn — Yes.

Ms PULFORD — Okay.

The scenario that Ms Dunn has outlined is where a vehicle is operating as an unbooked service provider. They would be required to meet all the regulatory requirements, including having on board a fare calculator, security camera — the things that are required of anybody participating in the unbooked part of the market. The question of where the passenger and vehicle meet is not so much the point as whether or not they are able to be operating as an unbooked service.

Offences do apply for people who are not authorised to be operating as an unbooked service but who are. The commission can take action against people engaging in this kind of activity. A couple of examples are: infringement notices could potentially be applied, and the commission would also have the ability to suspend the driver's authorisation.

Ms DUNN — Thank you, Minister, for that answer. Minister, I am just wondering if you could perhaps provide some information in relation to any consumer protections in the case of emergencies or major transport network failures. Are there any provisions that might apply in terms of the government addressing surge pricing, as in fact we have seen apply to ridesharing services in the past when there is either an emergency or a large failure of the public transport network?

Ms PULFORD — Thank you. Yes, surge pricing will be permitted under the new regulatory framework. We believe that increased competition will control the extent to which surge pricing is applied. In addition alternative choices will be provided. Some existing taxi service providers are already marketing a more fixed-rate structure as a point of difference with Uber's surge pricing model. The bill allows for regulations to be made which will ensure that any surge price, if applied, is transparent to the consumer. Any service provider who chooses to use surge pricing will be required to clearly convey to the consumer that the fare is subject to a surge price.

Ms DUNN — Thank you, Minister. Minister, in relation to wheelchair-accessible taxis I just wanted to explore how this bill will ensure there is no detrimental impact on the provision of wheelchair-accessible taxi services and the interplay of this bill with the service provided by the existing multipurpose taxi program.

Ms PULFORD — Thank you. I am advised that there are already significant changes afoot in terms of meeting the demand for wheelchair-accessible commercial passenger vehicles in a way that previous arrangements have perhaps failed people in the community with a disability or certainly not been up to the standard of reliability that we would all want.

What I can indicate to Ms Dunn is that regulatory measures to ensure the quality and supply of services to people with a disability, such as imposing licence conditions on wheelchair-accessible taxi operators to prioritise wheelchair work, have rarely achieved their objective — the arrangements that we have had to date. Changes made by the Commercial Passenger Vehicle Industry Act 2017, such as the removal of high licence fees for taxi and hire car industry licences, lower the cost of providing services and provide the opportunity for new service providers to enter the market to provide services tailored to customer needs. In addition changes proposed in the bill, such as greater fare flexibility, may include the commercial viability of wheelchair-accessible service providers by allowing them to adjust their pricing structures to suit their consumer base and maintain their vehicle fleets.

Transport for Victoria's review of accessible point-to-point services is currently examining the overall approach to supporting the delivery of accessible point-to-point transport services to identify an approach that improves outcomes for users. The review is focusing on how non-legislative measures, such as the use of subsidies and industry incentives, can be more effectively targeted to facilitate a competitive and commercially viable market that provides adequate incentives to industry to provide a diverse range of services that are timely, safe and reliable.

I would just add to that that the annual licence costs of up to $19 000 for a wheelchair-accessible taxi are being removed. We do believe that this will encourage new vehicles on the road and, naturally, reduce costs for operators and fares for passengers. Some operators have already indicated to the government that they will be increasing their wheelchair-accessible taxi fleet as a result of this. This is something that we talked about being very hopeful of in the first tranche of this legislation. I am pleased to be able to update the house that since 9 October 2017, which is not that long ago at all really, when applications for new licences opened, the Taxi Services Commission has already approved 73 new wheelchair-accessible taxi licences.

Ms DUNN — Just one more on this one from me. It is in relation to the Fairness Fund. I am continuing to receive inquiries from constituents who have made an application to the Fairness Fund but have yet to hear anything about their outcome. Minister, are you able to advise when the government might be able to complete the processing of the remaining Fairness Fund applications?

Ms PULFORD — In respect of Ms Dunn's question, it is difficult to give a precise date because the back-and-forth exchange of information is imprecise in terms of how quickly people can provide information that we require to be able to process those applications. I can certainly assure the committee that those applications are being processed as quickly as is humanly possible, and we will continue with every endeavour to get this done quickly. Many of these applications are the subject of quite individual and specific circumstances, and so they are really being case managed one at a time. We are very conscious of the need for this to be done as quickly as possible, but sometimes an applicant will be asked to provide some further information to support their application and that may take extra time. That is something that unfortunately we cannot control, but I would certainly reassure Ms Dunn that we are doing this as quickly as we can.

Mr DAVIS — Some of my questions relate to the Fairness Fund. It would be helpful to the committee if the minister were able to give some details. First of all, how many individual cases have been managed by the Fairness Fund, how much has been paid out and how many cases are still incomplete?

Ms PULFORD — I am conscious that this is a matter that is not relevant to the bill as such. This is a matter that was relevant to the last bill, but I have sought some information to assist Mr Davis with his inquiry. Around 1200 applications have been made to the Fairness Fund. There have been hundreds of payments since July.

Mr Davis — How many?

Ms PULFORD — Given that this is not a matter subject to this bill, I do not have that immediately available to me. All applications are being assessed, and the assessment is occurring as a constant process. The full details — that information that Mr Davis is

seeking — will be made available in the public reporting about the fund.

Mr DAVIS — It is not really good enough, Minister, I have to say. The reality is that this fund is not operating very well. Indeed there are a lot of problems, as I think you know. I think there are many other questions that we want to ask, particularly the number of cases that are outstanding. These are in many cases the same people that we are seeking to regulate through this new framework that this bill carries forward. That will impose obviously costs and challenges for the industry, and it is material what their financial position is as they go forward. Look, if you tell me that you do not know and you can only tell me that hundreds have had payments — that you do not know how many payments, just hundreds — and that all applicants are being assessed, it seems to me to be very, very woolly indeed. I would have thought that the department would have much more precise figures than that.

The ACTING PRESIDENT (**Mr Elasmar**) — Mr Davis, I believe the minister has given you an answer, which is that it is not related to this bill, but she was happy to provide some more information. I am happy to call the minister again, but I agree with the minister that it has got nothing to do with this bill we are debating now. But it is your call, Minister.

Ms PULFORD — Thank you, Acting President. Just quickly in response to Mr Davis, this is not information I have available to hand this evening because it does not relate to this bill; I have two very, very large folders and lots of other pieces of paper here with information that does relate to the bill. But what I am able to indicate is that I am advised that there are around 1200 applications, each and every one of them at some stage in the process or having had payments made. The assessment is a constant process, and all of the expenditure from the fund will be properly and publicly reported according to the usual reporting requirements of public funds.

