# Hansard

# LEGISLATIVE COUNCIL

## 60th Parliament

## Thursday 2 November 2023

**By authority of the Victorian Government Printer**

# Members of the Legislative Council

## 60th Parliament

**President**

Shaun Leane

**Deputy President**

Wendy Lovell

**Leader of the Government in the Legislative Council**

Jaclyn Symes

**Deputy Leader of the Government in the Legislative Council**

Lizzie Blandthorn

**Leader of the Opposition in the Legislative Council**

Georgie Crozier

**Deputy Leader of the Opposition in the Legislative Council**

Evan Mulholland (from 31 August 2023)
Matthew Bach (to 31 August 2023)

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

[1] Lib until 27 March 2023
[2] LDP until 26 July 2023

**Party abbreviations**

AJP – Animal Justice Party; ALP – Australian Labor Party; DLP – Democratic Labour Party;
Greens – Australian Greens; IndLib – Independent Liberal; LCV – Legalise Cannabis Victoria;
LDP – Liberal Democratic Party; Lib – Liberal Party of Australia; LP – Libertarian Party;
Nat – National Party of Australia; PHON – Pauline Hanson's One Nation; SFFP – Shooters, Fishers and Farmers Party

# CONTENTS


PETITIONS
Planning permits ..... 3683
PAPERS
Papers ..... 3683
BUSINESS OF THE HOUSE
Notices ..... 3683
Adjournment ..... 3683
MEMBERS STATEMENTS
Supported playgroups ..... 3683
Wyndham Youth Civic Participation Project ..... 3684
Cost of living ..... 3684
Birregurra Men's Shed ..... 3684
Emergency services workers ..... 3685
Movember ..... 3685
Blood donation ..... 3686
Eastern Victoria Region bush nursing centres ..... 3686
Nicholson ..... 3686
Scouts South Gippsland district ..... 3686
Cardinia Environment Coalition ..... 3687
Aichi Prefecture sister state relationship ..... 3687
South-Eastern Metropolitan Region mayors ..... 3687
BUSINESS OF THE HOUSE
Notices of motion ..... 3687
BILLS
Special Investigator Repeal Bill 2023 ..... 3687
Second reading ..... 3687
MEMBERS
Minister for Mental Health ..... 3709
Absence ..... 3709
QUESTIONS WITHOUT NOTICE AND MINISTERS STATEMENTS
Housing ..... 3709
Ministers statements: historical forced adoption redress scheme ..... 3710
Housing ..... 3711
Foster and kinship carers ..... 3712
Ministers statements: Langi Kal Kal Prison ..... 3713
Housing ..... 3714
Water policy ..... 3715
Ministers statements: child protection ..... 3716
Cherry Creek Youth Justice Centre ..... 3717
Duck hunting ..... 3718
Ministers statements: housing ..... 3718
Written responses ..... 3718
CONSTITUENCY QUESTIONS
Southern Metropolitan Region ..... 3719
North-Eastern Metropolitan Region ..... 3719
Northern Metropolitan Region ..... 3719
Eastern Victoria Region ..... 3719
Northern Metropolitan Region ..... 3720
Northern Victoria Region ..... 3720
Southern Metropolitan Region ..... 3720
Northern Victoria Region ..... 3720
Western Victoria Region ..... 3721
South-Eastern Metropolitan Region ..... 3721
North-Eastern Metropolitan Region ..... 3721
Eastern Victoria Region ..... 3721
Northern Victoria Region ..... 3722
Eastern Victoria Region ..... 3722
Western Victoria Region ..... 3722
BILLS
Special Investigator Repeal Bill 2023 ..... 3722
Committee ..... 3722
Third reading ..... 3725

State Taxation Acts and Other Acts Amendment Bill 2023 ..... 3726
Second reading ..... 3726
MOTIONS
Housing ..... 3740
BILLS
Early Childhood Legislation Amendment (Premises Approval in Principle) Bill 2023 ..... 3754
Introduction and first reading ..... 3754
Statement of compatibility ..... 3754
Second reading ..... 3756
Environment Legislation Amendment (Circular Economy and Other Matters) Bill 2023 ..... 3758
Introduction and first reading ..... 3758
Statement of compatibility ..... 3758
Second reading ..... 3763
Transport Legislation Amendment Bill 2023 ..... 3766
Introduction and first reading ..... 3766
Statement of compatibility ..... 3766
Second reading ..... 3771
ADJOURNMENT
Youth justice system ..... 3775
Southern Metropolitan youth advisory council ..... 3775
Middle East conflict ..... 3776
Black Forest Drive ..... 3777
Corrections system ..... 3777
Financial Counselling Victoria ..... 3778
Western suburbs buses ..... 3779
Government procurement policy ..... 3779
Police resources ..... 3780
School violence ..... 3780
Responses ..... 3781

# Thursday 2 November 2023

**The PRESIDENT (Shaun Leane) took the chair at 9:32 am, read the prayer and made an acknowledgement of country.**

## *Petitions*

### Planning permits

**Matthew BACH** (North-Eastern Metropolitan) presented a petition bearing 24 signatures:

> The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the extended time periods for planning permit approvals and the significant ramification these delays have on individuals aiming to construct owner-occupied properties. Owners-occupiers are facing escalated building costs and the threat of invalidated building contracts due to the inevitable delays. Applicants of planning permits face objections that are considered without thorough examination or careful scrutiny. The prevalent culture of lodging objections is often influenced by personal disputes rather than genuine concerns related to the proposed construction. It is unjust for aspiring homeowners to be hindered by unfounded objections that unfairly empower the objector. An urgent re-evaluation of this process is required. Owner-occupied construction projects should be processed via the VicSmart application, eliminating the need for advertising new owner-occupied builds. Decisions concerning these permits should adhere to the VicSmart application timeline, ensuring a verdict within ten days. The scope of applications facilitated by the VicSmart portal should also be broadened, to accommodate requests such as multiple tree removals rather than just a single tree.
>
> The petitioners therefore request that the Legislative Council call on the Government to re-evaluate the planning permit process for owner-occupied construction projects, revise the existing regulations, balance applicant and objector rights, and expedite planning permit acquisition.

## *Papers*

### Papers

**Tabled by Clerk:**

> Harness Racing Victoria – Report, 2022–23.
>
> Subordinate Legislation Act 1994 – Documents under section 15 in respect of Statutory Rule No. 107.

## *Business of the house*

### Notices

**Notices of motion given.**

### Adjournment

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (09:43): I move:

> That the Council, at its rising, adjourn until Tuesday 14 November 2023.

**Motion agreed to.**

## *Members statements*

### Supported playgroups

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (09:43): I rise to update the house on my visit to the Sunshine Playgroup Centre's supported playgroup session. Last week was Children's Week, which is a national celebration that recognises the talents, skills, achievements and rights of children, and it was great to be in Sunshine to celebrate Children's Week with my community. Sunshine Playgroup Centre's supported playgroup delivers the Smalltalk program, which provides an opportunity for parents to learn new skills that support their children's wellbeing and development. We know that parents are the most important and influential educators in

their child's life, because children thrive when their parents are supported. Supported playgroups also give parents information about other services and supports in their local community and the opportunity to meet other parents for friendship and mutual support. It was fantastic to talk to the participating parents and see how the program is supporting my community.

Brimbank council have been involved in delivering Smalltalk supported playgroups over many, many years and were one of the original pilot sites involved in the research that developed this program. We know that supported playgroups are a great way to engage parents, and by providing them with high-quality programs like Smalltalk, supported playgroups help parents to build their skills and their confidence. This is why the Victorian government provides $11.4 million annually to deliver supported playgroups in 79 local government areas across the state, providing more than 13,000 parents and around 15,000 children with access to this program. It was my pleasure to visit the Sunshine Playgroup Centre's supported playgroup and see firsthand the impact the investment is having in my community of Western Metropolitan.

## Wyndham Youth Civic Participation Project

**Trung LUU** (Western Metropolitan) (09:45): Last week I had the pleasure of attending the Youth Civic Participation Project graduation event held at Wyndham City Council, a celebration of the successful completion of the youth civic participation program by a group of highly motivated, bright and aspirational young Australians. The Wyndham Vale Youth Civic Participation Project is for people aged between 18 and 25 with an interest in how the country is governed. The project is for young aspirational policymakers and community leaders who would like to see behind the curtain of local, state and federal politics. The participants had an opportunity to meet councillors, public servants, council staff and members of state and federal parliaments to discuss their responsibilities. During the recent program the participants spent time at the council, met up with members from this chamber and the other place, attended Parliament House and travelled to Canberra to meet up with federal MPs and visit museums, the High Court of Australia and the Australian War Museum. Again I would like to congratulate this year's Youth Civic Participation Project graduates Jason, Ashish, Bethany, Meghana, Khushi, Shuaib, Shuobing, Karlee, Nordin, Tanya, Fynn and Sanya. Also well done to Trudy Chitty and the team from Wyndham City Council youth service and community support for running a great initiative.

## Cost of living

**Aiv PUGLIELLI** (North-Eastern Metropolitan) (09:47): As Gough Whitlam once said:

> A Labor government will not hesitate to use its powers … to prevent unjustified price rises.

He also said:

> We will establish a Parliamentary Standing Committee to review prices in key sectors.

Now, Gough understood that governments have the power to take on price gouging and to ensure that people can afford food. Food – not diamanté heels, not private jet rides, food. And Gough's ideas sound familiar to this chamber because the Greens have recently announced our plan to stop supermarket price gouging. We need direct government intervention to make sure that everyone can afford basic groceries, yet right now the Labor government are choosing not to act and claiming that we are the unreasonable ones. How far you have fallen. This is your guy. I am just reading his words here. Gough was on the right track. You should listen to him. I wonder what he would think if he saw this current bunch of neolibs representing what he knew as the Labor Party.

## Birregurra Men's Shed

**Gayle TIERNEY** (Western Victoria – Minister for Skills and TAFE, Minister for Regional Development) (09:48): Recently I had the pleasure of joining the Birregurra community in celebrating their brand new men's shed. As we are all aware, men's sheds strengthen the fabric of regional communities and play a vital role in men's social and emotional wellbeing. I am so proud that the

Allan Labor government invested $80,000 in getting this important project up and running. Throughout the afternoon the excitement of the shedders and the families was palpable. This fantastic facility is the product of grassroots advocacy and collaboration, and I would like to acknowledge the generous contributions of the Birregurra and District Lion Club and the Birregurra Motor Enthusiasts Club for making this dream a reality.

Currently in its infancy, what this shed represents and contains is already a sight to behold. The star of the show was a 1928 Federal Knight bus which transported passengers between Lorne and Birregurra. It was with great delight that I heard of plans to restore this bus for future community events. It was also wonderful to hear Don Lidgerwood, Birregurra's Men's Shed president, speak on how the shed is inclusive of the whole community, from the young ones playing cricket, football and netball right next door to ensuring women are also able to be involved in projects and learn new skills. I have no doubt that this fantastic shed is going to be a staple for this vibrant community for generations to come, and again I thank everyone for a wonderful day.

## Emergency services workers

**Renee HEATH** (Eastern Victoria) (09:49): On Saturday Reverend Sandy Solomon and the St Luke's church in Cockatoo held a first responders thanksgiving service. I was honoured to join my federal colleague Jason Wood and the Cardinia council mayor Cr Tammy Radford to join together to give thanks and honour our first responders and their families. Our local CFA and SES volunteers along with paramedics and police are generally the first to respond in our time of need. They give their energy and their time, they face terrible situations, they provide support to people who are traumatised and distraught and they do it all as volunteers. Ben Owen, controller from the Emerald SES, and Marcus Harris, captain of the Cockatoo CFA, were both interviewed. They shared how they managed work, family and volunteering all together. They shared the highs and the lows and what we can do to support them. It would not be an emergency services thanksgiving service if they did not have a call-out halfway through, which they did. Midway through address the beepers went off. There was a tree that had fallen, so half the place cleared out. These people are real-life heroes. We are so thankful for them, and I just hope that their incredible work never goes unnoticed.

## Movember

**Lee TARLAMIS** (South-Eastern Metropolitan) (09:51): Movember is here, and I am growing a mo again as I raise funds and awareness for men's health. So when you see that weird thing taking shape on my upper lip again over the next month, it is not for fun, although I am sure everyone will get a lot of enjoyment out of it and a lot of laughs. It is to raise funds that will help with game-changing work in men's mental health, medical research and groundbreaking tests and treatment for prostate cancer and testicular cancer. It is also about raising awareness of men's health issues and the importance of reaching out for help when you need it. Men are dying on average 4½ years earlier than women and largely for preventable reasons. A growing number of men, around 10.8 million globally, are facing life with a prostate cancer diagnosis. Globally, testicular cancer is the most common cancer among young men, and across the world one man dies by suicide every minute of every day, with males accounting for 69 per cent of all suicides. Movember has prompted billions of conversations about men's health and encouraged men to understand the health risks they face, talk more openly about their health and take action when necessary.

This is the fourth time I will have taken part in Movember as I attempt to grow a mo for the cause, much to the amusement of many and of course with the permission of my wife. We can all take action to live healthier, happier and longer lives, and we all have a role to play in raising awareness about these important issues so that our fathers, brothers, sons and partners are not facing a health crisis that is not being talked about and so that they are not dying too young, long before their time. So please support and participate in Movember efforts whichever way you can.

## Blood donation

**Gaelle BROAD** (Northern Victoria) (09:52): You may have heard recent reports that the Red Cross is in desperate need of blood donors. Stocks of the most common blood types have dropped to their lowest point in the year. They need over 7000 people to donate blood across Australia, and my hope is that Victorians will lead the way. There is a significant demand for type O blood types in the next week to boost supplies. If your blood type is O-negative, you are very special, because less than 7 per cent of the population has this universal blood type. O-negative blood is used to treat patients when their blood type is unknown, but whatever your blood type, as long as you are able your blood is needed. Red Cross Lifeblood said they expect demand will continue to rise in the coming years and urged anyone eligible to book an appointment and become a blood and plasma donor. I know people that have donated over a thousand times, and I confess that I can count the number of times I have donated on one hand. Michael Klim, the well-known Olympian, depends on blood transfusions, but I have also met people who are not famous, including kids in hospital, that depend on blood transfusions, platelets and plasma. I know people who have taken their kids to hospital who desperately need blood transfusion only to be told that their supplies are so low that they may have to come back or wait for hours. It has inspired me to give blood, and I hope it inspires you to give blood too. To all those who already give their blood, thank you for giving to others. For those who are yet to give, it is a simple thing that can and does save people's lives. To donate, visit lifeblood.com.au or call 13 14 95.

## Eastern Victoria Region bush nursing centres

**Tom McINTOSH** (Eastern Victoria) (09:54): Recently I attended the Big Bonang Arvo, and while we were there we celebrated the works that have been done to the Goongerah, Bendoc and Tubbut halls. There has been work to ensure that the power backup is there and there is solid internet not only for use in emergencies, which is critically important, but also for the community to use. There have been co-working spaces put in. Importantly, while I was there I dropped into Goongerah and we celebrated the three halls of Goongerah, Bendoc and Tubbut having a health room put in for a bush nurse, three days a week, to be visiting those communities and for other medical practitioners to visit and use as well. But most excitingly and most importantly and groundbreakingly there is a mixed reality headset that is in place for the bush nurse to use there so that our remote communities in these isolated towns can basically access specialists not only around Victoria but anywhere in the world and save them having to make a long trip. Bush nurses can operate it. It is quite an incredible thing, and I am going to try and bring you with me on how this works. They can look at a piece of the body and the specialist can draw onto it. They turn away, come back, and all the drawings and markings are there. We had an incredible demonstration on someone plucked out of the crowd to do an emergency bandage for a snake bite, guided by someone remotely. It is an incredible thing. Congratulations to all the communities that have pushed this and driven it up. All levels of government support it, and it is a great thing.

## Nicholson

**Melina BATH** (Eastern Victoria) (09:55): In East Gippsland there is a wonderful town called Nicholson. It is on the banks of the beautiful Nicholson River. The Nicholson Hotel sits on that bank, and the proprietor is Ginny Rickhuss. They are very generous people up there in East Gippsland, because that pub on its own raised, even last year, $21,000 for the Royal Children's Hospital. I thank them for selling their raffle tickets every Friday night and donating food and beverage hampers. Now, I did not win the raffle and I did not win the meat tray, but the steaks were beautiful. Also, very generous donors to the same Royal Children's Hospital appeal are the Nicholson General Store and Nicholson River Holiday Park. Owners Jamie and Tracey Malady welcome you with open arms to their beautiful corner of the world.

## Scouts South Gippsland district

**Melina BATH** (Eastern Victoria) (09:56): There are many generous and giving volunteers in the Scouting movement as well. Last week I had the pleasure of celebrating the annual presentation awards

night for the South Gippsland and district Scouts at Phillip Island. I want to congratulate the 1st Inverloch Scouting group, the 1st Fish Creek Scouting group, the Ghoul Creek Venturers, the 2nd Korumburra Scouting group and the 1st Yarram Scouting group, who each won particular awards, and Bailey, William and Willow. And specifically, I give a special congratulations to Maree Pascoe, who won the volunteer of the year award to a standing ovation from the large assembled crowd. She is an amazing volunteer, and we respect her time and effort over many, many years.