Mr DAVIS — Will the minister confirm for the house that the Ombudsman has begun an own-motion inquiry into the management of the Fairness Fund?

Ms PULFORD — As I have indicated before, the Fairness Fund is not relevant to the bill. I suggest Mr Davis pursue that line of questioning elsewhere.

The ACTING PRESIDENT (**Mr Elasmar**) — Mr Davis, are we moving on?

Mr DAVIS — No, there are actually a couple more points that I will seek to deal with. I am in possession of a document from the Ombudsman which says:

> At this stage, the investigation will examine:
>
> 1. whether the Fairness Fund has unreasonably delayed in its processing and finalising of applications;
>
> 2. whether the Fairness Fund has sufficiently communicated with applicants regarding their applications;
>
> 3. whether the Fairness Fund has the appropriate framework, including policies and procedures, to manage time lines, communications with applicants and complaints.

This is a significant issue for many people who are regulated by this bill. We are talking about safety regulation in this bill and new safety duties for commercial passenger vehicle industry participants, many of whom are the same people who are still waiting for payments under the Fairness Fund — people we are putting legitimately regulatory burdens on through this exact bill — through this process of reform. The government always said that this was a two-part change to the industry. I do not think the industry can be easily disentangled in this way. I note that the minister is also even refusing to indicate that there is in fact an Ombudsman own-motion inquiry into the management of the Fairness Fund, and I find that extraordinary.

The ACTING PRESIDENT (**Mr Elasmar**) — Mr Davis, I cannot see that there is any relationship between this question, the previous bill and this bill. But again I will allow the minister to answer if she would like to add anything further.

Ms PULFORD — I think there is a great deal of content in this bill. I would encourage Mr Davis to ask about this bill, and I will assist him in whatever way I can.

Mr DAVIS — In framing this bill and laying out the purposes to provide a new framework for regulation, new safety duties, registration schemes for commercial passenger vehicles and booking services, accreditation schemes for drivers of commercial passenger vehicles and certain protections for consumers and indeed importantly for drivers of commercial passenger vehicles, did the government consider how it was going to manage the challenge that those on taxi ranks would face, particularly those who may be older or more vulnerable for some reason? Why did the government not put in place in this bill a regime that saw some metering or some arrangements so that they could have predictability about fares?

Ms PULFORD — As is the case with the regime that the former government introduced into country and regional areas in 2014, it has always been envisaged that fare information would be prominently displayed and that metering would provide the information that passengers need.

Mr DAVIS — Did the government look at the competition policy issues that might be involved in having metering, not having metering and whether it would be a level playing field in the case of both the booked services delivered by groups like Uber and the booked services delivered by taxi booking groups and those who would face metered or unmetered arrangements at rank and hail arrangements?

Ms PULFORD — Yes, we did consider it, and there are no competition policy issues.

Mr DAVIS — I think you have indicated that you will accept the amendment moved by Ms Patten. Will that create any level playing field or competition policy issues? Has the government assessed that, given that the government has been intimately involved in drafting the amendment?

Ms PULFORD — Again I can confirm that there are no limits to competition as a result of Ms Patten's amendments. There is competition in booked services and competition in unbooked services. What has been central to the government's objectives in managing this complex reform is the need to create a level playing field and to ensure that there is strong competition.

Mr DAVIS — With the amendment which the government has been intimately involved in drafting, do you think that it will leave a level playing field in the sense that some taxis will have a different set of obligations compared to other services?

Ms PULFORD — We do not believe that Ms Patten's amendments will impact competition. Maybe Ms Patten can speak to Ms Patten's amendments.

Ms PATTEN — Thank you, Minister, and Mr Davis. When we drafted these amendments we did present them to the department to seek some advice as to how we could solve the problem of the unregulated nature of that anonymous rank and hail booking system. Putting in place a regulated fare structure for that corner of the commercial passenger vehicle service is not going to create an unlevel playing field in terms of competition. It is just putting in a protective structure for that corner of the industry, which I expect as time goes on will become a very small corner of our commercial passenger vehicle sharing industry.

Mr DAVIS — I am still not quite there. I understand what your objectives are and I share the general objective, but given that the department was thrashing this through and looking up hill and down dale around the amendment, did the department look to see if there were any level playing field implications for one group having a set of obligations and the other groups not having that set of obligations?

Ms PULFORD — We do not believe that this makes for an unfair playing field.

Mr Davis — Unlevel.

Ms PULFORD — An unlevel playing field. With Ms Patten's amendment we believe that the level playing field that is important to the government will still be level.

Mr DAVIS — Let me record that that is disingenuous. If you are going to add a different obligation on one group of participants in the industry, it is obviously going to be an unlevel playing field. Let me record that I understand why we would want to ensure that those rank and hail customers have more surety, but at least we can be clear that in fact we are imposing an obligation on one section of the industry. That will have some costs for them, and that comes off the back of a very unfair earlier phase of this set of changes and reforms. Those taxi operators are carrying enormous debt — many hundreds of thousands of dollars worth of debt.

Today I met with a taxi owner — or a former taxi owner, I should say — who had had more than a dozen licences. He was paid out for four or five of those because they are in different structures, but the banks are in the process of foreclosing on him. The reality is that he has got enormous debt. It is not a level playing field in the sense that the historic debt that has been left with people after their licences have been stripped away is one layer of unfairness. Legitimate honesty is required. If we are imposing some additional obligations on one section of the commercial passenger vehicle industry, we should at least be clear that they are obligations and therefore that it is not in fact a level playing field.

Ms PATTEN — Given that it is my amendment, I would like to clarify that this amendment is setting an upper limit, which is really there to inform the passenger of the fare. With all prebooked services the passenger is informed of the fare, and this is setting up a mechanism to enable the passenger in a rank and hail situation to be informed of the fare. I do not think this is actually setting up an unlevel playing field. I think this

is providing adequate protection to the passenger, which is required. I do not believe that that is particularly onerous given the anonymous nature of rank and hail and given the risk of that turning into a free-for-all and turning into quite a nasty situation, as with the examples that other members have given.

Mr DAVIS — And indeed, Ms Patten, the examples that I have given. I understand why you want to do this and why you want to achieve it, but at least I think we can be clear that it is not actually entirely even to have one group in the industry regulated in this way and others in the industry not regulated in this way.

Can I just in going forward here ask, in terms of the accreditation scheme that the government mentions at 1(a)(iii), if the minister would outline the accreditation scheme for drivers of commercial passenger vehicles.

Ms PULFORD — Before we move on, could I just clarify, Mr Davis: is the opposition supporting Ms Patten's amendment?

Mr DAVIS — We are not opposing it.

Ms PULFORD — So you are supporting it.

Mr DAVIS — We are not opposing it.

Ms PULFORD — I was just unclear from the way you were talking about it.

Mr DAVIS — I was just quite clear — I understand the objective she is seeking to achieve.

With respect to 1(a)(iii), the accreditation scheme for drivers, can you outline how the accreditation scheme for drivers of commercial passenger vehicles will work?

Ms PULFORD — Could Mr Davis just assist me, perhaps, by being a little more specific with his question? Which bit of how it might work is of interest to you? Do you want to know how people will apply to be accredited?

Mr DAVIS — I am interested in how you are going to structure the accreditation scheme for drivers of commercial passenger vehicles.

Ms PULFORD — Yes, I know. I understand you are asking about clause 1(a)(iii).

Mr DAVIS — How? What are you going to do? What steps is the government going to take?

Ms PULFORD — What steps do people seeking to be accredited take, or what steps does the government take?

Mr DAVIS — The government is going to set up a scheme, and let us understand exactly how the government proposes to move forward from there.

Ms PULFORD — For the last 10 years the scheme has been in much the same manner and form that currently exists. What this bill does is re-enact those arrangements from the old legislative framework into the new. To perhaps translate that: the driver makes an application, they are required to undertake a medical test, they are required to have a criminal check, there are disqualifying offences. There are no changes of any significance between the scheme that we have got currently operating and what will be translated from the current arrangements into the new act. A number of disqualifying offences have been updated, but it will operate as it does now.

Mr DAVIS — So there will be no change?

Ms PULFORD — Other than just some minor updating of disqualifying offences. There are many aspects of this scheme and this legislation which seek simply to translate existing arrangements to the new regime.

Mr DAVIS — And the government is confident that what changes there are will in no way weaken the safety of the industry? I just want to hear that.

Ms PULFORD — Yes, I am absolutely confident.

Mr DAVIS — In terms of clause 1(a)(i), the new safety duties for commercial passenger vehicle industry participants, I wonder if the minister might equally outline how these new safety duties will be implemented.

Ms PULFORD — This is one of the key aspects of this legislation — to provide a safety duty for people involved in the commercial passenger vehicle industry that will in many respects operate in the same way as health and safety laws do. Safety will be guaranteed by the introduction of a new contemporary scheme that clarifies the accountabilities of the industry to safety. Under the scheme all parts of the industry will owe a general safety duty of care to passengers and drivers of commercial passenger vehicles, so this is booking service providers, owners of CPVs, people who have control over provision of services and suppliers of services and equipment to vehicle owners. They will all need to establish and maintain a register of safety risks for managing safety for the operation of a CPV service.

The safety duties will apply as a shared responsibility across all key industry participants, including owners of vehicles, booking service providers, suppliers of services and equipment, people who have control over the provision of commercial passenger vehicle services and drivers. The safety duties applying to vehicle owners, booking service providers, persons controlling the provision of services and suppliers will require them, so far as is reasonably practicable, to ensure the safety of a commercial passenger vehicle service. This is a performance-based general duty, and it is a fundamental part of modern safety regulation. It is comprehensive in its scope, has a strong emphasis on risk management, provides for flexibility and response, and facilitates more proactive compliance activities on the part of duty holders and the regulator.

The duty for drivers is different and is consistent with the duties imposed on employees under the Occupational Health and Safety Act 2004, so conceptually I think the simplest way to explain the notion of a duty of care is to identify that analogy with the duties that exist and that we are all very familiar with in an occupational health and safety setting, where there are, throughout any organisation, employers, employees and owners each with a responsibility to ensure safety.

Mr DAVIS — Thank you, Minister. We are actually moving from a situation where we have got big yellow taxis out there that are very visible to an arrangement where there will not be so much in the way of formal taxis of that type and we will have, obviously, a number of ridesharing services that will not be visible. How will that safety objective be achieved when the vehicles are no longer easily identifiable on the road in terms of policing and other aspects? So we are moving from having very visible and identifiable vehicles to having chunks of vehicles out there that are not identifiable in any way. How will the safety objective be achieved in that context?

Ms PULFORD — The bill requires the duty holders to ensure the safety of the vehicle and services.

Mr Davis — How will it be policed, though?

Ms PULFORD — In relation to signage? Is your question about signage?

Mr Davis — There is no signage on the rideshare vehicles, as a matter of course.

Ms PULFORD — So I have explained the way the duty of care operates for people operating throughout the industry. I am not sure I completely understand your question. That duty of care will operate irrespective of the colour of the vehicle.

Mr DAVIS — In terms of a vehicle that is behaving in some way —

Ms PULFORD — Erratically? Obviously all of the road laws that apply across the state are enforced and required to be adhered to. Any participant within the industry has — as a consumer, as a driver or an owner — clear legal obligations, and breaches of those obligations are to be reported.

Mr DAVIS — Thank you. That is what I wanted to hear, Minister. In terms of the cost structures of the industry, you have told me that it is all even and level. I am not sure I believe you, but I accept that you are saying it in good faith. It is true, isn't it, that the registration fees are different for some of the ridesharing services which have privately registered vehicles? So they pay a normal private registration, and for others who have commercial registrations as taxis the registration fee is different?

Ms PULFORD — I am advised that registration fees are the same.

Mr DAVIS — All right; I am happy to hear that. That is not the information that I had heard from other sources, so I am happy we got that on the record. So private registration for a vehicle that is used for commercial passenger services does not have a different registration fee to a vehicle that is currently registered as a taxi. Good?

Ms PULFORD — Yes.

Mr DAVIS — I had one further set of questions about payments that were made in the lead-up to this bill as part of the government's integrated package of two bills — and that was for those who held licences. Tell me if I am wrong on this minister, I am happy to be corrected, but it is my understanding — although it has not been promulgated in a clear way in every circumstance — that it is $100 000 for the first licence, $25 000 for the second, $25 000 for the third and $25 000 for the fourth licence. If you had four licences, you received $250 000. If you had 10 licences, you still received $250 000. If you had 10 licences split across several different entities, you might receive more than the four licence payments. I am just wondering if you can provide any advice on that?

The ACTING PRESIDENT (**Mr Elasmar**) — Mr Davis, again, we are back to the previous bill. This is not related to this bill, but I will allow the minister to respond.

Ms PULFORD — You nearly confused me, Mr Davis, when you said that $100 000 and $25 000 and $25 000 and $25 000 equalled $250 000. But yes, it is $100 000, then $50 000 for the second and then $25 000 and $25 000. I note your words of caution, Acting Chair, about the scope of the bill, but what I can indicate to Mr Davis is that all of those payments have been made from the transition fund, and the payments were made to the legal entity. So yes, it is possible when somebody who has multiple licences —

Mr Davis interjected.