### Cardinia Environment Coalition

**Michael GALEA** (South-Eastern Metropolitan) (09:57): Last week I had the privilege of meeting with the Cardinia Environment Coalition, in particular Ian Chisholm, and it was great to meet with him along with the member for Pakenham Emma Vulin and Cardinia deputy mayor Jack Kowarzik and hear all about their current projects. The CEC look after two sites in my electorate in particular, and it is fantastic to meet with them and see this great group go from strength to strength.

### Aichi Prefecture sister state relationship

**Michael GALEA** (South-Eastern Metropolitan) (09:58): On another matter, last week I also had the privilege of joining with Parliamentary Friends of Japan members Mr Limbrick and the Deputy Speaker from the other place in welcoming the Aichi Prefecture delegation into the Parliament, who we have had a strong sister state relationship with for 43 years. It was great to hear from them, to exchange cultural stories and to learn more about the Aichi Prefecture. In particular, what they are very excited about at the moment – there are many fans here in this room, I am sure, of Studio Ghibli – is a Ghibli Park that has just opened and is currently under expansion as well. They have invited the parliamentary friends to visit at some point, and I am sure many members of that group will be eager to go and see it.

### South-Eastern Metropolitan Region mayors

**Michael GALEA** (South-Eastern Metropolitan) (09:58): On another matter, this is a big time of the year for our friends in local government, with another mayoral switchover, so I would just like to take this opportunity to thank the mayors that I have had the opportunity of working with over this past year in the South-Eastern Metropolitan Region: Tammy Radford, Marcia Timmers-Leitch, Hadi Saab, Nathan Conroy, Tina Samardzija and of course Eden Foster.

## *Business of the house*

### Notices of motion

**Lee TARLAMIS** (South-Eastern Metropolitan) (09:59): I move:

> That the consideration of notices of motion, government business, 175 to 235, be postponed until later this day.

**Motion agreed to.**

## *Bills*

### Special Investigator Repeal Bill 2023

*Second reading*

**Debate resumed on motion of Jaclyn Symes:**

> That the bill be now read a second time.

**Evan MULHOLLAND** (Northern Metropolitan) (09:59): I am actually pretty loath to get up to speak to this bill, because it is a shameful bill. It is an absolutely shameful bill. Members of the government should be hanging their heads in shame because of this sorry saga and because of this absolutely shameful bill. It represents Labor's attempts to sweep the Lawyer X scandal under the carpet. I want to start by thanking my colleague Michael O'Brien, the Shadow Attorney-General in the other place, for the work he has done over the years on this matter.

The Lawyer X scandal is a stain on Victoria's legal system. The Lawyer X scandal was a decision by Victoria Police to use Nicola Gobbo, a criminal barrister, to inform against her own clients and help secure special convictions. It was an appalling decision by Victoria Police and demonstrated an appalling lack of judgement. It betrayed the fundamental principles of our criminal justice system. In an adversarial legal system it is important for these two sides, the Crown and the defendant, to be separated. The system cannot work if the defendant's lawyer is acting in the interests of the prosecution. People need to know that their lawyer is on their side. The actions of Nicola Gobbo betrayed the interests of her clients and the principles of our legal system.

Victoria Police tried to stop this coming to light. It did, because there was an IBAC investigation conducted by former Supreme Court judge Murray Kellam. He reviewed Victoria Police's human source management and found there was a high degree of negligence by Victoria Police in its management of human sources. Having conducted the review, IBAC advised the Director of Public Prosecutions of this. The DPP formed the view that Victoria Police should let some of those convicted on their barrister's secret evidence know. Victoria Police spent millions of dollars on suppression orders to stop journalists uncovering this scandal. I am a strong believer in media freedom and transparency, and to see the lengths that they went to in order to shut journalists up, stop them and use taxpayers money through the legal system to stop this ever getting out was also quite shameful. Eventually it ended up in the High Court, and a unanimous judgement was handed down on 5 November 2018. According to the High Court:

> EF's actions –

Nicola Gobbo's pseudonym –

> in purporting to act as counsel for the Convicted Persons while covertly informing against them were fundamental and appalling breaches of EF's obligations as counsel to her clients and of EF's duties to the court. Likewise, Victoria Police were guilty of reprehensible conduct in knowingly encouraging EF to do as she did and were involved in sanctioning atrocious breaches of the sworn duty of every police officer to discharge all duties imposed on them faithfully and according to law without favour or affection, malice or ill-will. As a result, the prosecution of each Convicted Person was corrupted in a manner which debased fundamental premises of the criminal justice system.

This is a damning indictment of Victoria Police and Nicola Gobbo. It led to the convictions being quashed and overturned. Not only were Victoria Police's actions unethical and reckless, but they did not achieve the intended results, because people have now walked free from jail because they were convicted on tainted evidence. One example of this, where a person who had been convicted by Gobbo's evidence was appealing, is *Faruk Orman v. The Queen*. A statement by the Court of Appeal of Victoria says:

> The Director concedes that Ms Gobbo, while acting for Mr Orman, pursued the presentation of the principal evidence against him on the charge of murder. Self-evidently, that conduct was a fundamental breach of her duties to Mr Orman and to the Court.

It goes on to say:

> On the facts as conceded, Ms Gobbo's conduct subverted Mr Orman's right to a fair trial, and went to the very foundations of the system of criminal trial. There was, accordingly, a substantial miscarriage of justice. The appeal must therefore be allowed.

Faruk Orman walked free. Tony Mokbel is seeking to use what happened in this scandal to get freed. How many serious crooks will be released into the community because of this scandal?

Following this shameful scandal this government was forced into announcing a royal commission. Initially it made a misstep and appointed former South Australian police commissioner Malcolm Hyde, who worked for Victoria Police during the same period Gobbo had been working as a paid informant. The commission continued with former Queensland Court of Appeal president Margaret McMurdo AC, and its recommendations were handed down on 30 November 2020.

One of its recommendations was that Victoria develop legislation to establish a Special Investigator within 12 months, with the necessary powers and resources to investigate if there was sufficient evidence to establish criminal offences conducted with Victoria Police's use of Ms Gobbo as a human source for current and former police officers named in the royal commission's final report or incomplete and unredacted submissions of counsel assisting. In October 2021 the Parliament passed the Special Investigator Act 2021. The government appointed former High Court justice Geoffrey Nettle AC KC as Special Investigator. Justice Nettle is one of the most eminent legal figures in this country – a great choice. The Office of the Special Investigator, the OSI, was given significant budget and powers.

The OSI developed multiple briefs of evidence. One example has over 5000 pages of admissible evidence, hours of audio recordings and multiple witness testimonies pointing to crimes that have been committed. However, the government set up the OSI such that it was unable to bring charges itself, despite the fact that other far more mundane organisations can bring charges, such as WorkSafe and even local councils. The OSI had to provide briefs to the DPP. The problem with this is that the DPP and the Office of Public Prosecutions have an inherent conflict of interest, whether it be perceived or actual. The OPP and Victoria Police work together closely on criminal matters daily. It was not appropriate that the DPP, who work so closely with Victoria Police, should be deciding if charges should be brought against Victoria Police. Despite thousands upon thousands of pages of evidence, the DPP decided not to bring any charges. It just simply is not a good look. It is unfortunate that the government put the DPP in this position.

The OSI tabled a special report in Parliament last year. Justice Nettle, who as I was mentioning is one of the most eminent legal figures in Australia, explained how he was blocked at every turn to see charges brought. There are many excuses the DPP appears to have for not bringing charges, including in relation to the passage of time. It appears that the DPP believes that there should be no accountability for the conduct of those involved in the Lawyer X scandal. This is despite the fact there is no statute of limitations for criminal matters. In conclusion, Justice Nettle said that the OSI should be wound up because there is essentially a nil chance of the DPP approving any of the briefs of evidence. Again, millions of dollars have been spent, there are thousands upon thousands of pages, audio recordings and evidence, and the DPP says, 'Oh, it was too long ago.' That is not an excuse; it is not a legal excuse. It is a disgrace that after years of work, thousands of pages of evidence and millions of dollars of public money the government basically said that nobody did anything wrong and 'Move along'. As reported by the *Age*:

> Former Supreme Court judge Stephen Charles, along with a former top prosecutor and a veteran defence barrister –

Gavin Silbert KC –

> … expressed dismay and confusion over the decision of DPP … not to bring charges …

as recommended by Nettle. Charles said:

> The failure to start the prosecutions recommended by Justice Nettle is an open invitation to the police to repeat their appalling misbehaviour.

Gavin Silbert KC said:

> Gobbo offered to plead guilty and give evidence now. What more do you need than that?

This DPP will not even take a guilty plea at its worth.

The government wants to sweep it under the carpet and pretend that nothing happened. The former Premier Mr Andrews has a sordid history of smearing eminent individuals in our community. I think we all know that to be the case; even those opposite would probably admit that privately. My colleague Michael O'Brien has spoken at length about Mr Andrews's disgraceful treatment of Robert Redlich.

Unfortunately, it does not end there. He attacked Geoffrey Nettle, a former High Court judge, who was the Special Investigator. Mr Andrews said:

> Investigators don't make good prosecutors … There needs to be a separation. If you have investigated the matter, you are altogether too close to it to be making decisions about whether a conviction is likely.

It is Mr Andrews that set the OSI up, in a way. You have got organisations like WorkSafe and local councils that can put together a brief of evidence and bring charges, yet –

**Melina Bath** interjected.

**Evan MULHOLLAND**: Exactly. He is saying that a former High Court judge is wrong. Apparently the former Premier's legal expertise surpasses Nettle's. Who knew?

In response there was an open letter signed by around 30 senior Victorian barristers. An excerpt from the statement reads:

> … these statements published in The Age ought never to have been made in respect of such a distinguished and well respected jurist as Mr Nettle. They ought to be retracted and a public apology published.

And:

> … they are misguided, wrong and inappropriate.

'Misguided, wrong and inappropriate' – interesting words. It basically sums up the Lawyer X scandal. The government really believes that after a High Court case, a royal commission, setting up an OSI, years of investigation and thousands of pages of documented evidence, audiotapes and videotapes, the answer is it all goes away, nothing is supposed to happen. Seriously, this is a massive slap in the face to Victorians who believe that we have a justice system that works. It is a massive slap in the face for Victorians who believe they are all equal under the law. There is no equality before the law here. If you are mates with Labor, if the government wants to keep you onside, they are not going to push too hard. That is the reality. This is the greatest legal scandal in the state's history, and the government's response is basically that nobody is accountable. Nobody pays the price except for Victorians, with the millions of dollars of taxpayer money, legal fees to chase this to the High Court, a High Court decision, a royal commission, setting up an OSI, bringing thousands of pages in evidence, audiotapes, videotapes, everything else, to have a respected former High Court justice like Nettle say –

**Melina Bath**: Nothing to see here.

**Evan MULHOLLAND**: nothing to see here. The government could have allowed the OSI at any point in time, including right now today, to press charges. Why have the DPP do it? Clearly they have shown they are not up to it. The passage of time is too far for the greatest scandal in the state's legal history. That is just not an excuse, and it is typical of this government. They make the mistakes, and it is Victorians that pay the price – or even worse, they intentionally make Victorians pay for their mates. Public confidence in the justice system must be assured and is at stake. We oppose this bill strongly, very strongly. To that end I ask that a reasoned amendment in my name be circulated. I move:

> That all the words after 'That' be omitted and replaced with the words 'this bill be withdrawn and instead the government puts in place measures to ensure that those responsible for the Lawyer X scandal are held to account.'.

There has got to be some accountability here. How can the government just wash its hands of the greatest scandal in Victorian legal history? You have had a High Court case. You have had a royal commission which recommended the OSI be set up. You have had the OSI set up, millions of dollars spent, millions of taxpayer money. You have had over 5000 pages of evidence, audiotapes, videotapes. You have even had Ms Gobbo saying that she would plead guilty and cooperate. But the DPP, who does work with Victoria Police every day, says, 'Oh no, there's not enough. The passage of time is too much.' It is absolutely shameful, and this government just washes its hands of it.

**Melina Bath**: It's convenience.

**Evan MULHOLLAND**: It is convenient. It is convenient to protect their mates. I think that it is not appropriate for the government to wash its hands of this state's and possibly this country's greatest legal scandal. We strongly oppose this bill.

**Sonja TERPSTRA** (North-Eastern Metropolitan) (10:19): I rise to make a contribution on this bill, the Special Investigator Repeal Bill 2023. It is a bill that by way of background is an important bill, but it brings I guess you could say a full stop to a period of history that related to the Lawyer X investigation and police informants. If you look at the history of this issue, the Office of the Special Investigator was established as a result of the Royal Commission into the Management of Police Informants to carry out and deal with all of the recommendations that came from the royal commission, and principally the OSI has done its work. Effectively, this bill is about repealing that office, but also whilst it is repealing that office, the functions of the OSI are being handed over to the state. I will go through that in a bit more detail, but that is effectively it in a nutshell. The bill implements the government's decision and commitment to decommission the Office of the Special Investigator, and the bill will do all things necessary to wind up the OSI and provide for the continuation of critical protections and oversight and make a range of consequential changes to accommodate the repeal. The government publicly announced that the OSI would be decommissioned on 27 June 2023, following the tabling of a special report in Parliament by the former Special Investigator Geoffrey Nettle on 21 June 2023, which recommended that the OSI be wound up.

The OSI was established as a result of the royal commission, but it was established by the Special Investigator Act 2021, as recommended by the royal commission, to investigate potential criminal conduct and disciplinary breaches in relation to the Lawyer X matter. Where the OSI determines relevant offences may have been committed, its role extends to compiling briefs of evidence to be filed alongside recommended changes for determination by the Victorian Director of Public Prosecutions. The OSI has carried out its work in line with the commission's recommendations, and the royal commission implementation monitor, who was appointed to oversee the implementation of the recommendations, is satisfied that all recommendations relating to the OSI have been acquitted and supports the decommissioning of this office. So you can see that is the scope of and the background to this bill and why it is a necessary bill. We have taken the advice and followed the recommendations of the royal commission, so despite what might be put in contributions by members in this place today, despite them saying there is nothing to see here, there literally is nothing to see here in the context of the recommendations having been acquitted, and the advice to government is to decommission the OSI.

In terms of this bill, the bill will make changes to wind up the OSI and remove the statutory role of the Special Investigator. It will importantly transfer all rights, assets, liabilities and obligations formerly of the OSI to the state, preserve protections for OSI records and former OSI officers, continue oversight arrangements to enable the investigation and finalisation of any residual complaints following the decommissioning and repeal a range of amendments made to various other acts by the Special Investigator Act. As I said, it is putting a full stop at the end of a period of time in history which dealt with a particular matter.

Just by way of history and further background, the royal commission reviewed the Lawyer X matter and the government committed to implementing all the recommendations, as I said, and the royal commission was established in December 2018 to investigate matters that go to the heart of Victoria's justice system and how police use informants with confidentiality obligations. As we know, one of the informants turned out to be Lawyer X, so it specifically went to issues around the use of lawyers as informants. The commission's extensive and detailed inquiry uncovered significant historical shortfalls in the criminal justice system, and government committed to address those shortfalls to ensure that this could never happen again. Government has followed through on this commitment, and the OSI, completing its work in line with the commission's recommendations, is a key part of that, adding to significant work already undertaken by government. The work includes the implementation

of a wide range of changes, including to Victoria's police practice, policy, structure and culture in the use of human sources.

The government has made key changes to Victoria's disclosure regime in criminal proceedings in the Justice Legislation Amendment (Criminal Procedure Disclosure and Other Matters) Act 2022, and work is currently underway to implement the Human Source Management Act 2023, which passed Parliament in May of this year. It establishes a legislative framework that will ensure Victoria Police's use of human sources remains appropriate and justified, provides for independent external oversight and ensures stringent protections to manage risks, particularly where high-risk informants are involved. The act makes sure that another Lawyer X situation cannot happen again. It includes very limited exceptions for lawyers to be registered, with rigorous safeguards that in fact go beyond the commission's recommendations. These exemptions require the approval of the Supreme Court of Victoria and can only be granted where essential to combat an immediate and serious threat to national security or public safety. For example, the Supreme Court could authorise the registration of a lawyer to help foil an imminent threat of a terrorist act. This is appropriate and necessary, and the opposition's suggestion that it leaves the way open for another Lawyer X situation is really false.

These reforms make Victoria the only Australian jurisdiction with legislative safeguards against lawyers being registered as informants. So rather than pretending it can lead to another Lawyer X situation, really what we want to see from the opposition is an acknowledgement that this is the most stringent system in the country. To date 49 of the 55 recommendations directed to government have been delivered, and work to deliver the remaining recommendations is also on track. So the work continues, and it will continue until it is completed.

The former Special Investigator tabled a special report in Parliament on 21 June 2023 which recommended that the OSI be wound up. The OSI has completed its work in line with the commission's recommendations, having investigated potential criminal conduct and disciplinary breaches and subsequently prepared and referred extensive briefs of evidence for consideration by the DPP, and I would like to take this opportunity to thank Mr Nettle and his office for their thorough and considered work to acquit the recommendations of the royal commission in relation to the OSI. The implementation monitor, who was responsible for overseeing the implementation of all of the recommendations, has confirmed that he considers all recommendations relating to the OSI to have been acquitted. The implementation monitor was also consulted in the drafting of the bill and also supports the decommissioning of the OSI.

Just in regard to prosecutorial decisions, I heard Mr Mulholland's contribution about this, but I can say that any prosecutorial decisions were independently and carefully made in regard to this matter. Per the recommendations of the royal commission, the decision about whether to prosecute on the basis of evidence referred by the OSI is entirely a matter for the Director of Public Prosecutions, the DPP. Prosecutorial decisions are made independently of government in all jurisdictions as is appropriate. There are agencies such as IBAC and WorkSafe which have legislative power to lay serious criminal charges, but in practice they often do not. Instead, they refer the decisions on whether to prosecute to the DPP in recognition that as investigators they are too close to the evidence to be objective. That is entirely appropriate. It is critical that these decisions are made independently and objectively and there is another set of eyes or another agency that has the ability to assist with a fresh look at whether charges would be appropriate and could be made. It would not be appropriate for government to insist on prosecutions that have no prospects of success. To insist on a show trial for political theatre would simply be wrong. Again, this is the point about making sure we have independent agencies who have the skill and appropriate authority to be able to make those judgements and then act on their own behalf.

The DPP carefully considered the briefs of evidence provided by the OSI, and her reasoning is detailed in her response to the former Special Investigator's special report. I will not go over all of those here, but in short the DPP, along with the chief Crown prosecutor and an additional Crown prosecutor, carefully considered the evidence and they determined that there were no reasonable prospects of

success and a prosecution would not be successful. This assessment was based on gaps in available evidence, the reliability of potential witnesses and legal limits on what evidence is in fact admissible. In fact this was foreshadowed by the royal commission, which noted that:

> Even if there is sufficient evidence to bring charges, the DPP's decision may be difficult. These events occurred long ago. Records may be incomplete and memories may have faded. Ms Gobbo was encouraged in her behaviour by police and now lives in fear of being murdered. The current and former officers acted within what Victoria Police accepts was a failed system …

Insisting that a trial be pursued at significant cost to the taxpayer without reasonable prospects of success is just a political stunt at best.

In terms of any suggestions that the DPP and the OPP are conflicted and unsupported, the royal commission explicitly considered whether the DPP would be adequately independent in deciding whether to prosecute and concluded that the DPP is appropriately independent. The DPP and the OPP have regular conflict of interest procedures to ensure decision-making is not compromised, and the DPP and OPP regularly consider and proceed with charges against police officers. There is no basis for suggesting that the DPP and OPP are conflicted. Similarly, the DPP has made a public statement rejecting that she is conflicted due to previous dealings with Simon Overland, not least because, as she notes, not only has she never acted for him, she has never met him. Similarly, she has neither met nor acted for any of the police officers that were the subject of an OSI brief.

They are just a few important and very salient matters that go to the heart of this bill. It is a critically important bill. As I said, the government has acted on the recommendations from the royal commission. This bill is yet another step in working through the recommendations. The decommissioning of the OSI will not mean everything stops here, but the very important functions of the OSI and the legacy associated with that office will be passed down to the state, and so those things that were established as a result, the OSI and the royal commission recommendations, will continue to be shepherded by the government as appropriate.

There are many other things I could say in regard to this bill, but I note the clock is beating me and I also need to jump into the chair, so I will conclude my remarks there and commend this bill to the house, but without amendment.

**Melina BATH** (Eastern Victoria) (10:33): I am pleased to rise to make my contribution on the Special Investigator Repeal Bill 2023. First of all, I want to put on record that the Nationals will oppose this bill, but we certainly support the reasoned amendment put forward by Mr Mulholland on behalf of the Nationals and the Liberals. I also want to put on record my very great thanks to the rank-and-file Victorian police officers who serve our state so diligently and carefully, keeping us safe and locking up criminals – and I know complete endless piles of paperwork. We thank them very much. Particularly in my Eastern Victoria electorate, we thank those large and bustling stations. We thank those police stations that have a single police officer, which are potentially quite under threat from the Labor government at the moment, and we value their frontline services and their dedicated work. Indeed I regularly, where I can, attend Police Remembrance Day, which is on 29 September, and I am pleased to have gone to that at a number of locations – in Warragul this year, Drouin in the past, Traralgon and the like – to show my gratitude for those Victorian police officers who have died and paid the ultimate price in the line of their duty. We thank them and their families for carrying that burden in the line of duty.

I draw a line between those good people and the people that we are speaking about today in this bill or part of this whole scenario, this stained scenario, of the very slim but unscrupulous behaviour of a minority, a few, in the upper echelons of police command – and not only them but a lawyer who thought it would be a good idea, whether coerced or otherwise by this group of upper echelon Victorian police command, to do something that is quite outside any normal practising lawyer's behaviour: to dob in and communicate to police about her clients' work. There should be a separation of powers and there should be trust in the legal system, and this whole case, which is some 15 years long, has been a

debacle. One is being distorted – I think there has been a distortion of the separation of powers – and the other has been abused by the failings of the Labor government, which has led to this bill today.

In terms of the historical context, we saw those gangland wars back in the 1990s and 2000s. We saw underworld figures that are household names and 36 people dead – thugs and murderers. We saw, as is required by law, legal representation, in one case by Nicola Gobbo, categorised as Lawyer X, a criminal barrister who was used as a human source to inform on her clients. These are bad people that she was representing and they deserve to go to jail, but they also deserve to have a proper process, which was totally distorted.

Unfortunately, at the end of this we are not keeping Victorians safer because of this whole debacle. Millions of dollars of taxpayer money has been spent. Labor was boxed into a corner, and IBAC certainly came out and, using its powers to investigate serious police misconduct, instigated the Kellam review back in 2014. Indeed former Supreme Court judge the Honourable Murray Kellam reviewed that human source management. Subsequently, Mr Kellam decided that there was a high degree of negligence by Victoria Police and directed VicPol to provide a report to the Director of Public Prosecutions. There was tainted evidence. The DPP formed the view that certainly there should be that level of transparency. This led to VicPol trying to suppress information, and again we have seen millions of dollars being spent on this in saying no to media releases and no to the release of names.

Enter the High Court. The High Court came in and unanimously ruled that Gobbo's identity should no longer be suppressed. In their judgement Their Honours collectively said Gobbo's actions in purporting to act as counsel for the convicted persons while covertly informing against them were fundamental and appalling breaches of Gobbo's obligations as counsel to her clients and the duties of the court. This is scathing, in effect. We also see the High Court judges saying that likewise:

> Victoria Police were guilty of reprehensible conduct in knowingly encouraging …

Gobbo. So we see a direction in which this has gone wrong. The names were published, and I know there were many in the media who drilled down and worked very diligently to provide that context to the Victorian population, and it was a scandal.

Really, Labor again was forced into a corner. We had this royal commission and we had Lawyer X. It was a chequered start from the beginning. We saw one investigator exit due to a conflict of interest, and here is where this same scenario runs time and time again – a perceived conflict of interest is a conflict of interest in the wider context. We all take ourselves out and note if there is a conflict of interest in any meeting we have; as members of Parliament or the community, we state it.

The royal commission was down to one, the Honourable Margaret McMurdo. She was seen to be quite at arms length, and I congratulate her. She is a former president of the Queensland Court of Appeal. She moved down from 2018 to 2020, and two years later the royal commission reported, in November of 2020. One of its recommendations, 92, was that the Victorian government within 12 months establish legislation to set up a Special Investigator with the necessary powers and resources.

So that is where we are up to in the historical context of this saga. Enter the Special Investigator Bill 2021. The Special Investigator Act 2021 was passed by state Parliament in October of that year, and this is the act that Labor is seeking to repeal today in this house. Labor at the time limited the powers of the Special Investigator, whereby to instigate charges they had to go via the route of the Director of Public Prosecutions. They did not have the power to instigate charges themselves.

It was Parliament that instigated it, but it was Labor that drove the bill. And indeed, let me say when the former High Court judge Justice Geoffrey Nettle AC KC was selected, this is what Labor's Attorney-General the Honourable Jaclyn Symes said:

> Justice Nettle's extensive and wide-ranging experience at the highest levels of the legal system will ensure a comprehensive, independent and fair investigation is completed into these matters.

And she was right. The Honourable Justice Nettle investigated incredibly thoroughly. There were a number of briefs that he and the team behind him investigated. They did forensic investigation to elucidate a compelling case that had to go via the DPP. They had the perjury brief, the Spey brief, the Operation Charlie brief – thousands of documents, and as we have heard, audio as well. There was a compelling case to substantiate charges and move them forward. He said, 'Let's press charges,' but it had to go through the Office of Public Prosecutions.

We now have the DPP, the Honourable Kerri Judd KC. What we see is the idea – and I have heard conversations about this even in our house today – around being at arm's length or not too close to the evidence to be objective. The very nature of the Director of Public Prosecutions is that they interact with Victoria Police on a regular basis. That is part of their mandate: they interact. So what should have happened was the withdrawal of her running that system, to have an independent investigator. We do know that there are many other areas that do that, and indeed the Ombudsman Deborah Glass has taken on an investigator from interstate to have that arm's length, to provide that clarity that there is no perceived conflict, but that is not what happened here.

Then we see the DPP come out with the conversation about this concern about whether the passage of time would diminish the prospect of conviction. She queried the potential lack of public interest in the largest scandal that has rocked Victoria in the last X many years, from Lawyer X, and that there could be protracted criminal proceedings. This is odd and perplexing in the extreme.

Moving forward to this year, in 2023 we have the OSI in its report saying:

> … it now appears to me that the director will not grant OSI permission to file any charge of relevant offence, I consider it to be pointless for OSI to continue. In my view …

it is appropriate to wind up the OSI. The Premier walked into this drama, and he dug the boots in. We have got on one hand, in June 2021, the Attorney-General pumping up the tyres – and rightly so – of the Honourable Geoffrey Nettle, and then we have got the former Premier Daniel Andrews, who was a bit keen on digging the boots in at times, who said this:

> Investigators don't make good prosecutors … There needs to be a separation. If you have investigated the matter, you are altogether too close to it to be making decisions about whether a conviction is likely.

Well, I tell you there are many people in my Eastern Victoria electorate that said Mr Andrews did not make a good leader. And we see this from senior figures – 37 senior figures, senior barristers, signed an open letter condemning the Premier's comments as misguided, wrong and inappropriate. Again I concur with Mr Mulholland: this is the whole dirty scandal of this and what this government has done. The Labor Party just wanted to kick this under the table: 'Nothing to see here'. The Honourable Geoffrey Nettle found that there was sufficient evidence to secure convictions on criminal charges. What we see is that there is no date on corruption. There is no expiry date for those perverting the course of justice to come and be held accountable. This is not a bottle of milk – its time is not over now. We know that there are cases brought before the courts many years after their actual execution. Victorians certainly deserve better, and it will leave a bitter taste in Victorians' mouths for years to come.

This bill is the demise of the Office of the Special Investigator. We on this side do not believe that it should be wound up. We believe that there is more work to be done. We also believe that there should be a refresh of the DPP's perspective to separate that perceived conflict of interest. Justice is not served in this bill. Our legal system is weaker because of this whole dirty saga. Crooks should be behind bars; that is the contention I am putting forward. They warp our state, and they diminish our safety.

I thank my colleague the Shadow Attorney-General Michael O'Brien for his contribution on the bill, and I appreciate the work that he has gone through in this. Michael O'Brien also says the Human Source Management Act 2023 is certainly not the panacea. This is what the government will say: 'But hang on, we've got this other act in Parliament.' My concern is, and I concur with Mr O'Brien, that this precisely allows for the Lawyer X scandal to happen again. We oppose this bill.

**Jacinta ERMACORA** (Western Victoria) (10:48): I am pleased to express my support for the Special Investigator Repeal Bill 2023. This bill is necessary to enact the government's commitment to decommissioning the Office of the Special Investigator, OSI. It will undertake the essential steps to wind down the Office of the Special Investigator, and it will ensure the continuation of crucial safeguards and oversight. It will make a range of consequential changes to accommodate the repeal.

The government publicly announced the decommissioning of the OSI on 27 June 2023. This followed the tabling of a special report in Parliament by the former Special Investigator Geoffrey Nettle on 21 June 2023. This report recommended the winding down of the OSI. The OSI was originally established through the Special Investigator Act 2021 in line with the recommendations of the Royal Commission into the Management of Police Informants. Its primary purpose was to investigate potential criminal activities and disciplinary violations related to the Lawyer X case. This is important context behind this bill.

Where the OSI determines relevant offences may have been committed, its role extends to compiling briefs of evidence to be filed alongside recommended charges for determination by the Victorian Director of Public Prosecutions, the DPP. The OSI has carried out its work in line with the commission's recommendations and has been overseen by the royal commission implementation monitor Sir David Carruthers. He was responsible for the overseeing and implementation of the Royal Commission into the Management of Police Informants recommendations and has confirmed that he considers all recommendations relating to the OSI to have been acquitted. The implementation monitor further supports the decommissioning of the office.

This bill will therefore bring about the following changes. It will officially repeal the Special Investigator Act and dissolve both the Office of the Special Investigator and the statutory position of Special Investigator. It will transfer all assets, property, rights and liabilities from the Office of the Special Investigator to the state. It will facilitate the transfer of all records from the Office of the Special Investigator to the Department of Justice and Community Safety and subsequently, when necessary, to the Public Record Office Victoria. This will ensure records are handled in a manner consistent with the OSI's practices. It will maintain the existence of two offences outlined in the Special Investigator Act. It will preserve specific oversight powers of the Victorian Inspectorate over the OSI for defined periods. It will make revisions to other acts to eliminate references and provisions related to the OSI. Despite the opposition continuing to oppose this bill, it cannot be stated strongly enough that the Royal Commission into the Management of Police Informants systematically reviewed the Lawyer X matter, and the government has made all legislative changes required to ensure implementation.

There is a time line and logical sequence behind the Special Investigator Repeal Bill, and I will provide some background here. The Royal Commission into the Management of Police Informants was established in December 2018. Its purpose was to delve into the critical aspects of Victoria's justice system and in particular police use of informants with confidentiality obligations. This was due to the revelation that Nicola Gobbo, a prominent and experienced criminal defence barrister, was registered with Victoria Police as a human source on three occasions between 1993 and 2010. Within that period Ms Gobbo provided information to Victoria Police about her clients and their associates, and it is estimated that Victoria Police filed more than 5000 written reports from her information, which assisted police to make nearly 400 arrests I reference an article by Josie Taylor and Rachael Brown from *Trace* on 9 September 2020.

The royal commission heard from 82 witnesses, which included over 50 police members and over 129 days of hearings. During the commission's extensive and detailed inquiry it unveiled significant historical shortcomings within the criminal justice system. The government has pledged to address these shortfalls to ensure that this can never happen again. The government has followed through on this commitment, and the OSI completing its work in line with the commission's recommendations is a key part of that, adding to significant work already undertaken by the government. This effort is a crucial component of the broader initiatives undertaken by the government. They include a wide range of reforms, including changes to Victoria Police's procedures, policies, organisational structure and

cultural approach to the use of human sources. Notably the government introduced key amendments to Victoria's disclosure regulations in criminal proceedings through the Justice Legislation Amendment (Criminal Procedure Disclosure and Other Matters) Act 2022.

Furthermore, ongoing works are in progress to implement the Human Source Management Act 2023. As we all know, this received parliamentary approval in May this year. This act establishes a comprehensive legislative framework to ensure that the use of human sources by Victoria Police remains appropriate and justified. It incorporates provisions for independent external oversight and stringent safeguards, particularly when dealing with higher risk informants. Critically, this act aims to prevent a situation like Lawyer X from ever happening again. The act includes very limited exceptions for lawyers to be registered as informants, with rigorous safeguards that surpass the commission's recommendations. I repeat that: the rigorous safeguards surpass the commission's recommendations.

Further, these exceptions necessitate approval from the Supreme Court of Victoria and can only be granted in cases where there is an immediate and serious threat to national security or safety. For instance, the Supreme Court could authorise a lawyer's informant registration to thwart an imminent terrorist attack. Contrary to the opposition's claims, these measures are both appropriate and necessary. The very suggestion that they leave the door open for another Lawyer X situation is entirely unfounded.

These reforms make Victoria the only Australian jurisdiction with legislative safeguards against lawyers being registered as informants. Processes have been systematically reviewed and put in place due to the Lawyer X case, and the opposition should now recognise that this system is the most rigorous in the country. To date the government has successfully delivered 49 out of the 55 recommendations received. Work to implement the remaining recommendations is proceeding as planned, demonstrating this side of the house's commitment to comprehensive reform and justice.

In this light it must also be said that prosecutorial decisions were independently and carefully made. Following the recommendations of the royal commission, the decision about whether to prosecute on the basis of evidence referred by the OSI is a matter for the Director of Public Prosecutions. It is a fundamental principle in all jurisdictions that prosecutorial decisions are made independently of the government. While agencies such as IBAC and WorkSafe possess the legislative authority to bring serious criminal charges, in practice they never do. Rather, they refer the decision on whether to prosecute to the DPP. This recognises that as investigators they are too close to the evidence to be objective. This is appropriate, as it ensures prosecutorial decisions are reached independently and objectively. It would not be appropriate for the government to insist on prosecutions that have no prospect of success or to use legal proceedings as political theatre. In this case the DPP conducted a thorough evaluation of the evidence provided by the OSI. Her rationale is extensively documented in her response to the special report submitted by the former Special Investigator.