Ms PULFORD — You might have two individuals who have 10 licences each that have quite different business structures. The requirement as to the way that those payments were made was that payments were made to the legal entity. So yes, what you are proposing is certainly possible, but we needed to provide the payments to the legal entity, and different people have their arrangements established in different ways.

The ACTING PRESIDENT (**Mr Elasmar**) — It is not a follow-up question, Mr Davis, is it?

Mr DAVIS — No, it is a statement on the minister's response. I thank the minister for that, but I want to make the point that in fact that confirms my fears about the unfairness of this, because people with effectively the same ownership in terms of number of licences, but structured differently, will have been treated differently. I just want to point out that I consider that to be a point of unfairness and so do many others. I know you are not going to resolve that tonight, but I do want that point on the record. Minister, in the interim I have had somebody text me and say that the taxi registration is $2800 and that registration for a private vehicle is not $2800. I am happy to hear if that is different, but that is different from the advice that you have just given me now.

Ms PULFORD — My advisers are confident that they are the same.

Mr DAVIS — But the owner of a private vehicle does not pay $2800 in registration.

Ms PULFORD — My advisers and I wonder if perhaps you are talking about third-party insurance premiums as part of that total figure, because the registration costs are the same. That might possibly explain it.

Mr DAVIS — The figure that people pay as their registration comes forward includes necessarily their third-party insurance premium. You cannot avoid that, as I think you know, Minister. The fact is that there is a different premium structure that is operating there — a different cost structure — and that, I think, does give rise to an unevenness, at a minimum.

Ms PULFORD — Your question was about registration costs. I have provided the answer as best I can. I do wonder again, Acting President, if the question of third-party insurance might not be wandering again beyond the scope of the bill.

Mr DAVIS — Clause 1(a) of the bill says:

> to provide for a new framework for the regulation of the commercial passenger vehicle industry in Victoria …

and the regulation of the commercial passenger vehicle industry includes licensed vehicles, it includes the registration fee and it includes the intricately attached insurance component that you are not legally allowed to avoid. So we all pay the third-party insurance, but the truth of the matter is people who have a taxi licence pay more than those who have a private licence. It seems we have flushed out the component that is different, and that is the third-party insurance component, but I put it to you, Minister, that those components actually do lead to unfairness in the industry in the sense that one participant is paying more than another participant.

Ms PULFORD — Which? Where? How?

Mr DAVIS — As a taxi, based on the figure that has been provided to me, the registration is $2800 — that obviously includes on the same form a component for insurance — as opposed to a private vehicle that is registered as a private vehicle but is being used as a commercial vehicle through the scheme that the government is erecting here, which people are paying a much lower amount in third-party premiums for and consequently in the aggregate payment that is required on their registration.

The ACTING PRESIDENT (**Mr Elasmar**) — If the minister does not wish to add anything, that is it. Any further questions, Mr Davis?

Mr DAVIS — Frankly, the minister cannot just shrug and say it is not true, because it actually is true. She has actually conceded that in her own way.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! The minister did not say that.

Ms PULFORD — I did not shrug and say it was not true. You made a statement. You asked questions about registration, which I have answered. You are well outside the scope of the bill. We have got lots of other clauses we can get onto, if you have run out of content on clause 1. We have been very conscious of the need

to create a level playing field, and that has absolutely informed the approach the government has taken. I am not shirking answering the question. You made a statement in response to the answer that I provided to you on a couple of occasions on something that is beyond the scope of the bill.

Ms DUNN — I want to put it on the record that the Greens support the amendment.

Amendment agreed to; amended clause agreed to.

Clause 2

The ACTING PRESIDENT (**Mr Melhem**) — I ask Mr Davis to move his amendments, which are a test for his amendment 46.

Mr DAVIS — I move:

1. Clause 2, line 31, omit "(2), this Act" insert "(3), this Act (except section 22)".

2. Clause 2, after line 32 insert—

> "( ) Section 22 comes into operation on the day after the day on which this Act receives the Royal Assent.".

Clause 2 is a consequential amendment provision relating to the substantive proposal for a review of the transitional assistance package. This bill, as the government has outlined repeatedly, is part of a package of two bills. The government has begun to pay some transitional assistance in the form of payments for licence-holders and also some hardship funding. That has been a shambles, as I have outlined, in a number of regards, including the news in recent days that the Ombudsman is undertaking an own-motion investigation. I make the point that the Ombudsman's review will look at a number of certain matters but will not look at the central issue of fairness.

It is my view that we need someone independent — and I am happy to leave that appointment to the minister — to conduct an independent review of the transitional assistance package to ensure that what is going on is indeed fair. It is very clear in my view that it is not fair, and such an independent reviewer would be in the position to recommend ways forward — not only process matters, but particularly matters of quantum — as to what is fair for those in the industry.

In my view, it is actually quite important that the industry begins with a level playing field. I do not believe there has been a start that is a level playing field. I think it is an incredibly reasonable request to set up an independent and preferably external review that would enable the government to look at these points that have been raised by many participants in the sector who have certainly been greatly aggrieved. Even the minister will no doubt have had correspondence to her electorate office from those who have concerns.

These amendments test a number of the additional clauses that deal with the transitional assistance review, and consequently they are a test for those later amendments. I am happy if the Acting President wants to confirm that they are a test.

The ACTING PRESIDENT (**Mr Melhem**) — Yes, thank you, Mr Davis. These are amendments 1 and 2, which test your consequential amendment 46.

Ms PULFORD — The government will not be supporting Mr Davis's amendments, simply because we do not believe they add anything that does not already exist. If I could just quickly explain why, in the previous bill the opposition voted against providing transitional assistance. They moved amendments to unsuccessfully, thankfully, to strip out the provisions that provided financial assistance. The transitional assistance is complete. Over 4000 licence-holders have received over $350 million. This process will be subject to all the usual government auditing standards. The process will already do all the things these amendments seek to achieve. It will be independent, it will look at the administration of the process and it will be made public through comment on the internet.

The bill seeks to look at the impact of the transitional package on the regulation and safety of the commercial passenger vehicle industry. Now, there are some people who think that the transitional package was too generous; some people think it was not generous enough. But certainly in terms of the review process there will be an independent audit process, and what we have set in place will already occur. We believe Mr Davis's amendment simply duplicates things that are already happening.

Mr DAVIS — I will just make the comment that I do not think it does duplicate it. My proposal is a quick process that can operate in a way that ensures that some external fairness comes into what has been a bitterly unfair process.