In summary, the DPP, along with the chief Crown prosecutor and an additional Crown prosecutor, meticulously assessed the evidence and concluded there were no reasonable prospects of a successful prosecution. This determination was founded on factors such as gaps in the available evidence, the reliability of potential witnesses and legal restrictions regarding admissible evidence. In fact the royal commission had already anticipated this, noting that:

> Even if there is sufficient evidence to bring charges, the DPP's decision may be difficult. These events occurred long ago. Records may be incomplete and memories may have faded. Ms Gobbo was encouraged in her behaviour by police and now lives in fear of being murdered. The current and former officers acted within what Victoria Police accepts was a failed system …

Demanding the pursuit of a trial, incurring significant costs to the taxpayer without reasonable prospects of success, is at best a political manoeuvre. It looks like it is designed to draw attention away from the opposition's perhaps lack of ideas, lack of policies and lack of solutions.

It is also important to note that without this bill, records security would be at risk, legal obligations may not be met and pointless expense will be incurred. With the Office of the Special Investigator having completed its unique work, it is essential to dissolve the office to safeguard the security of highly sensitive records and prevent incurring additional costs that offer no public benefit. If the bill does not take effect by 1 February 2024, the security of the OSI records will be compromised because there will be no legal custodian of these documents. Furthermore, the appointment of a new Special Investigator is required, as without one the OSI cannot fulfil its remaining obligations. This could result in unacceptable delays and increased costs borne by the public and potentially hinder individuals with legitimate claims.

There are also additional wasted costs to consider, including expenses related to employees, IT support and the storage, protection and maintenance of records. Also, delays in accessing OSI documents for legal proceedings could incur further costs. Importantly, all of these potential expenses would serve no public benefit. This is precisely because the OSI is not currently conducting any investigations, nor does it anticipate doing so in the future. To conclude, ultimately the recommendation to wind up the OSI was made by Justice Nettle himself, underscoring the importance of proceeding with the dissolution of the office.

**Ryan BATCHELOR** (Southern Metropolitan) (11:03): I am very pleased to rise and speak on the Special Investigator Repeal Bill 2023, which is legislation the government has brought before the Parliament to repeal the Office of the Special Investigator, which was established in the wake of the Royal Commission into the Management of Police Informants, which arose because of what is undoubtedly one of the more scandalous chapters of Victoria's police and legal history, the Lawyer X scandal. That is an appropriate term to use, and it was undeniably a period that everyone involved in law enforcement and the legal community in this state should reflect on for a long period of time. It is certainly of such importance that we had a very, very significant decision, following extensive consultation and contemplation, I should say, from the High Court, which was released in early December 2018, and an exceptionally swift response from the government at the time to recognise the severity of the matters that were outlined in the High Court's decision and the wideranging implications that may have for the criminal justice system but also for individuals contained therein.

Very swiftly in December of 2018 the government announced the establishment of the royal commission. The royal commission commenced at that time, and as my colleague Ms Ermacora has outlined quite extensively – and I will not go through and repeat all of the numbers – it heard significant evidence from a range of sources over the course of its deliberations, and its final report in November 2020 outlined what were undoubtedly and subsequently recognised by the Supreme Court and Court of Appeal as miscarriages of justice that occurred for individuals, and many of those individuals have pursued their rights, as they should, in the courts.

The question before us today though is whether it is appropriate now to follow the advice of the Special Investigator and wind up the Office of the Special Investigator. The bill seeks to repeal the Special Investigator Act 2021, which was passed by this Parliament just two years ago, and to disband that office. And the central contention in the debate today and the positions that the opposition have been advocating essentially come down to the question of what is an appropriate structure for prosecutorial decision-making in this state. I think it is an important point of principle that we actually should spend some time debating, because we have acknowledged and we do acknowledge the absolute scandal that was Lawyer X, the seriousness with which the government took the conduct and the allegations contained therein and the speed with which we moved to set up the royal commission and then the Office of the Special Investigator, and we are now at a point where a series of eminent and independent lawyers, former justices and prosecutors have assessed all of the material that has been put in front of them and have made independent professional decisions.

What we are seeing in the course of this debate today is a wholesale questioning of the independence of that decision-making, and that worries me a lot. And that, I think, is one of the more important things that we have got to address in the course of this debate – whether it is appropriate for members

of Parliament, for the Parliament, to be second-guessing the independent prosecutorial decision-making of a system that was established on the basis of independent recommendations and supported unanimously by this Parliament less than two years ago. That is what we have got. The conduct critiqued here by the contributions of members opposite is that they do not agree with the decision of the Director of Public Prosecutions that there was not a reasonable prospect of success in criminal charges being brought against those that were investigated by the Office of the Special Investigator arising out of the royal commission, and they are angry at that decision and they want it overturned somehow. And all we have seen is a kind of floundering set of arguments from those opposite grasping at outrage rather than upholding important principles of independence of prosecutorial and judicial decision-making, which are at their core fundamental to our democracy.

The reasoned amendment moved by Mr Mulholland seeks to effectively oppose the bill and, in its words, 'ensure that those responsible for the Lawyer X scandal are held to account' – which is a big set of words but does not have a lot of meaning behind it other than an implication that somehow the Parliament or the executive should sit in judgement on alleged criminal offenders, which is not a principle that our democracy has been based upon ever and as a principle is something that we must always reject – that it is up to politicians to decide when crimes should be prosecuted, or it is up to politicians to decide who is guilty or not. Never, ever is that appropriate in our democracy. Even if the circumstances make us feel a little bit uncomfortable, even if after a significant scandal and extensive period of investigation, with however many hours of questioning and however many thousands of tapes we have got, it should be up to independent officers to be making their independent decisions about prosecutions, not politicians, because if we go down that path it only goes to bad places. In all circumstances, even those that might make us feel a little bit uncomfortable, we think that is a principle of our judicial system that we must uphold, so I do not support the reasoned amendment moved by Mr Mulholland. In fact I think we need to reject it in the strongest possible terms.

I also want to make just a few comments about some of the other contributions that have been made in the debate. Mr Mulholland said – and I could not tell from listening whether they were his words or words that he was quoting from another – that the decision not to prosecute by the DPP was 'not a good look'. Again I am a little worried by the use of that phrase in the context of making decisions about who should be prosecuted or not, because I do not think that the test for whether someone should be prosecuted for a crime is whether or not it is a good look.

**Michael Galea**: Or a politician says so.

**Ryan BATCHELOR**: Or whether a politician says so or repeats the words of someone else who says so, because that is not the standard by which our criminal justice system should operate. It should not be decided on whether it is a good look or not.

The other thing that I am a little bit worried about is some comments that Ms Bath made in her contribution saying that – we will come to the question – more work needs to be done. I might come back to that. But she made the comment that there needs to be a refresh of the DPP's perspective, and the reason I take issue with that is I think it is very chilling for the Director of Public Prosecutions to have a member of Parliament stand up and seek to refresh their perspective on their independent prosecutorial decision-making. I think it is beholden upon others in this debate to refute the implications of what those opposite have been saying, to defend the independent decisions of the Director of Public Prosecutions and to say that we are not in her shoes, we do not have her expertise, we do not have her independence and we should not be the ones that should be casting judgment on how she exercises those decisions.

What we should be doing is respecting the independence, and I say that because these decisions about prosecutions arising from the Office of the Special Investigator did not just occur because the DPP thought it was a good idea, the Premier thought it was a good idea or the Attorney-General thought it was a good idea. They came about because of a law. They came about because the procedure for determining who should be prosecuted out of the investigations of the Office of the Special

Investigator, arising out of the findings and the recommendations of the royal commission, was established by law. It was not the Premier who made the decision, as Ms Bath seemed to be alluding to in her contribution. In fact it was the Parliament that decided in a law that prosecutorial decision-making arising in these circumstances would be handled by the DPP.

What is more interesting, I think, than just the fact that it was a law, a bill that came before this chamber less than two years ago, is that at the time the opposition did not have a problem with it at all. They did not have a problem at the time with the recommendation of the royal commission that said, 'Actually, having weighed up all of these issues, having weighed up how this should be advocated, we believe that after the Office of the Special Investigator have completed their task a decision about prosecution should be made by the DPP.' That was the recommendation of the royal commission. That was the recommendation that was tabled and considered, with thoughtful consideration given to the way that this should be taken forward, and it was the recommendation of the royal commission that the government adopted and brought to this place in November 2021.

I appreciate that Dr Bach is in the chamber to hear this contribution, because he spoke on that legislation to establish the Office of the Special Investigator on 19 November 2021 that contained the very arrangements that his colleagues today stand up and criticise. 'And what was his position on the bill at the time?' I hear you asking in the chamber. 'I would love to know.' I do not have the time to go through all of it, but I think one phrase sums it up. Dr Bach said in that debate, 'We wholeheartedly support this bill.'

Having had the opportunity to read the recommendations of the royal commission, Commissioner McMurdo, having very thoughtfully considered the question of who should have prosecutorial discretion arising out of the Office of the Special Investigator, decided in her recommendations that decision should be made by the DPP, largely because the Office of the Special Investigator often is too close to the conduct of these investigations and also may be exposed to and influenced by inadmissible evidence, and that it was important that there be an arms-length decision about charges being brought, and that is what this Parliament considered less than two years ago with the wholehearted support of the opposition. So to see them today stand up and say for inexplicable reasons that somehow the prosecutor got it wrong and the DPP needs to 'refresh her perspective' is an attack on the independent operation of our prosecution service which we should not allow to stand unremarked upon. That is the path the opposition is going down in the conduct of their debate on this bill.

There is no denying the Lawyer X scandal was an absolute scandal. It deserved a royal commission. It deserved investigation. But it does not deserve the kind of politicking and undermining of our judicial system that we are seeing from those opposite today. That does no-one any good.

**John BERGER** (Southern Metropolitan) (11:18): Today I rise to contribute to the debate on the Special Investigator Repeal Bill 2023. This bill pertains to the Office of the Special Investigator, an independent statutory body established in the wake of the Royal Commission into the Management of Police Informants, as was recommended by the Victorian government. The bill will repeal the Office of the Special Investigator whilst also introducing transitional mechanisms to ensure a smooth transition for the Office of the Special Investigator. Before discussing the royal commission that led to the creation of the substance of this bill, I would like to begin by commending the outstanding performance of the Office of the Special Investigator in their efforts to achieve an outcome for the Victorian people to restore faith in the Victorian justice system. I would also like to commend the Victorian police for their cooperation with both the royal commission and the Special Investigator and their dedication to seeking an outcome favourable for the Victorian people.

Additionally, I would like to commend the work of the relevant government and judicial agencies and their commitment to achieving outcomes for the Victorian people. These organisations include the Independent Broad-based Anti-corruption Commission, the Victorian Inspectorate and other relevant bodies. Finally, I would like to commend the past and ongoing work of the relevant ministers in this field, including the Attorney-General and several ministers for police, including my good friend

Minister Carbines in the other place. The legislative attention that this matter has received is proof that the Allan Labor government is a government dedicated to promoting the law in this great state. The OSI was integral in the recommendations of the Royal Commission into the Management of Police Informants, which I will go into more depth on later.

The Office of the Special Investigator was established as an independent statutory body to investigate any criminal conduct or breaches of discipline that may have related to or resulted from the use of Lawyer X, or Nicola Maree Gobbo, by the Victorian police. The strides made by the Special Investigator, whilst no small feat, were not a solo task. There are a team of people and cooperative organisations that I believe should be commended for their roles in the functioning of the OSI. First, I would like to acknowledge those who worked on the royal commission that set this entire ball rolling. The report by the Royal Commission into the Management of Police Informants will change our state for the better. The Royal Commission into the Management of Police Informants showed the Victorian government and people the far-reaching effects of the use of Nicola Gobbo, a criminal barrister who acted as a police informant.

Despite the ethical and disciplinary implications of such an act on behalf of both police and Gobbo from a lawyer's use as a source, the royal commission found that Victoria Police's use of Nicola Gobbo as a human source and other subsequent implications of this within the Victorian justice system were quite far reaching and detrimental. The establishment of the Office of the Special Investigator was a key recommendation from the royal commission as an effort to address the implications and further investigate paths to solve the problems presented in having used Gobbo as an informant. The royal commission also made several other recommendations, 54 of which were directed to the Victorian government and 41 to Victoria Police. Recommendations were also directed to other relevant organisations. I know the Allan Labor government is committed to the implementation of these recommendations to ensure that we maintain fair and equitable judiciary systems here in Victoria.

This includes the Human Source Management Bill 2023, passed earlier this year to address the key recommendations on the management of human sources within our judiciary system. Changes have also been made to reporting, record management, disclosure, oversight and regulation of professionals in the legal system. A simple explanation of the government's response to and implementation of the Royal Commission into the Management of Police Informants recommendations shows our dedication to the royal commission and our ongoing commitment to ensure the justice system in this great state maintains the principles of fairness, equity and, well, justice. Other recommendations made to the Victorian government include the introduction of stricter laws where needed.

This bill is straightforward. The bill seeks to repeal the Office of the Special Investigator following the conclusion of its work, including winding down the statutory authority and removing the statutory role of the Special Investigator. Primarily, it removes the Special Investigator Act 2021, also known as the SI act, from Victorian law, while making provisions in other acts to ensure the smooth continuation of mechanisms that ensure the investigations otherwise conducted by the Office of the Special Investigator. The decision to repeal the Special Investigator was come to in cooperation with the Office of the Special Investigator, acting on the advice of Mr Geoffrey Nettle AC KC. The Allan Labor government has begun to take steps to finalise operations of the Office of the Special Investigator and transition the office's responsibilities to other judicial bodies. The bill has been constructed through thorough consultation with the relevant key stakeholders, including the Public Record Office Victoria, the Victorian Inspectorate, IBAC, Victoria Police and of course the Office of the Special Investigator itself. The decommissioning of the Office of the Special Investigator will be a transitional process to ensure minimal disruption of proceedings.

The importance of that commitment to achieve a fair and equal justice system is something I am sure all of us in this place agree on. Whilst there may no longer be a need for the Special Investigator, many of its roles and responsibilities could be conducted in other government agencies to ensure the delivery of a fair and right Victoria. This includes the adoption of the role of accepting complaints being taken by the Victorian Inspectorate. It is of course essential that Victorians have an avenue to report issues

in relation to those being investigated by the Special Investigator. Complaints from the OSI and former OSI officers will be diverted to the Victorian Inspectorate. In the same vein, the responsibility of the Office of the Special Investigator to investigate matters in relation to Victoria Police will be returned to the Independent Broad-based Anti-corruption Commission, or IBAC. The IBAC will revert to being the primary agency responsible for investigating complaints.

Additionally, the responsibility of overseeing the maintenance and protection of records and documentation held by the Office of the Special Investigator will be transferred to the Public Record Office Victoria. Another key aspect of this bill will be the provision and the continuation of several protections to those who served in the Office of the Special Investigator and those who assisted in the investigations conducted by the Office of the Special Investigator. These special protections were of course included in the initial Special Investigator Act 2021. These protections exist by way of several punishable offences, the first being an offence of sharing, disclosing or using information acquired by and held by the Office of the Special Investigator. This is to ensure the protection of those assisting the Office of the Special Investigator and providing information, as well as information itself that has been provided.

On the same theme of information sharing, the offence of current or former OSI staff disclosing information provided to or by the Office of the Special Investigator without the expressed authorisation of the Office of the Special Investigator will be retained as a crime. This is also to protect the information provided by the Special Investigator and subsequently in other cases of people who provide the OSI with that information. Finally, the offence of causing and/or threatening harm to those who are assisting the OSI currently or who assisted former officers of the OSI or other specified people was essential to the proceedings of the Office of the Special Investigator and will continue to be essential as the responsibilities are transferred to the Victorian Inspectorate. This is to ensure that no individual is dissuaded from assisting Victorian agencies investigating potential breaches of discipline or criminal conduct. People assisting in the investigation of this matter and others are brave and upstanding citizens, and their bravery should be recognised through the confidence of their protection. That is why it is important that this specific offence, introduced by the initial Special Investigator Act, be maintained in Victorian law.

It should also be noted that the bill gives provisions for the Office of the Special Investigator to operate for up to 18 months – about a year and a half – if need be to ensure the continuation of the OSI for as long as it is needed. Following this, all equipment and responsibilities will be transferred to the relevant bodies. To achieve this this bill seeks to amend several acts. Of course primarily it will repeal the Special Investigator Act 2021 and also repeal amendments to other acts made by the SI act, including the Independent Broad-based Anti-corruption Commission Act 2011, the Police Informants Royal Commission Implementation Monitor Act 2021, the Public Interest Disclosures Act 2012, the Public Administration Act 2004, the Surveillance Devices Act 1999 and the Witness Protection Act 1991. This will ensure that the work of the Office of the Special Investigator is not wasted, and that way we may continue forward as a state having built from this royal commission a justice system that Victorian people can believe in.

This bill marks a new page in Victoria's history as we continue to ensure future pathways to investigate breaches of discipline. The recommendations of the royal commission are clear, and I want to reiterate them for the public record and associate myself with their findings, as the commission recommended the decision about whether to prosecute on the basis of evidence referred by the OSI is a matter for the Director of Public Prosecutions. As we know, it must stay so – that professionals' decisions are made independent of government in all jurisdictions – as is appropriate and as is right. As I said two weeks ago, the separation of powers is the foundation of our system of government. We know that there are agencies in government and outside of government, like IBAC and WorkSafe, which have legislative power to lay serious criminal charges, but in practice they never do. Instead, they refer the decisions on to appropriate bodies like the DPP in recognition that in those investigations they are too close to the evidence to be objective. That seems right to me, and it seems entirely appropriate. It is critical that

these decisions are made independently and objectively. It would not be appropriate for the government to insist on prosecutions that have no prospects of success, to insist on a show trial for political theatre. We are not about that on this side of the chamber. I would like to keep to the facts and give the chamber the dignity this office and this place deserve.

The DPP carefully considered the briefs of evidence provided by the OSI, and her reasoning is detailed in the response to the Special Investigator special report. I will not rehash those details here, but in short the DPP along with the chief Crown prosecutor – as some may have previously said in this chamber, His Majesty's most loyal chief Crown prosecutor – and an additional Crown prosecutor carefully considered the evidence and determined that there were no reasonable prospects of prosecution being successful. This assessment was based on the gaps in the available evidence, the reliability of potential witnesses and legal limits on what evidence is admissible. I want to add a quote that was noted by the royal commission:

> Even if there is sufficient evidence to bring charges, the DPP's decision may be difficult. These events occurred long ago. Records may be incomplete and memories may have faded. Ms Gobbo was encouraged in her behaviour by police and now lives in fear of being murdered. The current and former officers acted within what Victoria Police accepts was a failed system …

It would be silly to insist that a trial be pursued. Insisting that a trial be pursued at significant cost to the taxpayer without reasonable prospect of success is a political stunt at best.

In conjunction with other bills that have been passed in recent years, including the Human Source Management Bill 2023, we are strengthening our legislation. I would like to again commend all those involved in the creation of this bill, from the ministers to the Special Investigator himself. This bill will ensure that fairness and equity is achieved in the Victorian judicial system.

To wrap up, the OSI has completed its work. Prosecutorial decisions will be independently and carefully made. Without this bill, records security will be put at risk, legal obligations may not be met and pointless expenses will be incurred. The purpose of this bill is indeed to dissolve the office, preserve the security of highly sensitive records and prevent additional costs from being incurred for absolutely no public benefit. If the bill was not to occur by 1 February next year, in just a few months time the security of OSI records would be impacted, as the reality is nobody would have legal custody of them.

The bill must be passed for the good governance of our state. Without it another Special Investigator would need to be appointed, which is absurd, as their role and function has been fulfilled. This would just be a waste of money. It would lead to new costs for no function or station: unnecessary IT support costs and costs for storing, protecting and maintaining those records. There could be costs associated with delays in proceedings where access to OSI documents is required. That is why Justice Nettle himself recommended that the OSI be wound up, and that is what must be done. All assets, property, liabilities, rights and obligations held by the OSI will transfer to the state to be managed by the Department of Justice and Community Safety, providing the necessary protections for former OSI officers who have done diligent work in their previous stations and roles. I commend the bill to the house and urge my colleagues to vote in support of it.

**Michael GALEA** (South-Eastern Metropolitan) (11:32): I also rise today to speak on the Special Investigator Repeal Bill 2023, and I note that I believe I am the fourth government speaker in a row on this bill. I am not sure if the opposition members – particularly perhaps after the contributions of Mr Mulholland and Ms Bath, which were quite reckless in nature, as my colleague Mr Batchelor referred to – are recoiling in embarrassment and do not wish to continue participating in this debate. I suspect if they were to recoil in embarrassment, they would probably have to have a level of self-awareness which frankly I do not have the confidence that they actually have. We may yet see a further contribution from members opposite, we may not, but I do wish to reflect on Mr Batchelor's remarks, which were very prescient and went to the point of the irresponsibility of any member of this place or of the other place across the hall in giving lectures to interfere with the prosecution process.

We do have a very solid system based on very important Westminster principles. Those opposite often like to lecture us that they are the bastions of Westminster traditions and archaic terms, but one of the most fundamental Westminster principles is that separation of powers. I am sure that the good Dr Bach will be able to immerse himself perhaps firsthand in those processes when he very regretfully leaves our good place and heads across to the motherland, as we might call it. I know he intends to pursue a career in education, but I will keep a tab open on the BBC and British Sky News to see if we do see him popping his name forward for preselection or as a candidate over there. I suspect I will be eagerly awaiting that, and I look forward to seeing that happen. Anyway, I do digress.

This bill will provide a legal framework to secure susceptible records. It will maintain compliance with our legal obligations. It will also avoid us incurring unnecessary expenses. It reflects our ongoing commitment to transparency, accountability and the responsible management of public resources. This bill marks a critical moment as we seek to consolidate the significant work that was undertaken by the Office of the Special Investigator, better known as the OSI, in addressing historical police misconduct and upholding the values of justice and of accountability. The OSI has played a critical role in a complex investigation to address historical police misconduct. With its work the OSI has successfully upheld the principles of justice and accountability that are so fundamental to those Westminster traditions. This bill acts as a logical next step following the completion of the office's mandate.

A significant concern which is addressed by this bill is the protection of the records which the OSI has accumulated over the course of its investigation, somewhere in the realm of, I understand, 10 million records, many of which are of course highly confidential, including relevant information from the Royal Commission into the Management of Police Informants – as Mr Batchelor referred to earlier, the McMurdo royal commission; Independent Broad-based Anti-corruption Commission, IBAC, records; and witness protection records, as well as of course records from Victoria Police. These records are protected by statutory secrecy provisions, privilege claims and various other legal obligations, and this bill will ensure that these records will be transferred to the Department of Justice and Community Safety, thereby guaranteeing the security and proper management of this information.

Failing to provide a legal framework to dissolve the OSI would result in numerous unnecessary costs as well. Without the measures which have been included in this bill, which those opposite apparently oppose, we would need to incur further expenses for employees, IT support, storage, protection and various other aspects related to the maintenance of those records. Additionally, appointing a new Special Investigator would lead to further costs and potential delays in proceedings that require access to OSI documents. This is an important consideration for us to take into account, especially given that the OSI is not currently pursuing any investigations, nor does it expect to do so in the future.

I also note that a recommendation given by Justice Nettle in his role as the Special Investigator was to wind up the OSI. Justice Nettle highlighted the need to avoid such unnecessary costs and the potential legal complications which would have arisen from the lack of a clear legal framework to manage the OSI's assets, liabilities and other obligations. So this bill responds to that recommendation directly and provides a clear and practical outcome to dissolve the OSI in a manner which is appropriate and to ensure that there is no further unnecessary cost.

As we transition the operations of the OSI to a new phase, we must have a transparent and efficient process for those assets, property, liabilities, rights and obligations that the OSI has to the state. This transfer is essential to ensure that the important work of the OSI is not lost but rather continues to contribute to the work of our justice system. The Department of Justice and Community Safety will be crucial in managing these transferred assets and obligations, with that department, the DJCS, having the necessary expertise and resources as well to handle those complex tasks and to ensure that they are executed effectively and efficiently. The transfer is also essential to ensure access to justice and legal redress for those affected by matters which were handled by the OSI. By preserving the records and the outcomes of the OSI's work we are safeguarding the rights of individuals and ensuring that they do have the necessary information and resources to seek legal redress if that is what they wish to

pursue. This is also a critical aspect of upholding the rule of law and ensuring that justice remains accessible to all.

As previously mentioned, the OSI holds many records crucial to understanding and learning from our past. These include investigative reports, witness statements, legal documents and other materials essential for ensuring accountability and transparency. Having already mentioned the Department of Justice and Community Safety, I note that the Public Record Office Victoria will also have a role to play, which will be crucial in managing and protecting these records. DJCS will be responsible for overseeing the transfer of assets, including records, from the OSI to the state, ensuring that they are preserved and continue to be accessible for future generations. As any one of us would expect, the handling of these records requires a strict adherence to proper processes, legal obligations and security clearances. This is necessary to protect the integrity of the information which is contained within these records and to prevent unauthorised access or disclosure, so this bill serves to meet those obligations and ensure that there is a clear set path for that to happen.

The initial Special Investigator Act 2021 also provided former OSI officers with the necessary protections to perform their duties effectively without fear and without legal ramifications. These protections are integral to the integrity and the functionality of the OSI, ensuring that officers can carry out their responsibilities appropriately in the pursuit of justice. One of the key protections granted to OSI officers under the original SI act is the legal immunity for acts or omissions made in good faith while performing their duties. This legal immunity is essential, as it allows officers to make necessary decisions without fear of legal repercussions and fosters a culture of accountability and integrity within the OSI. This bill seeks to preserve these critical protections, ensuring that former OSI officers continue to receive the support they need to perform their duties effectively.

In addition to the legal immunity afforded, the SI act outlines specific offences and penalties for anyone who causes harm or threatens to provide harm to OSI officers or those assisting the OSI. The penalties for such offences are rightly significant, including a maximum of 1200 penalty units or level 5 imprisonment, which is a maximum of 10 years imprisonment, or both. These stringent penalties remain and are a clear demonstration of the seriousness with which the law treats any threats or harm directed towards OSI officers or those assisting them. The continued operation of these offences and penalties will ensure the ongoing safety and protection of those former OSI officers and those who have provided that valuable assistance during the course of their work.

The Victorian Inspectorate also plays a crucial role in providing independent oversight to ensure that public officials, particularly those with significant powers such as the OSI, are held accountable for their actions. This remains a fundamental aspect of maintaining public trust and accountability within our system, and this bill also recognises the importance of this oversight by extending the powers of the VI to manage any remaining complaints about the OSI or former OSI officers to the Victorian Inspectorate. Specifically, the inspectorate will have the authority to receive complaints for a further six months following the repeal of the SI act. The inspectorate will also be able to investigate those complaints for up to 18 months and make recommendations for up to 24 months. This extension of powers will ensure that there is a robust mechanism in place for addressing any residual issues or complaints that may arise even after the OSI itself has been decommissioned. In addition to these extended powers, the inspectorate will retain access to OSI records to support its investigations. This is critical to ensuring that the VI has all of the necessary information to conduct thorough and comprehensive investigations if it is required to do so. Moreover, they will have the authority to make those recommendations to other integrity agencies for further investigatory or enforcement action. This is also an essential impact of ensuring that any remaining issues can be fully, robustly and properly dealt with.

The SI act, the Special Investigator Act, from two years ago has had far-reaching implications, including influencing various facets of the legal and regulatory framework in Victoria. It has amended a range of legislation to establish the OSI and to ensure it possesses the necessary powers and the ability to collaborate with other integrity agencies to achieve its purposes. Furthermore, the Witness

Protection Act 1991, Surveillance Devices Act 1999 and various other acts will be amended, as well as, I believe, the Public Interest Disclosures Act 2012, as appropriate to ensure that there is continuity, as I have talked about, but also to ensure that as these are put in place that will be afforded. For these reasons and for those expressed by my colleagues on this side of the house, who have been willing to participate in this debate, I will conclude my remarks there and commend this bill to the house.

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (11:46): I have got a few remarks in relation to the Special Investigator Repeal Bill 2023. At the outset, it is frankly a very straightforward bill. It does all the necessary things to wind up the Office of the Special Investigator in good order now that its work has been completed. The bill will make sure that critical records remain protected, legal obligations will be met, former staff will remain safe and public money will not be wasted funding an agency whose job is now done. The reason we are winding up the OSI is that, as I have indicated in my opening remarks, the work is finished. It is why the former Special Investigator Justice Nettle recommended in his special report that the office be wound up.

The bill is not, as has been suggested in the other place and at times this morning, a way to sweep the matter under the carpet – it is anything but that. It is this government that established the Royal Commission into the Management of Police Informants. I was bemused by Mr Mulholland's remarks that this is a government trying to sweep matters under the carpet. He may not have had the pleasure of reading the 1000 pages within the four volumes and the summary. Hopefully he has read the summary, because that is a good overview of the four volumes that I had to get through in my first couple of weeks of being appointed to the Attorney-General portfolio. But these are hardly the actions of a government trying to sweep matters under the carpet. We are a government that committed to implementing every single recommendation directed to government, and we are following through with that commitment.

I note that those opposite now have strenuously opposed at least two clear recommendations of the royal commission and yet claim to be the ones behaving appropriately and in the public interest. Why is it that that those opposite somehow know better than – a word that has been used a lot in this debate I think – an eminent and highly respected royal commissioner who spent hundreds of hours listening to evidence and considering documents? The government set up the OSI with all the powers recommended by the commission to perform all the functions recommended by the commission. The government also appointed an independent implementation monitor Sir David Carruthers, as recommended, and his advice is that all recommendations relating to the work of the OSI have been acquitted. He specifically advised me that there has been sufficient acquittal of those recommendations to allow me to follow the recommendation of the Special Investigator himself to wind up the office.

Opposing the orderly wind-up of the OSI does not mean that there will be more investigations. It does not force more briefs of evidence or increase a greater chance of prosecutions. The OSI is currently not subjected to a repeal bill, but they are not currently pursuing any investigations and they do not have any intention of pursuing more investigations in the future. We have reached the end of the line here. It is the full stop. The royal commission did not consider there was enough evidence to lay charges. Five years before that, IBAC found there was not enough evidence to lay charges, and now the DPP has considered the briefs compiled by the Special Investigator and found there is not enough evidence to lay charges. But the opposition wants us to keep forum shopping. They want a different prosecutor to make the decision. They want an interstate prosecutor brought in to see if they can be pressured into taking a different position. They want anyone who will give them the answer they want to make the decision they want. What the government wants is proper process to be followed and for public monies to be expended reasonably. There is absolutely nothing in my comments that go to anything other than a full condemnation of police actions. But to put that aside and just try and get an outcome of something that you think is inappropriate and put all proper process aside is completely improper, and it is improper to suggest it. The opposition are ultimately seeking a waste of public money on a show trial. We know there are no reasonable prospects of success, and that is what their opposition to this bill is all about.

I want to comment on the opposition's reasoned amendment. It specifies that they want people to be 'held to account'. There is no explanation of how that might occur. We already know that four of the state's foremost and most highly qualified prosecutors have considered the issues and determined that there is no reasonable prospect of successful criminal prosecution in matters that have been investigated to date by the OSI. So how do the opposition propose we are going to hold them to account? Are we going to hold trials that have no reasonable prospect of success? And when there are no convictions, then what? What is the next step that they are proposing? Are they really advocating that we suspend the rule of law and somehow punish people outside established criminal law?

Ultimately, the former Special Investigator Justice Nettle recommended that the OSI be wound up, and the government has accepted that advice. All that opposing the orderly wind-up of this organisation will achieve is wasting public money to appoint and pay a new Special Investigator and staff to meet ongoing operational costs, including for IT and records management, and it will also mean the security of critical OSI documents will be impacted. This is because from February 2024 no agency will have legal custody of them without this act being repealed. All of that, and there is no obvious public benefit. I also note that winding up the OSI does not actually close the door on future action. If in any instance there is new or compelling evidence that emerges, IBAC will be able to consider it and take appropriate action.

I want to touch on some of the commentary that has been made about where the prosecutorial decision sits and how that has been made. The royal commission specifically considered whether the OSI should be able to lay charges directly, and it fundamentally and appropriately, when you look at past practice, rejected that idea and considered that it was not appropriate – one of the recommendations of the royal commissioner that the opposition finds quite inconvenient. They have ignored it actually; they have not spoken about the fact that the royal commission actually recommended this is the way that the body is set up in relation to the process for considering prosecutions. The royal commission recommended that the prosecutorial decision-maker be separate from the investigator because the investigator would have access to non-admissible evidence that might colour their decision.

Independence is critical. The decision-maker's job is to consider the evidence and assess the prospects of securing a conviction and to consider whether laying charges would be in the public interest and a good use of public money. It is not the decision-maker's job to charge people just because there are advocates in that respect. The importance of prosecutorial independence is recognised by other agencies that have the power to lay charges, from IBAC to WorkSafe. Something else that the opposition have conveniently ignored is that they all defer their advice to the DPP when considering whether to lay criminal charges is appropriate or not. The separation of investigative and prosecutorial roles is now well recognised in all jurisdictions around Australia. As I mentioned in relation to IBAC, some time ago they established internal procedures to guarantee clear and independent decision-making when it comes to decisions about major criminal matters. So IBAC do not take on their own decisions about prosecuting; they defer to the DPP.

I would remind the house of the very unfortunate Queensland case dating back to 2017 that led to the failure of prosecutions of 28 Logan city councillors in 2019. The Queensland Crime and Corruption Commission was led by an eminent senior counsel, and an attempted prosecution ended up being thrown out at committal stage after they took the decision to prosecute after running their own long investigations into the matter. A subsequent opposition-led bipartisan parliamentary inquiry was scathing of the commission and highlighted the total inappropriateness of the investigators unilaterally also making decisions about prosecutions based on their own work. They formed a view on that experience and came up with a recommendation that the involvement of the DPP in decisions on prosecutions should be the appropriate course of action. I commend that report to those opposite.

The opposition have also alleged entirely unsubstantiated conflicts of interest. They have claimed that because the DPP and Office of Public Prosecutions work with Victoria Police regularly they are all conflicted in any matter involving police. It is a ridiculous notion and one that completely misunderstands the role of the prosecutor. The OPP do not act for the police. They do not act for

victims or any other person. They are independent and act for the Crown in the public interest. As the DPP has pointed out in her statement, they regularly prosecute matters in which the accused are police officers, and the OPP certainly independently has strong conflict of interest policies in place.