Committee divided on amendments:

Ayes, 18

Atkinson, Mr	Morris, Mr
Bourman, Mr	O'Donohue, Mr
Carling-Jenkins, Dr	Ondarchie, Mr
Crozier, Ms	O'Sullivan, Mr (*Teller*)
Dalla-Riva, Mr	Peulich, Mrs

Davis, Mr	Ramsay, Mr
Finn, Mr	Rich-Phillips, Mr
Fitzherbert, Ms	Wooldridge, Ms
Lovell, Ms (*Teller*)	Young, Mr

Noes, 20

Dalidakis, Mr	Patten, Ms
Dunn, Ms	Pennicuik, Ms
Elasmar, Mr	Pulford, Ms
Gepp, Mr	Purcell, Mr
Hartland, Ms	Ratnam, Dr
Jennings, Mr	Shing, Ms
Leane, Mr (*Teller*)	Somyurek, Mr (*Teller*)
Melhem, Mr	Springle, Ms
Mikakos, Ms	Symes, Ms
Mulino, Mr	Tierney, Ms

Pairs

Bath, Ms	Eideh, Mr

Amendments negatived.

Clause agreed to; clauses 3 to 5 agreed to.

Clause 6

The ACTING PRESIDENT (**Mr Melhem**) — I ask Mr Davis to move his amendment 3. This is a test for Mr Davis's consequential amendments 4, 6, 12, 26, 28, 40 and 45.

Mr DAVIS — I move:

3. Clause 6, line 22, omit "289" and insert "292".

This is a test for those other amendments. It sets up some codes of practice. These are designed to be generous and assist older and vulnerable Victorians but to do so in a way that is not impactful for the industry. It seeks to ensure that there is metering involved. Indeed this is in a sense parallel with part of Ms Patten's amendments, and in that sense I agree with her objective. We are, though, I think setting up a slightly different arrangement for one sector of the industry, and I understand that some will think that that is unfair too. I put on record my caution in these matters, but nonetheless I think that on balance it is the fairest way, given there is a group in the community who will be hailing and riding and who will face some challenges. I think many of the issues have already been thrashed out, but the addition here is in a sense the codes of practice. This amendment is a test for amendments to other clauses that relate to the same matter.

Ms PULFORD — The government will not be supporting this amendment. The choice to implement fare regulation and consumer protections through codes of practice is novel but is at odds with their normal use. I can only imagine what the opposition would say if a Labor government proposed such excessive red tape and such an imposition on small business. When in government the opposition did introduce flexible fares in Victoria, but it now seeks to implement additional red tape.

These amendments would mean that the minister, not an independent body like the Essential Services Commission, would be responsible for the regulation of fares. There is no evidence at all that the current system is not working and not appropriate, and we are yet to hear Mr Davis make the case. The focus on a yet-to-be-defined group of persons who are old and vulnerable has not been justified. Anyone who breaches this will no doubt avail themselves of the reasonable excuse defence. The amendment will actually lead, we believe, to a reduction in deterrent effect due to reduced penalties and enforceability with the availability of reasonable excuse. For those reasons the government will not be supporting Mr Davis's amendment.

Amendment negatived; clause agreed to.

Clause 7

Ms PATTEN — I move:

2. Clause 7, page 14, line 2, omit "vehicle," and insert "vehicle service,".

This is more to correct a drafting error. We need to add 'service' after 'vehicle'. The word 'service' should have been in that section of that clause. It is nothing special. It should read 'unbooked commercial passenger vehicle service' rather than 'unbooked commercial passenger vehicle'.

Mr DAVIS — I am sure the government, Ms Patten, is excited that you have been through their bill and found the drafting errors. I notice there are a number of these drafting errors. Far be it from me to stand in the way of correcting drafting errors. Your assiduous work through the bill, with the assistance of the department, in effect corrects the government's own errors in its own bill. I have been in the Parliament for quite a long time, but I think it is the first time that I have seen amendments by a non-government party correcting drafting errors with the assistance of the government in this way.

Ms PULFORD — We thank Ms Patten for her assistance in this matter.

Amendment agreed to.

Ms PATTEN — I am delighted to move:

3. Clause 7, page 17, after line 14 insert—

'( ) In section 5(2)(c) of the **Commercial Passenger Vehicle Industry Act 2017**, for "reward or hiring fee" **substitute** "fare or other consideration".'.

Again, this is about changing some of the language to allow for the regulation of fares for the rank and hail services. Again, this is just in line with setting up some regulation around rank and hail services.

Amendment agreed to; amended clause agreed to; clauses 8 to 17 agreed to.

Clause 18

Mr DAVIS — I move:

10. Clause 18, page 42, line 18, before "The" insert "(1)".

11. Clause 18, page 42, after line 22 insert—

"(2) In the case of a motor vehicle registered under this Part where the applicant is a member of the Victorian Hire Car Association Inc or its successor in law, the regulator must—

(a) record in the register of permission holders the vehicle as a hire car; and

(b) give the applicant an appropriate written authority to enable the applicant to be issued hire car plates by the Roads Corporation under the **Road Safety Act 1986** for affixing to that vehicle.

(3) In this section—

hire car plate means a non-standard number plate within the meaning of the **Road Safety Act 1986** issued by the Roads Corporation for affixing to a motor vehicle—

(a) registered under that Act (and bearing the registration number assigned to that vehicle under that Act); and

(b) recorded in the register of permission holders as a hire car.

Example

A hire car plate is a non-standard number plate bearing a registration number within the following the ranges: VHA 000 to VHA 999, VHB 000 to VHB 999 and VHC 000 to VHC 999.".

These amendments relate to the issue of hire car vehicles and the registration plates that these hire car vehicles have — VHA, VHB, VHC and so on. Indeed I am informed reliably that VicRoads has a sequence reserved. The hire car vehicles, the VHA vehicles as people know them, have created a niche for themselves. They are an important competitor in the industry. They are known by those plates, and in fact that is a marketing tool for them. I believe that ought to be protected. Certainly the hire car sector is very concerned that the government will not keep those plates for them, and they are fearful that indeed the government specifically intends to stop issuing those plates.

That I think again is an example of the government taking the wrong mode here. This is something that costs the community nothing. The cost of the plates is obviously paid for by the recipients, but this is an important marketing point for that segment of the industry. If we are seeking a more competitive industry, an industry that is able to have different segments providing different varieties of services, I see no reason why this ought not be preserved. This will give them confidence that in fact those plates will be available for the longer haul. Again this amendment tests the subsequent amendments that relate to this same point.

Ms PULFORD — The government believes that there is no need for this amendment. VH plates can be purchased directly from VicRoads, and we do not believe there is any need for the Victorian Hire Car Association (VHCA) to be involved in this process for a number of reasons. Firstly, the VHCA does not represent all hire car drivers. Requiring hire car operators to join this association to get VH plates is implementing a closed shop type of arrangement. The executive of the VHCA run their own hire car business. We do not think allowing them to regulate their competitors is justified. Secondly, the amendment suggests that the VHCA or their successor in law should be responsible for the allocation of plates. The VHCA does not currently exist in law, so we are concerned about the drafting in this respect or the detail of this, because something that does not currently have a legal status also cannot have a successor. So there is a lack of certainty and clarity that would be introduced. For those reasons we are not supporting this amendment.