There have also been suggestions that the DPP is conflicted in relation to former commissioner Simon Overland, despite never having met or exchanged correspondence with him. This is not about a conflict of interest. The opposition and a couple of regular commentators have outrageously and misleadingly alleged a conflict of interest that simply does not exist. They have tried to create a perception of a conflict of interest for reasons that I just cannot fathom. In effect they have sought to call into question the integrity of the DPP and her senior colleagues. I think Mr Mulholland started his contribution today by calling out shameful behaviour. It is shameful for the opposition to attack the DPP. The people of Victoria have a right to expect better from those in this place. They have sought to bring the most basic foundations of the criminal justice system into question for political pointscoring.

I am not alleging a conflict of interest, but no-one has actually drawn a similar bow to what they are trying to do with the DPP having a loose association with Victoria Police. No-one is calling into question a conflict of interest in relation to the former Special Investigator, who was a member of the High Court that concluded that Victoria Police was guilty of reprehensible conduct or atrocious breaches. Justice Nettle had considered and formed a view on these matters as a judge of the High Court. No-one is alleging that Justice Nettle had a conflict of interest, and I certainly am not doing that either. But throwing around conflicts of interest by virtue of someone's association with an organisation I think is inappropriate, and you are picking and choosing when to do so. In relation to perceptions of conflicts of interest with Mr Nettle, I considered that at the time of his appointment and still considered him to be an appropriate person to perform the role of Special Investigator, and I certainly stand by that decision today. Those opposite say that they are concerned about perceptions of conflict, but because they see some misconceived political advantage, they are able to turn a blind eye to a narrative that is not consistent with their objectives.

I am concerned about the blatant undermining of the DPP. It is unworthy and frankly unforgivable. I take it that the Shadow Attorney-General is quite convinced that he will never be in the role of Attorney-General, because it is untenable to be an Attorney-General that attacks the DPP. The opposition have also tried to misrepresent the careful weighing of evidence publicly outlined by the DPP. They have glossed over the fact that the decision was made carefully by not just the DPP but a panel including the DPP, a Crown prosecutor and a chief Crown prosecutor.

The opposition have also suggested that the decision was made purely due to the passage of time. I assume from the commentary of the only two opposition speakers that that is what the speaking notes say, because they have failed to be a little more considerate in relation to –

*Members interjecting.*

**Jaclyn SYMES**: I am not saying we do not all do it; I am just saying you are doing it today. Once again your speaking notes clearly omitted the actual considerations that were detailed in the DPP's response. Picking and choosing lines to suit your purpose is disingenuous. The DPP said there were gaps in evidence. The reliability of proposed witnesses and the limits on what evidence is admissible all formed part of her reasons in relation to this matter. It also fails to acknowledge that the DPP was very reasonably not prepared to lay charges gambling on the hypothetical prospect of obtaining further important evidence which the OSI for all its work had not yet managed to acquire. The OSI worked diligently for over a year and a half to assemble enough evidence to support the laying of charges and ultimately came up short. It might not be the outcome we wanted, but it is the outcome. It is this very outcome that was actually foreshadowed by the royal commission. They anticipated – *(Time expired)*

**Council divided on amendment:**

*Ayes (16):* Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Adem Somyurek, Rikkie-Lee Tyrrell

*Noes (21):* Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

**Amendment negatived.**

**Council divided on motion:**

*Ayes (21):* Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

*Noes (16):* Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Georgie Crozier, Renee Heath, Ann-Marie Hermans, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Adem Somyurek, Rikkie-Lee Tyrrell

**Motion agreed to.**

**Read second time.**

**Business interrupted pursuant to standing orders.**

## *Members*

### Minister for Mental Health

*Absence*

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:11): Minister Stitt is away today, so any questions for her, including in her capacity as acting for ministers in the other place, can be directed to me.

## *Questions without notice and ministers statements*

### Housing

**Evan MULHOLLAND** (Northern Metropolitan) (12:11): (336) My question is to the Minister for Housing. Minister, your department has failed to present the *Housing Assistance: Additional Service Delivery Data* report for two years. This report provides a detailed stocktake of the state's public housing. The most recently available report shows that there are 5298 fewer public housing bedrooms available to the more than 65,000 families waiting for a place to call home than were available in 2017. Back then there were 160,348 public housing bedrooms available. Can the minister update the house on how many public housing bedrooms are now available?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:12): Thank you, Mr Mulholland, for your interest in social housing. I have got to say it is in fact a refreshing thing to hear someone from those benches opposite take an interest in housing as it relates to providing secure, dignified, accessible and fit-for-purpose homes for people all over the state, whether they are interested in affordable housing, private rental or indeed the social housing space, as well as of course those private sector partnerships.

Mr Mulholland, you have quoted a number of figures. I want to perhaps give you some context for the total number of tenants that we have got in public housing. As at the end of October we have got

1331 properties either in the tenanting process or the pretenanting pipeline. We have got 716 in the process of being retenanted through normal operations; 219 being released to support priority departmental initiatives and 325 undergoing necessary pretenanting actions, such as inspections, VCAT action and safety checks and repairs in line with the Residential Tenancies Act. We have also got a total number of public housing properties at 64,743 as at 20 April 2023. The total number of social housing properties, which includes, as we know, public housing, is 86,322 properties as at 20 April 2023. This is, I think, probably something that provides you with a measure of specificity around what you are looking for.

I also just want to confirm that in the mix of social housing that we are bringing online there is a recognition of the importance of providing homes that are one-, two-, three- and indeed four-bedroom in their configuration. We want to make sure that we are reflecting the way in which people live, and it is often intergenerational housing that is needed. This morning, for example, in Prahran when we talked about the ground lease model 2 and the partnership that has been entered into there, of the new social housing being brought online there in fact 17 of that total volume are four-bedroom homes. The bedroom configuration is changing. We have also seen a number of homes in the public housing stock which have actually been combined, so two-bedroom properties have actually been combined into two two-bedroom homes for larger families.

That perhaps gives you an idea of some of the examples of what we are doing. But, as part of the Big Housing Build, making sure that those dwellings and those configurations are fit for purpose is a big part of that, and that indeed reflects the community's desire to have homes in place that meet their needs now and into the future.

**Evan MULHOLLAND** (Northern Metropolitan) (12:15): Minister, you and your predecessor have been promising since May to release the current housing assistance additional service delivery data. When will it be released so Victorians can judge for themselves the progress of the government's Big Housing Build?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:15): Thank you very much, Mr Mulholland. I think I have answered a question that was not dissimilar to that from Ms Lovell. I have indicated it is my expectation that data be provided to bring all of that assessment and that analysis to the most current advice and record that we have. I also want to perhaps assure you that in the course of the $6.3 billion record investment – no other government in Victoria's history has ever invested so much in social housing – we already have 7000 homes that are either completed or in the process of being completed, and that represents a record that we will continue to build upon as we deliver more than 13,300 social homes and affordable homes around the state.

## Ministers statements: historical forced adoption redress scheme

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:17): I would like to update the house today on the progress of responding to the parliamentary inquiry into historical forced adoption practices in Victoria. Last week I had the deep personal privilege – it was an enormous privilege – of announcing the government's allocation of more than $138 million to support an Australian-first historical forced adoption redress scheme. The scheme will provide redress payments of $30,000, counselling and psychological support as well as individual apologies. Mothers affected by forced adoption practices who gave birth prior to 1990 are eligible to apply for the scheme.

I visited the *Taken Not Given* memorial in St Andrews Place, which is not far from here. If anyone has not had the opportunity to visit it, I would encourage you to do so. I was joined by mothers Jo, Carol, Glen, Sheryl and Thelma, where we discussed the scheme and the journey these mothers have come on to get to this point, including giving evidence at the inquiry, which commenced in 2019. I would like to acknowledge the difficulty in talking about such a sensitive and distressing subject and thank the women that I have met for their courage and bravery in speaking about their experiences. The cruel practices they were subjected to have had a lifelong impact, as many of the women who are affected

were very young when the events occurred. No amount of financial payment or counselling support can ever compensate mothers for the loss of their child. However, this scheme is a way to acknowledge the harm and injustices that were suffered, and it was developed hand in glove with these mothers.

We are also providing an uplift in funding for post-adoption support services, with an additional $530,000 in funding for the Victorian Adoption Network for Information and Self Help, known to many as VANISH, to support anyone who was affected by historical forced adoption practices, including adoptees. I would like to thank Charlotte Smith, the VANISH CEO, who was also present at the event at the memorial, for providing valuable reassurance and support to many people affected by forced adoption.

## Housing

**Evan MULHOLLAND** (Northern Metropolitan) (12:19): (337) My question is to the Minister for Housing. In the Department of Families, Fairness and Housing annual report Victorians are at last given a glimpse of the results of the Big Housing Build. Minister, since 2019 your government has demolished or sold on average 26 homes a week. Since the $5 billion spend on the Big Housing Build began you have only added 12 extra homes a week to the public housing stock. Minister, when will you deliver the 8200 extra homes your predecessor promised in May?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:19): Thank you, Mr Mulholland, again for your interest in the Big Housing Build and the investment of $6.3 billion to provide at least 13,300 social homes around the state. One of the things, again, that I indicated in an answer to a previous question that you asked me is the work that has happened to date. In the course of delivering on those new homes we have got 7600 homes either completed or underway, with 3000 families living in them or getting ready to move in, and we are also continuing to provide new and upgraded housing to people in regional Victoria, including those in flood-affected areas and people who need those additional housing programs to come on line.

Mr Mulholland, we have also got a really significant partnership with the federal government, and it was just this morning that I joined the Premier and federal housing minister Julie Collins in Prahran to talk about the way in which the ground lease model has taken sites, for example in Prahran, where there were previously 500 dwellings and moved them up to 1370 dwellings. We are talking about an uplift in some instances of around 20 per cent in social housing on those lots. It is also about providing opportunities for people to live in, to recreate and to enjoy community as part of broader community, and this is where when we talk about a mix of options being used for development of sites we are not only taking the needs of our social housing communities, residents, tenants and families into account but also working on private rental opportunities and on assistance for specialist disability accommodation and partnering with community housing providers, including those people who serve so well and work so hard, for example, in women's property initiative work, in the Aboriginal housing space and for people who are living with and accommodating mental illness or addiction and victims and survivors of family violence.

We have got the largest collaborative effort ever between all levels of government, and that includes $497 million through the Commonwealth government's social accelerator fund, and the Housing Australia Future Fund is a big part of that work too. I am looking forward to that work continuing and additional houses coming on line into the coming years.

**Evan Mulholland**: On a point of order, President, on relevance, I did ask when the minister will deliver the 8200 extra homes her predecessor promised in May. I am looking for when.

**The PRESIDENT**: I believe the minister was relevant to the question.

**Harriet SHING**: Every day, Mr Mulholland, we are investing in making sure that we are not only driving tens of thousands of jobs and not only driving investment in metropolitan, peri-urban, regional and rural communities but delivering housing that is fit for purpose, that is accessible, that is tenure

blind. If only you and your colleagues had taken this issue as seriously, we would not be in this situation now.

**Evan MULHOLLAND** (Northern Metropolitan) (12:23): Minister, with all the Big Housing Build money now exhausted, when can families escaping domestic violence, who are now waiting two years for a home, expect to get a safe home of their own when you are only providing an extra 12 homes a week for a waiting list more than 65,000 families long?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:24): Thank you, Mr Mulholland. I appreciate the supplementary because, in relation to family violence victims and survivors, we know that is a key driver of demand for housing and for properties at short notice. In 2021–22, 46,045 Victorians were provided with homelessness assistance after experiencing family violence. That is an increase of 50 per cent since 2012–13, and the 2022–23 budget invested $69.1 million over four years to fund existing family violence refuges, build and staff two new core and cluster refuges, upgrade three existing partner agency operated facilities and purchase six new crisis accommodation properties. We have also got more than $40 million over four years in a range of targeted housing and support measures to meet critical demand. Again, the 7000 figure that I have just referred to you now has over 800 – it is around 809, to be specific – homes that are set aside for people who are living with and escaping family violence, and the priority part of the register plays a big role in that work.

## Foster and kinship carers

**David ETTERSHANK** (Western Metropolitan) (12:25): (338) My question is to the Minister for Children and concerns the disparity in foster and kinship carer allowances. Kinship carers are the preferred model for placement of children who are unable to live with their families, particularly for Aboriginal children, and they account for roughly 70 per cent of all placements. The Yoorrook justice commissioners heard that 96 per cent of kinship carers receive the lowest level of care allowance, compared to 32 per cent of foster carers, and recommended the disparity be fixed to attract more much-needed Aboriginal carers into the system. The commissioners were assured by the Department of Families, Fairness and Housing that they would be looking at methods of getting more suitable support to kinship carers. Can the minister provide an update on what more suitable support the 96 per cent of kinship carers are now receiving?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:26): Thank you, Mr Ettershank, for your question, your interest in the children's portfolio and the ongoing dialogue from both you and of course your colleague. I note that I was absent from the chamber when she also asked a question recently in relation to children in the child protection system, so I thank you for your ongoing dialogue on these issues. Can I also begin by thanking the kinship carers, the foster carers and of course the permanent carers for the work that they do in our care services system.

I have highlighted to this house on a number of occasions now that we do obviously provide a carer allowance, which contributes towards the day-to-day needs of caring for a child. It is important to note that there is no discrepancy in the allowance itself being applied to a foster carer or a kinship carer. The allowance is indeed differentiated on the needs of the child, not the type of carer in the system. The level of funding is dependent on the age and the needs of the child, and the higher allowances are determined on a case-by-case basis based on the needs of the child and the complexity of their issues – the things that they have that require ongoing specialist support requirements. We also have other allowances available. We have a new placement allowance for level 1 allowance placements for the first six months of the child in care. We have the education assistance payment per year until a child is 18, which assists with meeting the educational needs of individual children. We also have client expenses funding, which is available to help cover the costs of other extraordinary expenses that carers, whatever type of carer they are in the system, may need. And of course we have the care support help desk, which has been a really important initiative in making sure that carers can actually access the

support they need. If they feel they are not getting the right support, they can contact the care support help desk and get the assistance that they need to make sure that they are getting the right support. That in particular has gone to issues like getting key documents such as birth certificates, Medicare cards and those sorts of things where families and carers have had trouble getting those.

In regard to the specific issue you raise around the evidence that was given at Yoorrook – and I take this opportunity to thank the Yoorrook Justice Commission for the work that they have done and for their report into child protection matters – to go to the specific reference that the Department of Families, Fairness and Housing made, there was an acknowledgement that they made and certainly that I also made at the Yoorrook Justice Commission in relation to the further work that does need to happen in regard to kinship and foster carer allowances. We have set up within the department a working group that is working on how we can better apply allowances to kinship carers, foster carers and indeed permanent carers in the system. The peak organisations are represented in that discussion as well, and I was pleased to talk to the Foster Care Association about that during Foster Care Week at an event they had in Ballarat. That work is ongoing and remains a priority, but the government are certainly considering further ways in which we can build on the range of supports and allowances that we provide.

**David ETTERSHANK** (Western Metropolitan) (12:29): Thank you, Minister, for your response. As well as generally receiving a higher allowance than kinship carers, foster carers are also eligible for additional foster care therapeutic payments. These payments must certainly assist with the financial pressures of caring for a child and would be welcomed by kinship carers, who on average are substantially poorer than foster carers. Can the minister explain why therapeutic payments are not available to kinship carers?

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:30): Again, thank you, Mr Ettershank, for your supplementary question. Just to reiterate, foster carers and kinship carers are not differentiated in relation to the payments and support services that they are provided with for the needs of the children in their care. It is based on the needs of the child and the complexity of the child that is in their care. I am not sure if you are referring to a specific program that we do have, the TFCO program. This is a very specialised model of care which is for a short period of time for particular children in care. It is a model of care that is designed to prepare that child to prevent them hopefully from entering residential care but also to provide them with really intensive specialised supports to enable them to return to either kinship care – what is commonly understood as a foster care model – or hopefully to their own immediate family. To be clear, foster carers, as they are commonly understood, and kinship carers are eligible for the same payments.

## Ministers statements: Langi Kal Kal Prison

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:31): I rise today to update the house on the newly refurbished Lonarch unit at Langi Kal Kal Prison, which I had the pleasure of officially opening last month. Langi Kal Kal is an Indigenous name that means 'the resting place of the singing cicada', which is a beautiful sentiment. The refurbished Lonarch unit will provide better support for people in custody who are ageing, have limited mobility or have declining cognitive function. This purpose-built 26-bed facility has been vastly improved, in terms of facilities for both people accommodated there but also our hardworking corrections staff. While we have reduced the number of people in custody across the state, we know there is a larger cohort of people in custody that are ageing, have a cognitive disability or have other challenging health needs.

I am particularly pleased that the refurbishment of Lonarch unit has also supported another important objective of the corrections system: providing people with employment skills so they can have the best possible chance to turn their lives around upon release. I have spoken in this chamber before about the centre of excellence and the work we are doing in partnership with the TAFE sector. The refurbishment of the Lonarch unit is a great example of putting this all into practice. Over 1500 hours

of construction works was completed by those in custody, providing them with important skills in areas such as plastering, carpentry, working at height, concreting, welding, painting and various other skills that have a practical application in our broader society.

The refurbishment of the Lonarch unit is just one example of the evolution of our corrections system to provide the best services and facilities that we can for the changing demographics of our custodial population and give them the best chance to turn their lives around.

## Housing

**Melina BATH** (Eastern Victoria) (12:33): (339) My question is to the Minister for Housing. Minister, the government has advised the building and construction industry not to use native timber hardwood varieties in design and construction of new homes, including flooring, staircases, beams, doors, windows, decking and cladding. Will the government still be able to deliver its promised 80,000 new homes per year given the lack of hardwood timber supply?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:34): Ms Bath, I am very happy to talk about social housing. Within the 80,000 homes per year for the next 10 years there is absolutely a component of social housing. The bulk of your question, though, appears to me to relate to investment within the private sector for private market housing to come online. To that end I am very happy to perhaps combine some information from Minister Brooks in the other place, who is dealing with the private market investment in that.

Just while I am on my feet, though, I do want to note that there is still significant opportunity for the investment in cosmetic and non-structural use of timber in new development. One of the examples that I just want to put onto the record is Australian Sustainable Hardwoods in Heyfield, an operation which, despite what may wish to be advanced as a narrative from certain people, was the subject of record investment from the Andrews Labor government to the tune of around $50 million. Vince Hurley, who is the CEO of Australian Sustainable Hardwoods, is really, really clear about the growth and the expansion of opportunities at that particular mill. They are putting on new workers to meet the demand associated with their world-class product.

In addition to that, I just want to also make it really clear that native timber is not used as structural timber – that in fact the vast majority of wood that is used in construction is plantation timber and that, to the extent that your question relates to cosmetic and internal fittings and use such as staircases and flooring, I am very happy to seek some information for you from Minister Brooks as that relates to private development. We do not have staircases and flooring in social housing which relates to that sort of thing. When you go to social housing as far as the developments that we are doing are concerned, it is about energy efficiency in terms of materials that are easy to clean and easy to use. The lino floor and the flooring that we have in our social homes is really intended to be as user-friendly as possible. There are not wooden staircases in these homes. Perhaps I can be of assistance to you in seeking some further information from Minister Brooks on the private development space.

**Melina BATH** (Eastern Victoria) (12:37): I thank the minister for her response, noting that hardwood timber can still be used in social housing for structural purposes. Is it the government's policy to recommend using imported hardwood from overseas, with poorer environmental standards than Australia, to ensure the promised thousands of homes are built?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:37): That is squarely within Minister Brooks's portfolio, so again perhaps you might like me to, in accordance with the standing orders, seek an answer from him to be provided to you.

*Members interjecting.*

**The PRESIDENT**: The minister's answer was that it is not her responsibility under general orders, but she has offered – and I think quite generously, because I was going to suggest it is outside the standing orders – within the standing orders to get answers from Minister Brooks.

## Water policy

**Sarah MANSFIELD** (Western Victoria) (12:38): (340) My question is for the Minister for Water. On Monday the Productivity Commission released a report on the Murray–Darling Basin plan. It identified that, of nine Victorian Murray flood plain restoration sites that form part of the state's sustainable diversion limit adjustment mechanism, none are operational, five are unlikely to be operable by June 2024 and the other four will not be operable by then. The report cited cost blowouts and poor value for money as key reasons for supply projects like these not being delivered on time. Victoria is relying heavily on flood plain restoration projects to meet its environmental water commitments. Minister, how much funding is required to deliver the nine Victorian Murray flood plain restoration sites?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:39): Thank you for that question. It is really important that I am in a position to talk today about the Murray–Darling Basin plan and the fact that we have had a report. There have been a couple of other public comments and positions taken in recent days, including by the Australia Institute and others, around the implementation of the plan. Just to be really clear, we do not do policy by polling. What we do is get out into the community and talk about delivering on the outcomes that Victorian communities want. That includes –

*Members interjecting.*

**The PRESIDENT**: Order! The person asking the question and the person answering the question probably want to be heard.

**Harriet SHING**: That includes the record return of environmental water that Victoria has achieved – more than any other jurisdiction under the agreed consensus approach that was established and bedded down in legislation in 2012 and then again by reference to the agreed socio-economic criteria in 2018. We have also seen that Victoria, as a consequence of the impact of buybacks, some 550 gigalitres, has borne significant impact and that the impact of these buybacks has resulted in harm to communities. The Frontier Economics report, which I would hope that you have read, indicates very clearly that there are around 40 per cent of job losses sustained as a consequence of buybacks, and in addition to that, when we look at the return of water to the environment across 14,000 hectares of flood plains –

**Sarah Mansfield**: On a point of order, President, the minister has not answered my substantive question, which was about how much funding was required to deliver these particular projects.

**The PRESIDENT**: I call the minister back to the question.

**Harriet SHING**: I actually do want to come back to this, because you are referring to these projects as either not viable or not being implemented or in fact not actually having the impact that is intended for them. Let us be really, really clear. When you send a vast superhighway of water down a river, you are not returning water to all of the environments across the Murray–Darling Basin. You are returning water to parts of the basin, and you are failing to take account of the way in which water moves across a flood plain. Fourteen thousand hectares is what these projects are about delivering.

**Sarah Mansfield**: On a point of order, President, it is lovely to hear an explanation of what these projects are, but I actually just asked about how much funding is required to deliver them. I made no comments on their value or otherwise.

**The PRESIDENT**: I call the minister back to the question.

**Harriet SHING**: You made no comments on their value? In fact you have. You have been in this chamber actually deriding these projects on a number of occasions, and I have an issue with that, because this is about making sure we return environmental benefit under what was agreed in the consensus approach from 2018. Come up and see the VMFRP projects as they have been delivered.

**Sarah Mansfield** interjected.

**Harriet SHING**: You have been there? Then you would know full well what is being achieved. The Commonwealth will be in a position to provide better information on costs and on the progress of work to deliver these important outcomes.

**Sarah Mansfield**: On a point of order, President, the minister did not provide an answer to my question. I would ask if a written response could be provided, if possible, in due course.

**The PRESIDENT**: I will determine that at the end of question time, so you can ask your supplementary and we will see.

**Sarah MANSFIELD** (Western Victoria) (12:43): I am looking forward to finding out how much these projects are going to cost. But the federal water minister Tanya Plibersek has made it clear that by failing to sign up to the new basin agreement Victoria will not receive Commonwealth funding for flood plain restoration projects from July next year. Minister, how do you plan to reach your environmental water commitments without funding for flood plain restoration projects from the Commonwealth government?

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:44): It is in the Commonwealth's interest to see significant volumes of environmental water returned beyond the record volume that Victoria has returned to the system to date. That is where the Commonwealth remains interested in delivering these flood plain restoration and management projects. That is where they will actually deliver significant benefit to the environment. I am looking forward to the Commonwealth being in a position to contribute and indeed to commit the funding necessary to ensure that these projects are completed. The Commonwealth does not quibble with the value of projects that return water to the environment, and I would hope that position has not changed. I would also hope, when and as we talk about returning water to the environment, that we are talking about the northern basin, that we are talking about those sorts of areas of the Darling River which are the iconic images of dead rivers, of fish deaths, and that we are talking about getting water onto the flood plain. I am looking forward to officers and indeed my federal counterpart being in a position to agree to that funding, which is indeed what we would like to see happen in the coming months.

## Ministers statements: child protection

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (12:45): I rise to update the house on the good work being done by our residential care sector and in particular the workers who are caring for young people in care. The Allan Labor government values and celebrates the role of our residential care workers, and I recently attended Resi Rocks, an annual event to gather and celebrate our residential care workers. There are over 2000 residential care workers across our state. About 420 of these participated in this year's Resi Rocks. Each and every day they are there for our young people, caring for them, listening to them and supporting them in both the good and the challenging times. The Resi Rocks day included an awards ceremony with a number of award winners and of course the presentation of the annual hoodie, a very cosy hoodie, which is the pride of the attendees.

I would like to particularly acknowledge the winners of the residential care team award, the Berwick team from Anglicare. The Berwick team have cultivated a cohesive and collaborative team culture underpinned by a shared commitment to achieving positive outcomes for staff, children, young people and their families. They have built a safe, homely and trusting environment that celebrates the unique qualities of each young person and demonstrates their commitment to understanding and supporting the young people. A number of young people within the home live with a disability, and with this comes a variety of complex needs and support networks. The team has not only navigated this successfully but has supported each young person to ensure their individual needs are met and that the home is a stable environment for them. The team has implemented several initiatives that support children and young people to engage in education. This has resulted in two young people re-engaging

in education full-time and a third young person attending school for the first time. The team has worked closely with schools to prepare adjusted timetables and worked closely with teachers and staff to integrate young people back into education. I want to congratulate the Berwick team for their incredible support of the young people in their care.

Residential care workers play an important role in our community. I take this opportunity to again acknowledge the incredible care and commitment that they all have on display, and I thank them for everything that they do to help young people in care grow up safe, connected and supported so that they can reach their full potential.

## Cherry Creek Youth Justice Centre

**Evan MULHOLLAND** (Northern Metropolitan) (12:47): (341) My question is to the Minister for Corrections. The department of justice has confirmed a serious incident occurred yesterday at the Cherry Creek youth justice facility. The department has briefed media that it was resolved peacefully and without any form of injury. Can you give a guarantee that yesterday's serious incident caused no harm to inmates or staff and that there were no assaults or injuries of any kind?

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:48): I thank Mr Mulholland for his question and his interest in our Cherry Creek youth justice precinct. I have had the opportunity to talk in this chamber before about the reform in our youth justice sector that is taking place. Victoria does have the lowest number of young people per capita in custodial settings, which is proof of the success of the work that our government has done investing not just in my portfolio but across the whole of government in early intervention and in diversion programs that really are making a difference. We are at our lowest point this century in terms of the average number of young people in custodial settings. In relation to the incident that occurred yesterday, I can confirm that there was an incident at Cherry Creek youth justice precinct yesterday, which was quickly and peacefully resolved by our youth justice staff. I have been advised that the CFA were called to fix a sprinkler, and I am happy to report that there have been no young people or staff injured. I once again want to take this opportunity to thank our dedicated and passionate staff in our youth justice system.

**Evan MULHOLLAND** (Northern Metropolitan) (12:49): Last time there was a serious incident at a youth justice facility your department also briefed the media that there were no assaults or injuries; however, we know that was not the case. There were in fact several serious physical and non-physical injuries, including a staff member held hostage and a young person who sustained life-altering injuries. How can the Victorian public have faith that the answers from you and your department over yesterday's incident are fulsome, given that false information was knowingly issued last time?

**The PRESIDENT**: I do not know if it is a supplementary to the substantive, but it is also asking for an opinion. I am happy, Mr Mulholland, if you want to rephrase your supplementary question.

**Evan MULHOLLAND**: Can the Victorian public have faith in the answers from you and your department?

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (12:50): I thank Mr Mulholland for his poorly worded supplementary question, but I will say that I can guarantee that we will continue to invest in our youth justice system. We will continue to invest in our facilities, in better training and in better conditions for our staff and give these young people the best chance to turn their lives around. In relation to the previous incident, if you paid attention to question time, I answered that that matter was referred to Victoria Police and Victoria Police are investigating that matter. In relation to the incident yesterday, like I said, it was resolved quite peacefully by the staff. It was not referred to Victoria Police, and there is no ongoing investigation.

### Duck hunting

**Jeff BOURMAN** (Eastern Victoria) (12:50): (342) My question is for the Leader of the Government, representing the Premier. Premier, the 2023 eastern Australian waterbird survey has just wound up, reporting a population boom amongst game duck populations. Can the Premier outline what whole-of-government arrangements are being made to capitalise on what promises to be a bumper duck season for 2024?

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:51): I will refer the question to the Premier.

**Jeff BOURMAN** (Eastern Victoria) (12:51): Thank you, Attorney-General. Premier, non-toxic shot has been used exclusively in duck hunting for a generation now. Wholesalers have a long lead time for ordering, and late season decisions make the supply chain virtually impossible to manage. Given the conditions, will the government commit to a full-length duck season for 2024 right now and give the industry the certainty it needs to invest in this important regional economic activity?

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (12:51): I was happy to refer your substantive question to the Premier because you asked for a whole-of-government response. You are now asking specifically in relation to a decision that would be made by another minister, but I will pass the question on regardless.

### Ministers statements: housing

**Harriet SHING** (Eastern Victoria – Minister for Housing, Minister for Water, Minister for Equality) (12:52): Following the success of the ground lease model 1 project at Brighton, Flemington and Prahran, which has already delivered more than 1080 new homes, this morning I was joined by the Premier, federal housing minister Julie Collins and the local member Michelle Ananda-Rajah as we officially announced our project partner for ground lease model 2, which is Building Communities. They have been announced to lead the redevelopment of four housing estate sites at Essex Street in Prahran, Horace Petty in South Yarra, Barak Beacon in Port Melbourne and Bluff Road in Hampton East. This particular process will deliver 1370 new homes by 2026 and will provide more safe, secure and affordable rental opportunities within these really vibrant, active and diverse communities.

Dr Ratnam, you will be interested in this one: around 500 pre-existing dwellings on the four sites will be replaced with 1370 new homes. That might help you, Mr Puglielli, around affordable housing. From the 500 pre-existing dwellings, there will be more than 650 social housing homes, more than 180 affordable homes, more than 470 market rental homes to boost rental supply and more than 55 specialist disability accommodation homes. They will also be available to people on the housing register, including people who are experiencing or at risk of homelessness, older women, Aboriginal Victorians and people with a disability, and relocated renters will have a right of return to the new homes once they are completed.

I also want to thank organisations such as Women's Property Initiatives and the Aboriginal Community Housing Victoria organisation, which are part of this partnership. This is what community housing looks like. This is what consortia and partnerships achieve. We are delighted with the progress of this latest ground lease model. Thank you to everyone who is involved.

### Written responses

**The PRESIDENT** (12:54): Can I thank Minister Symes, who will get, inside the standing orders, responses from the Premier for Mr Bourman. Could Minister Shing get a written response to Dr Mansfield's first question, and I thank her for offering to get a response to Ms Bath's supplementary question via the standing orders and also Ms Bath's question in terms of extra advice regarding her substantive question outside the standing orders.

**Sitting suspended 12:55 pm until 2:02 pm.**

## *Constituency questions*

### Southern Metropolitan Region

**John BERGER** (Southern Metropolitan) (14:02): (521) My question is for the Minister for Multicultural Affairs Minister Stitt. The Allan Labor government is delivering better spaces for multicultural and multifaith communities in Victoria. In my community of Southern Metro we made an election commitment of $900,000 over three years to Community Security Group, or CSG, and we are delivering. CSG's vision is to energise Jewish life in Victoria and promote a culture of safety and security, and it has never been more important. We know that because of the current situation in Israel many students feel unsafe attending school and many in our Jewish community feel unsafe publicly practising their faith. This is unacceptable. That is why we are working every day to keep our community safe. With more police patrols and proactive community engagement, CSG is an essential part of Victoria Police's work to keep the community safe. So my question is this: how many in my community of Southern Metro will benefit from this vital investment?

### North-Eastern Metropolitan Region

**Matthew BACH** (North-Eastern Metropolitan) (14:03): (522) My constituency question is for the Minister for Casino, Gaming and Liquor Regulation. Will she meet with me and pokie reform advocates in my electorate? I had been doing a bit of research since our debate on a relevant piece of legislation the other day and was saddened to learn that pokies fleece more money from people in the City of Whittlesea in my electorate, oftentimes very poor and vulnerable people in my electorate, than almost anywhere else in the state. I think Whittlesea is sixth in terms of local council areas. Now, there are other parts of the electorate that I represent that also demonstrate really high levels of pokies harm. In Whittlesea that is $267,752 spent every day on the pokies. I have been meeting with advocates of reform recently who have good ideas about how we could do better in our electorate. I would love the minister to come along with me to have those discussions.

### Northern Metropolitan Region

**Samantha RATNAM** (Northern Metropolitan) (14:04): (523) My question is to the Minister for Housing. A constituent contacted me recently after having her contract to purchase an apartment at the former public housing site at Abbotsford Street, North Melbourne, as a first home owner, cancelled and declared void. This occurred less than 20 days after she had been reassured by Homes Victoria the project was on track to be completed by 2026. We now understand the developer MAB and Homes Victoria have cancelled their development agreement. We also understand that individuals who had contracts for affordable apartments in the development were contacted by MAB offering to facilitate their exit from the contract, refund the deposit and pay solicitors fees and any interest on the deposit and offering a smooth transition into a contract of sale in any of MAB's other developments, despite these not being affordable. Essentially MAB was trying to pressure people to give up on their contracts for an affordable home because it was not making enough money. Yet Homes Victoria on its website is still spruiking that the development will provide priority to first home owners. Minister, can you provide an explanation as to why the development agreement with MAB has been cancelled and what support is being offered to people who have been left in the lurch?

### Eastern Victoria Region

**Tom McINTOSH** (Eastern Victoria) (14:05): (524) My question is for the Minister for Veterans in the other place. Could the minister please outline to my constituents who can apply and what are eligible projects for the upcoming opening of the veterans capital works and restoring war memorials grants program? I have visited several RSLs this year to see firsthand the work supported by the Allan Labor government and to discuss the importance of the new Veterans Card Victoria. I was very pleased to hear that earlier this month we reached 10,000 veteran card sign-ups. There is so much fantastic work happening in RSLs across eastern Victoria. The Rosebud RSL has invested in an electric car charger and solar car park as well as food processing to reduce food waste; the Stratford RSL are

maintaining their hall and leasing it out for wider community benefit, including local NDIS participants; and the Gippsland Veterans Centre in Sale have volunteers working around the clock as advocates for veterans right across Gippsland and the Royal Australian Air Force base in East Sale. These projects support the RSL's sustainability and ensure support for veterans and their families, and I would like to take this opportunity to acknowledge all these amazing volunteers engaged across the organisation.