Mr DAVIS — Minister, despite what you have said, there is a very strong indication in the sector that the government does in fact intend to wind back the provision of the VHA plates and the subsequent series. That is what we have heard time and time again. The government has given no security to those segments.

Ms PULFORD — No, there are no plans to make changes to those arrangements. I think the rumours are perhaps based on unfounded fears.

Mr DAVIS — Is the minister able to provide me with a guarantee that the government is intending in the longer haul to provide those plates, that the full series will be allocated and that there is no prospect that VicRoads will stop issuing those plates?

Ms Pulford interjected.

Mr DAVIS — No. I am prepared to take your word in this chamber that that is the case, because that has not been provided in a parliamentary context until this point.

Ms PULFORD — I am happy to take this opportunity, Mr Davis, to confirm that the government has no plans to change the arrangements for VH plates.

Mr DAVIS — In which case I am happy to withdraw the amendments on the basis of that commitment.

The ACTING PRESIDENT (**Mr Melhem**) — Mr Davis, are you withdrawing your amendments?

Mr DAVIS — Yes, I am. I have received the commitment, and I am satisfied. If the government is going to persist with the issuing of those plates into the future for hire cars in this way, that will satisfy me. I am taking that on genuine face value.

The ACTING PRESIDENT (**Mr Melhem**) — Mr Davis, I am just clarifying. That will basically deal with all your amendments.

Mr DAVIS — Yes.

Amendments withdrawn by leave.

Ms PATTEN — I move:

4. Clause 18, page 90, after line 25 insert—

"Division 1A— Protections for unbooked commercial passenger vehicle services

110A Definitions

In this Division—

applicable unbooked service means an unbooked commercial passenger vehicle service in respect of carriage on a journey that begins in—

(a) the Melbourne Metropolitan Zone; or

(b) the Urban and Large Regional Zone;

Melbourne Metropolitan Zone means the Melbourne Metropolitan Zone established under section 143B(1)(a) of the **Transport (Compliance and Miscellaneous) Act 1983** (as in force immediately before the commencement of item 10.7 of Schedule 1 to the **Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017**;

Urban and Large Regional Zone means the Urban and Large Regional Zone established under section 143B(l)(b) of the **Transport (Compliance and Miscellaneous) Act 1983** (as in force immediately before the commencement of item 10.7 of Schedule 1 to the **Commercial Passenger Vehicle Industry Amendment (Further Reforms) Act 2017**.

110B Application of Essential Services Commission Act 2001

(1) For the purposes of the **Essential Services Commission Act 2001**—

(a) this Division is relevant legislation; and

(b) the commercial passenger vehicle industry is a regulated industry in relation to applicable unbooked services.

(2) If there is any inconsistency between this Division and a provision of the **Essential Services Commission Act 2001**, the provision of this Division prevails.

110C Objective of the ESC

The objective of the ESC in relation to the commercial passenger vehicle industry is to promote the efficient provision and use of applicable unbooked services.

110D Powers in relation to fares regulation

For the purposes of Part 3 of the **Essential Services Commission Act 2001**—

(a) applicable unbooked services are prescribed services; and

(b) the maximum charges for the services covered by paragraph (a) are prescribed prices.

110E Price determinations

Without limiting section 33(5) of the **Essential Services Commission Act 2001**, the manner in which the ESC may regulate

prescribed prices includes determining different prices according to—

(a) the time of day at which, or day of the week or kind of day on which, an applicable unbooked service is provided;

(b) the speed at which the commercial passenger vehicle used in the provision of the applicable unbooked service is travelling;

(c) the distance travelled by the commercial passenger vehicle used in the provision of the applicable unbooked service;

(d) the type of commercial passenger vehicle used in the provision of the applicable unbooked service;

(e) the occupancy of the commercial passenger vehicle used in the provision of the applicable unbooked service, including where there is more than one passenger;

(f) where a journey in respect of which the applicable unbooked service is provided begins or ends;

(g) the prevailing economic conditions, including the price of fuel and the consumer price index;

(h) any other matter the ESC considers to be relevant.

110F Exercise of regulatory functions

(1) The ESC must make a determination under this Division of the maximum charges for applicable unbooked services before the first anniversary of the day on which this section comes into operation.

(2) The ESC must complete a review of a price determination no later than 2 years after it is made.

110G Offence to charge or ask for a fare for an unbooked service in excess of the maximum fare

A person who drives a commercial passenger vehicle for the purpose of providing an applicable unbooked service must not charge or ask for a fare for the service that is in excess of the fare or hiring rates permitted by a determination of the ESC under this Division.

Penalty: 60 penalty units.".

Amendment 4 sets up the protections for unbooked commercial passenger vehicle services. This creates a new division 1A that sets up the definitions of an applicable unbooked service, re-establishes the Melbourne metropolitan zone and urban and large regional zones, and enables the Essential Services Commission to regulate, as we have talked about, the fares for the rank and hail services or unbooked services. This will enable the Essential Services Commission to, as they have in the past, consider all elements in establishing those fares — the time of day, the distance travelled, the type of vehicle, where the journey begins and where the journey ends. It sets up the time frames for the Essential Services Commission to make these determinations. Effectively this amendment puts in place the regulations and legislation to enable the Essential Services Commission to protect those travelling in unbooked commercial passenger vehicles from being exploited and sets in place fare regulation for that corner of the commercial passenger vehicle industry. I commend this amendment to the house.

Amendment agreed to; amended clause agreed to; clause 19 agreed to.

Clause 20

Ms PATTEN — Again, in the due diligence of these amendments there was a drafting error in clause 20 and it needs a slight amendment. I move:

5. Clause 20, page 253, line 12, omit "169(1)" and insert "169I(1)".

Amendment agreed to.

Ms PATTEN — I move:

6. Clause 20, page 266, after line 19 insert—

"**47A Price determination**

(1) This clause applies to the determination that was—

(a) made under Division 5A of Part VI of the old Act; and

(b) in force immediately before the commencement day.

(2) On the commencement day, the determination as modified by subclause (3) is taken to be a determination under Division lA of Part 6.

(3) For the purposes of subclause (2), the determination is modified as follows—

(a) a determination of a price that is expressed to relate to Urban and Large Regional Zone taxi licences is taken to be a determination of a price for an applicable unbooked service in respect of a journey that begins in the Urban and Large Regional Zone;

(b) a determination of a price that is expressed to relate to metropolitan zone taxi licences is taken to be a determination of a price for an applicable unbooked service in respect of a journey that begins in the Melbourne Metropolitan Zone.

(4) Nothing in this clause affects the ESC's obligation, under section 110F(1), to make a determination under Division lA of Part 6 in the time specified in that section.

(5) In this clause—

applicable unbooked service has the meaning given by section 110A;

Melbourne Metropolitan Zone has the meaning given by section 110A;

Urban and Large Regional Zone has the meaning given by section 110A.".

Again this is a transitional amendment to enable price determination in the areas of applicable unbooked services. It also adds meaning to 'Melbourne metropolitan zone' and 'urban and large regional zones'. As I say, it is transitional and it carries on from the substantial part of my amendments to this bill.

Amendment agreed to; amended clause agreed to; clauses 21 and 22 agreed to.

Schedule 1

Ms PATTEN — I move:

7. Schedule 1, item 4, line 27, omit all words and expressions on this line and insert—

'(b) in paragraph (fb), for "taxi industry" **substitute** "commercial passenger vehicle industry in relation to applicable unbooked services within the meaning of Division lA of Part 6 of the **Commercial Passenger Vehicle Industry Act 2017**".'.

These amendments to schedule 1 clarify the original intent of my amendments, which is to enable the Essential Services Commission to provide clarification on fares for unbooked services.

Amendment agreed to.

Ms PATTEN — I move:

8. Schedule 1, item 11, page 280, line 27, omit "115," and insert "115A,".

This is a numbering change. We are omitting '115' and inserting '115A'.

Amendment agreed to; amended schedule agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ADJOURNMENT

Ms PULFORD (Minister for Agriculture) — I move:

That the house do now adjourn.

Bendigo and Campaspe police resources

Ms LOVELL (Northern Victoria) (21:40) — My adjournment matter is for the Minister for Police, and it concerns the inadequate police service delivery in both the Bendigo and Campaspe police service areas. The action I seek is that the minister give an undertaking to improve the police service delivery in small regional communities within both the Bendigo and Campaspe police service areas.

I was recently contacted by Maurie Sharkie, who lives in Barnadown in my electorate. Maurie is a recipient of the Order of Australia Medal and a former mayor of Greater Bendigo and Huntly shires, and he has been a wonderful advocate for his community over many years. Barnadown is one of several small farming communities situated around Bendigo and up towards Echuca that include towns such as Goornong, Raywood, Elmore and Rochester. Maurie's concern and the concern of members of these small communities is the poor policing service they receive due to inadequate police numbers, the absence of a local police presence and the consequences of the Andrews government's two-up policy.

Maurie conveyed that rarely do members at the Rochester police station work an afternoon shift, meaning there is generally no police presence in the town after 5.00 p.m. Rochester residents are forced to rely on police members coming from either Echuca or Kyabram after this time, towns where of course they have their own policing issues.

The towns of Goornong and Raywood both have one-man police stations, yet neither member lives in the town they police, both residing in Bendigo. Although one-man stations are exempt from the two-up policy,

the feeling amongst these communities is that they do not have a proper police presence in their town. Maurie conveyed that the Elmore police member is currently working out of the Kyabram police station rather than that of his own town. If this is true, it is little wonder the Elmore community feels short-changed by the lack of policing services in their town.

The latest crime statistics in these areas reinforce this view. In Rochester burglaries are up 100 per cent and thefts are up 112.5 per cent. In Raywood crimes against the person have increased by 66.7 per cent in the last 12 months. In Rochester burglary offences are up by 71 per cent and thefts have risen by an unbelievable 139 per cent. And in Elmore, thefts have increased by 66.7 per cent in the last 12 months.

Country people have nearly given up protecting their property from opportunistic criminals who know there are no police around to catch them. It is time that a reorganisation of policing in small country areas in my electorate occurs to ensure our small regional communities receive the proper police service delivery that all Victorians deserve. The action I seek is that the minister give an undertaking to improve the police service delivery in small regional communities within both the Bendigo and Campaspe police service areas.

Northern Metropolitan Region roads

Mr ONDARCHIE (Northern Metropolitan) (21:43) — My adjournment matter tonight is for the Minister for Roads and Road Safety, and it concerns the day-to-day — almost all day — congestion on the roads in Northern Metropolitan Region, a region that I know, Acting President Patten, you are familiar with. In particular I draw his attention to places like Plenty Road from South Morang through to Preston where, for example, just two days ago it took 30 minutes to get from Childs Road, Bundoora, to the M80 ring-road, a total distance of 4.5 kilometres. But it is like that every single day out in the north. People who used to get up at 6.30 in the morning to go to work are now up and out the door at 5.30 in the morning because it has become the new 6.30. When you add to that High Street, Epping, from Wollert almost all the way to Reservoir, and Mickleham Road, Craigieburn Road, Cooper Street and Grimshaw Street — a whole range, including the Metropolitan Ring Road — this has made the north of Melbourne congestion city.

I know Matthew Guy, the Leader of the Opposition, has already announced some congestion-busting strategies for Melbourne and Victoria for when the Guy government are elected in November 2018. The action I am looking for from the minister is that he lay out what he and his government are going to do to congestion bust the roads in Northern Metropolitan Region. The government gave a commitment in the last budget and budgets before that they would do something about this, and we are still yet to see any action. What I would like the government to do is less of the talk and more of the walk, so the action I seek from the minister is a written response to me about what he is going to do to fix congestion on those roads.

Kingston City Council mayor

Mr DAVIS (Southern Metropolitan) (21:45) — My adjournment matter tonight is for the attention of the Special Minister of State, who has functions in relation to and responsibility for integrity with respect to local government. Indeed sections of the act enable the government to appoint certain officials, and they enable certain arrangements to allow investigations and other matters of that type. My matter tonight concerns Kingston City Council. The Kingston council has recently taken a position to narrow the Beach Road area in Mordialloc, and that has become very controversial. There was a large rally on the weekend with many, many hundreds of people. I am told more than 400 people were present at that event.

Whether one thinks it is a good idea or not is only one point that I would debate with people. Certainly I know that many in the community are very concerned about the narrowing of the road and the steps that the council is taking there. But what I am concerned about today is that the mayor of the City of Kingston has taken it upon himself, it appears, to order a communications plan, and the cost of that is unknown. The plan has no authorisation by council. He has apparently authorised the printing of a sequence of brochures and other communications by the council. It appears that this may well be outside his purview, and indeed I am informed that officials at the council advised him he should not proceed in this way.

I am also told that there has been IBAC interest in this matter. I obviously cannot confirm that in the chamber tonight. What I can say is that the council, in a panicked move, has called an unscheduled meeting for Monday night to deal with this matter — to effectively try to backfill and provide cover for the mayor, who has made a decision alone that was not endorsed by the council. Mayors are not able to demand and authorise the expenditure of significant amounts in this way, and a communications plan of this type would normally have proper authorisations behind it.

What I am seeking from the Special Minister of State, who has responsibility for these integrity functions, is

an investigation to find out what the facts of the matter are and to ensure that the council, and particularly the mayor, is not acting in a freelance or an inappropriate way that might require integrity interventions.

Aboriginal Housing Victoria

Mr RAMSAY (Western Victoria) (21:48) — My adjournment matter tonight is for the Minister for Housing, Disability and Ageing, the Honourable Martin Foley. The matter I want to raise with the minister is in relation to the Andrews government signing over to Aboriginal Housing Victoria $500 million of public housing stock back in 2016, which equated to around about 1600 titles. Some of the outcomes of the handover of that significant amount of taxpayer funds to provide public housing stock to Aboriginal Housing Victoria — I have been getting a number of complaints through our office in the last few months — include that tenants are exiting the houses and the grass, condition and maintenance of those houses has fallen into such disrepair that they are actually creating a fire hazard.

In one instance, in Geelong in fact, I have made deputations to the City of Greater Geelong to see if they could take some charge over the property to at least reduce the potential threat of fire and vermin. I also noted a couple of other housing stock properties that have been vacated and have been vandalised. I hope, given the huge amount of taxpayers funds and the number of land titles, that this is going to be the exception rather than the rule. To be fair to Aboriginal Housing Victoria, I did write them a letter also, and they have advised me that in fact that particular matter in Geelong has now had to go to VCAT.

What I am doing is foreshadowing to the minister that there are some problems associated with this very generous offer to provide half a billion dollars worth of housing stock to Aboriginal Housing Victoria. If they have to go through a VCAT process every time a tenant leaves a house in a poor state, it is going to be very expensive for them and will obviously reduce the opportunity for others to be able to use the housing stock. I think it is a matter that the minister needs to investigate to see how Aboriginal Housing Victoria can manage their large public housing stock and make sure that there is a transition period between a tenant leaving and the ongoing maintenance of a property, rather than that organisation having to go through VCAT every time to get some compensation in relation to a tenant just leaving during a lease period.

Mornington Peninsula schoolies week

Mr O'DONOHUE (Eastern Victoria) (21:51) — I raise a matter for the attention of the Minister for Police. It relates to schoolies on the Mornington Peninsula. The police do a great job in trying to manage schoolies around this time of year. They do that together with local government and other organisations around Victoria, particularly in coastal regions such as Phillip Island, Torquay and Lorne on the west coast, and in Eastern Victoria Region, including, as I say, the Mornington Peninsula.

I have had contact from various locals who have expressed concern that, with the closure of the only late-night licensed nightclub in the southern part of the peninsula, particularly in Sorrento and Portsea, there has been much more activity on the Rye foreshore, on the beach and at various other impromptu locations. This has created great difficulty in managing the security and safety of the hundreds if not thousands of schoolies and others who are enjoying finishing school in perhaps a less structured way than has been the case in previous years.

I ask the minister to work with Victoria Police, local government and other relevant agencies to identify ways that security can be managed and the issues that have been identified can be addressed so that schoolies for the remainder of this period, but perhaps more importantly for next year, can be managed. With that nightclub closed, alternative arrangements might be identified so that there is clarity about where entertainment is to take place, how it is to be supervised and what security may be required.

Corinella foreshore

Mr BOURMAN (Eastern Victoria) (21:53) — My matter tonight is for the Minister for Planning, Minister Wynne in the other place. Earlier this week I presented a couple of petitions about the horses on the Corinella foreshore. I call on the minister to work with the group trying to keep the horses on the foreshore and to come to a conclusion where at least they are not going to be forced out by what I think is an undue arrangement. It is a fairly simple thing. Horses have been there for a while and the beach is a big beach. I would love the minister to get in contact and get this going.

West Gate tunnel project

Mr FINN (Western Metropolitan) (21:54) — I wish to raise a matter for the attention of the Minister for Planning, and it concerns his recent ticking off of the environment effects statement (EES) for the West Gate tunnel project.

Mr Ondarchie interjected.

Mr FINN — Don't get me started, Mr Ondarchie, on consultation. Labor's definition of consultation is 'Shut up and do as you're told'. That is Labor's definition of consultation. But what concerns me as much as the fact that this project is a stinker is that local people have been treated in an appalling manner. I have been contacted by a number of people in the last few days who are absolutely furious that they have been treated in the way that they have been. They believe that they have not been listened to. They believe that the whole thing was a farce. They believe the whole thing was a set-up.

Mr Ondarchie interjected.

Mr FINN — And indeed, as Mr Ondarchie says, it was a sham. They believe that in fact the EES process was cooked. It was decided before the process actually began. This is a process that has completely ignored the needs of locals in Hobsons Bay, Brooklyn and Altona and around areas such as those, and it is going to hurt them big time. They want a say, and you can understand that. This is something that is going to affect them, their families, their homes and their way of life, and they want to have a say. That is only fair and reasonable. They thought they were going to have a say. Clearly the minister had other ideas, and unfortunately he has gone down the path of so many other ministers in this government of bullying and just stampeding over the rights of ordinary folk.

Mr Ondarchie interjected.

Mr FINN — The youth justice centre is another classic example. But we are seeing in this particular instance something that is going to hurt a huge number of people in the inner western suburbs of Melbourne. What I am asking the minister to do is to reopen the EES process. I know that that is perhaps a little unusual, but given the unusual nature of the way this is being conducted, I believe it is a fair and reasonable thing. I think the people of the western suburbs, and the inner west in particular in this instance, have a right to be heard. I ask the minister to reopen that process so that their voice can be heard and the government can actually listen to them.

Responses

Ms TIERNEY (Minister for Training and Skills) (21:57) — There were seven adjournment matters this evening. The first was from Ms Lovell, and it was directed to the Minister for Police, in relation to the police presence in Bendigo and the Campaspe area. The second was from Mr Ondarchie, and his matter was for the Minister for Roads and Road Safety, wanting a response to traffic congestion in Melbourne's north. The third was from Mr Davis to the Special Minister of State, seeking an investigation into matters at the Kingston council. Mr Ramsay's adjournment matter was for the Minister for Housing, Disability and Ageing, and it was in relation to the management of Aboriginal housing stock. Mr O'Donohue's matter was directed to the Minister for Police, and it was in respect to schoolies activities on local foreshores and other public places, seeking further management of these activities by Victoria Police. Mr Bourman sought from the Minister for Planning his involvement in keeping horses on the foreshore in his electorate. Mr Finn had a matter for the Minister for Planning in respect to the West Gate tunnel project.

The PRESIDENT — The house stands adjourned.

House adjourned 9.59 p.m. until Tuesday, 12 December.