**Northern Metropolitan Region**

**Evan MULHOLLAND** (Northern Metropolitan) (14:06): (525) We are fast approaching the Melbourne Cup Carnival season. This is great news for my electorate of the Northern Metropolitan Region, as my electorate is home to the beautiful Flemington Racecourse and also Moonee Valley Racecourse. The carnival provides a $422 million contribution to the state's economy. The racing industry generates some $4.7 billion in economic activity and supports 35,000 full-time equivalent jobs. We see some activists saying nup to the cup, which unfortunately means nup to the 35,000 jobs the industry supports. I say yup to the cup. Will the minister join me in reaffirming his bipartisan commitment to the racing industry and a long and ongoing commitment to the cup?

**The PRESIDENT**: I take it that racecourse falls inside your electorate, does it?

**Evan MULHOLLAND**: Yes.

**Northern Victoria Region**

**Georgie PURCELL** (Northern Victoria) (14:07): (526) My constituency question is for the Minister for Agriculture. On Monday afternoon a B-double truck taking sheep to slaughter in Kyneton rolled over just minutes down the road from the home I share with my own rescued sheep. Dozens of sheep were painfully crushed, and others were flung out of the top of the truck, running around the road injured and confused. A small number were put into a paddock, still deemed suitable for slaughter and consumption. Others were killed with a bolt gun on the side of the road, including those with minor treatable injuries. Experienced animal rescuers were removed by police for showing compassion, and the department of agriculture denied them the rescue of savable sheep. My constituents want to know if there will be an investigation into this event, specifically the handling of injured sheep, and more broadly what protections are in place for animals on live road transport.

**Southern Metropolitan Region**

**Ryan BATCHELOR** (Southern Metropolitan) (14:08): (527) My question is to the Minister for Carers and Volunteers. Can the minister please provide an update on how the Allan Labor government is supporting local volunteer groups such as Bayside Community Emergency Relief in the Southern Metropolitan Region? Last week I had the privilege of visiting Bayside Community Emergency Relief, a 100 per cent volunteer-run charity formed by the community for the community. Bayside Community Emergency Relief were founded with the simple mission of empowering people experiencing hardship and tragedy. During my time there I was witnessing them busy in action in an emergency session organising toiletry packs for homeless women to give to the Victorian Aboriginal Child Care Agency to support women in need. I also had the joy of meeting the incredible founder of the program, Deb Brook, as well as some incredible volunteers working behind the scenes for a fantastic cause. Groups like this are an important part of the building of the social fabric of our communities, and I commend them for their work and look forward to seeing them continue to grow in coming years.

**Northern Victoria Region**

**Gaelle BROAD** (Northern Victoria) (14:09): (528) My question is to the Minister for Transport Infrastructure on behalf of the Veteran, Vintage and Classic Club Bendigo. Alan and the team at the car club in Bendigo have been struggling to find a place for their club to work on restoring old cars. This club boasts a wealth of experienced members who are not only passionate about preserving

automotive history but also eager to pass on their invaluable skills to new members and teenagers. They have managed to find a large shed that is fitted out with safety equipment, which has not been used for six years, on VicTrack land near the Eaglehawk train station. But Alan and the club have been back and forth with VicTrack for over five years – they have been told that they can use it but have never been told what steps they need to take to get into the shed. I ask the minister to get in touch with Alan and the Veteran, Vintage and Classic Club Bendigo to help them finalise the move to the shed, and I would be happy to provide further contact details if needed.

### Western Victoria Region

**Sarah MANSFIELD** (Western Victoria) (14:10): (529) My question is for the Minister for Education. The Winchelsea Primary School council is urgently seeking a new school. Winchelsea is served by one state primary school. The current facilities are over 60 years old, and maintaining these is proving costly and difficult. Over $30,000 is required this year alone to deal with things like plumbing and electrical issues, termite maintenance and building and repairs, which can be difficult due to areas containing asbestos. The local community is growing rapidly, and the school will reach capacity in the next few years. Minister, will you prioritise a renewal of the Winchelsea Primary School so that students have access to appropriate facilities?

### South-Eastern Metropolitan Region

**Ann-Marie HERMANS** (South-Eastern Metropolitan) (14:10): (530) Yesterday we had Respect Victoria here. In the South-Eastern Region and in the City of Casey we have had some of the highest stats of family violence, which means that many women and people have had to experience difficulties, sometimes in wanting to leave their homes due to financial crisis. I literally just got out of a meeting only half an hour ago with Financial Counselling Victoria, where they were saying that there has been a 47 per cent increase in calls to financial counselling in Victoria, when the average is 23 per cent in Australia, and the wait time can be two months. With some of our ministers here announcing that there are going to be additional counsellors readily available, my question to the Minister for Consumer Affairs is: will the minister agree to providing 10 new counsellors per year for the next three years, with additional funding for interns and training for Financial Counselling Victoria, so that they can actually provide the counsellors required?

### North-Eastern Metropolitan Region

**Aiv PUGLIELLI** (North-Eastern Metropolitan) (14:12): (531) My question is to the Minister for Roads and Road Safety. The intersection of Ringwood-Warrandyte Road, Croydon Road, Husseys Lane and Brumbys Road in Warrandyte South is known locally as Five Ways. It is also known locally as a very dangerous intersection that is complicated and congested and a place where there are far too many accidents. In the 2023 RACV inaugural My Melbourne Road survey, Five Ways was the top-rated intersection for safety concern in Manningham. This intersection needs upgrading to make it safer to all road users, including cyclists – for everyone – to make it simpler for people to get to where they need to go in a safe way. Minister, will the government commit to making the Five Ways intersection safer and cyclable?

### Eastern Victoria Region

**Renee HEATH** (Eastern Victoria) (14:12): (532) My question as for the Minister for Transport Infrastructure: when will Labor start listening to the Hastings community and give them the upgrades they are calling out for? The Frankston to Baxter rail extension is in the news again – or more accurately, what is in the news is Labor's complete neglect of our communities along the Mornington Peninsula. The former federal Liberal government committed $225 million last year, and the Liberal candidate for Hastings Briony Hutton pledged $746 million to fully fund the project. At every stage Labor has given Hastings the cold shoulder. State Labor has refused to give a cent, and federal Labor are expected to scrap the $225 million commitment in the coming days. I welcome Frankston City Council's motion to call on federal Labor to ensure these funds remain in our region.

### Northern Victoria Region

**Wendy LOVELL** (Northern Victoria) (14:13): (533) My question is for the Minister for Emergency Services. On Wednesday 25 October the Rural Ambulance Victoria Network radio system used by ESTA to communicate with paramedic crews failed in the Shepparton and Bendigo areas for several hours. During this time paramedics could not use radio communication to reply to or update the control centre. In emergencies, seconds save lives, but during this outage paramedics were forced to dial in from mobile phones, adding significant delay to all communication. An update of the RAVNet system is scheduled for next year, but it is long overdue. Minister, given this latest failure, will you now bring forward the RAVNet upgrade?

### Eastern Victoria Region

**Melina BATH** (Eastern Victoria) (14:14): (534) My question is to the minister for sport. We can all agree that children's participation in both exercise and sport has lasting benefits for their mental and physical health. During COVID lockdown when all of the traditional sports, including the Traralgon Little Athletics club, were locked down and people were unable to participate, numbers reduced by 40 per cent. The club looked forward with enthusiasm to the Commonwealth Games – now cancelled – to stimulate its membership. Indeed recently Sarah Johnson from the little athletics club stated:

> It's a bit of a kick in the guts as well because we need to improve our facilities in regional areas, we don't get as much as what metro-based clubs have got …

What specifically will the minister do to stimulate athletics numbers and participation numbers in my electorate, Eastern Victoria electorate?

### Western Victoria Region

**Bev McARTHUR** (Western Victoria) (14:15): (535) My constituency question is for the Minister for Agriculture and concerns Labor's senseless ban on native timber harvesting. VicForests' own website describes community forestry as:

> … low intensity harvesting operations that provide local businesses … with access to local forest resources to support regional communities.

Operations are 'generally small scale':

> Most … are single tree selection or thinning operations that remove a minor portion of standing trees and have strict rules about the size of trees that may be taken.

It adds:

> Some community forestry operations focus on areas … affected by severe storm damage …

of the fallen trees. Minister, most forest produce supplied is firewood collected by local operators who supply it to their communities. Elderly, infirm and disabled residents cannot collect their own firewood, so how will my constituents who rely on firewood for heating and cooking cope when all community commercial firewood licences end on 31 December this year?

## *Bills*

### Special Investigator Repeal Bill 2023

**Committed.**

*Committee*

**Clause 1** (14:18)

**Evan MULHOLLAND**: Minister, why did the DPP make the decision not to bring charges rather than bring in an interstate DPP so there could be no perception of a conflict of interest?

**Jaclyn SYMES**: Mr Mulholland, the legislation provided for the decision to lie with the DPP. It is not really relevant to the bill that we are doing today. I assume you would accept that.

**Evan MULHOLLAND**: It's entirely relevant.

**Jaclyn SYMES**: Entirely relevant? What section of the bill would you think you would be referring to? We are in clause 1. I am usually up for a bit of a chat, so we can have a bit of a conversation about this. It was discussed in my summing-up, and I think some government members referred to it as well – the DPP's decision not to authorise briefs presented to her by the Special Investigator. Her response was detailed in a report that has been made available. It was tabled in Parliament on 22 June, and it set out all of her reasons for not authorising the two briefs that were presented to her by the Office of the Special Investigator. It outlined her reasons. I assume you have got that. I can table it for the interests of the house if you have not read that.

**Evan MULHOLLAND**: Minister, isn't it a fact that not a single person will be held accountable for the greatest legal scandal in Victorian history?

**Jaclyn SYMES**: You are asking for an opinion, Mr Mulholland, but what you are also implying by the nature of your question is that to allow a prosecution to proceed that is not going to succeed or result in a conviction is somehow undoing the circumstances that you have described as nobody being held accountable. The 1000-page report from the royal commission and the recommendations therein provided a lot of opportunities for improvement. With that was an acknowledgement that the behaviour was incredibly inappropriate and undermined our justice system, and people have taken responsibility for that. In terms of criminal prosecutions, which is what this is about, the advice from the material that was presented to the DPP is that a conviction would not be secured. There was no reasonable prospect of a conviction – so, a jury deciding that somebody had met the elements of a criminal offence to stand up in a court.

As I said, you are asking for an opinion, but it is a hypothetical to suggest that by me or anybody else ignoring the advice of the DPP and this somehow going to a court of law, on the face of it and from the advice of four separate prosecutors it would not result in any convictions – I am not quite sure how we get to the point that you are trying to make. I am only assuming that you mean a guilty conviction in a court of law when you use the language 'held accountable'. I cannot work backwards from a guilty conviction and say we can get to that end when we have been told that that is not going to happen.

**Evan MULHOLLAND**: I just thought I would follow up on that. Gavin Silbert KC said:

> Gobbo offered to plead guilty and give evidence now. What more do you need than that …

in regard to the DPP not laying charges. Isn't it a fact that the DPP could have brought charges based on what we know?

**Jaclyn SYMES**: Again, I am a little confused by the flow of that question, and it happened a lot in your contribution to the debate. You are choosing or reading out components of the royal commission recommendations, components of what people have said or facts without really the full context. I think both you and Ms Bath referred to the suggestion that Ms Gobbo would plead guilty, and therefore your contention is that that should lead to the prosecution proceeding. What you have failed to mention is that in order for that to proceed, my understanding is that conditions were sought in relation to pleading guilty, so it very much calls into question the credibility of the evidence that would be provided by that witness.

I do not want to spend this committee stage putting myself in the shoes of the DPP or indeed the OSI. I am not the arbitrator of these two individuals. There has been plenty of commentary from outside this place. I have full confidence in the DPP in the way that she conducted her analysis of the information that was presented. She did it with other experts and that was the decision she arrived at, and frankly that is the decision that the OSI accepted. They wrote a report and said they did not necessarily agree with her assessment, but they accepted her decision and therefore suggested to me

that the office should be wound up. I confirmed that advice with the implementation monitor, who agreed that it should be, and that is where the repeal bill has its origins.

**Evan MULHOLLAND**: Former Premier Andrews said of Mr Nettle:

> Investigators don't make good prosecutors …

and that:

> There needs to be a separation. If you have investigated the matter, you are altogether too close to it to be making decisions …

In response, there was an open letter signed by around 30 senior Victorian barristers. They said the comments should never have been made in respect to such a distinguished and well-respected jurist such as Mr Nettle, describing the comments as 'misguided, wrong and inappropriate'. Does the now Allan government stand by Mr Andrews's comments?

**Jaclyn SYMES**: It is not for me to stand by anyone's comments, but what I would draw your attention to, Mr Mulholland, is the well-accepted position across many jurisdictions – and in fact it has been tested to be the appropriate course of action – that investigators are not best placed to be the ones to decide whether a prosecution proceeds or not. There are a range of reasons for that. Probably the most basic explanation is that in an investigation you are presented with a range of views, a range of information, and you can draw a conclusion, but having an assessment of what is admissible in court, it is difficult for you to then form a view based on the information that can be put to a court.

Again, there is no doubt people have acted poorly, people have acted terribly. There is a massive fallout in the state of Victoria. It has cost us millions of dollars. You have got some people saying, 'Well, the ends justify the means, because we locked up the bad guys and it stopped an underworld war.' That is not a position that I subscribe to, but they should never have acted in a way that went outside the justice system. People acknowledge that they did. Did that amount to criminal conduct? The briefs of evidence that examined that particular question that went to the DPP were what she based her decision on, along with three others, to determine that that should not proceed to the courts.

In relation to other jurisdictions and indeed other like bodies here in Victoria, a lot of them have seen the inherent conflict or the inherent problems of being the investigator and putting so much work into it and then being the one that makes a decision for it to proceed, which is not best practice. The office of the IBAC in Victoria has internal policies to ensure that they never put themselves in that position. They always, in relation to serious criminal conduct, ask the DPP for the view in relation to whether it should proceed or not. WorkSafe do exactly the same. We had an entire inquiry in Queensland which looked at an issue where the integrity agency up there who investigated the matter then tried to proceed with a prosecution, because they had those powers, and it just fell over because they did not meet the criminal standard of a court.

I stand by the position, as is evidenced and supported by most of the examples that are like the OSI, that you should not be the investigator and the prosecutor. Over the top of all of that is that is exactly what the royal commission recommended. They said, 'You should set up an OSI.' And I will caveat that: they also were confident that there would be criminal charges. If you read the report, it certainly was not 'Go and set up an OSI so that there can be criminal prosecutions'; it was 'I have not been able to do a full examination of these matters. The OSI perhaps could tie up loose ends and go and see if there are any criminal matters.' But it did not give the flavour that that would be or should be the end result. In fact it has turned out that it is not, but that is not unexpected for a lot of people that were close to this.

I know and I understand how people are angry about this, and they would like a full stop that resulted in people serving jail time or at least fronting up to court, but what has been presented to the DPP is that we cannot get to that outcome. We are not going to create a situation where we would go against the DPP's advice or try and manoeuvre ourselves by getting other people to look at it to proceed to get

an outcome that we are advised we cannot reach. It would be a waste of taxpayer money, and I think we would be condemned for doing so.

**David LIMBRICK**: I just have a couple of questions. This bill vests all of the assets held by the OSI into that of the state, including any freedom-of-information requests. Does that also include requests made by the OSI to other public entities?

**Jaclyn SYMES**: I am advised that there are none outstanding.

**David LIMBRICK**: That pre-empts my next question. If there are none outstanding, that is fine. With the reports prepared for consideration by the DPP, will they be included with the records vested to the Department of Justice and Community Safety?

**Jaclyn SYMES**: Yes.

**David LIMBRICK**: One final question: will they be accessible by the Victorian Inspectorate, pursuant to clause 47?

**Jaclyn SYMES**: Yes, they will be available as appropriate for the inspectorate. Another matter that I think people raised in debate in relation to if there is any new information or additional evidence, IBAC would also under their existing powers retain the ability to obtain that information.

**Clause agreed to; clauses 2 to 72 agreed to.**

**Reported to house without amendment.**

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (14:34): I move:

> That the report be now adopted.

**Motion agreed to.**

**Report adopted.**

*Third reading*

**Jaclyn SYMES** (Northern Victoria – Attorney-General, Minister for Emergency Services) (14:34): I move:

> That the bill be now read a third time.

**The DEPUTY PRESIDENT**: The question is:

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

**Council divided on question:**

*Ayes (20):* Ryan Batchelor, John Berger, Lizzie Blandthorn, Katherine Copsey, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Shaun Leane, Sarah Mansfield, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Samantha Ratnam, Harriet Shing, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Sheena Watt

*Noes (13):* Matthew Bach, Melina Bath, Jeff Bourman, Gaelle Broad, Renee Heath, Ann-Marie Hermans, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nicholas McGowan, Evan Mulholland, Rikkie-Lee Tyrrell

**Question agreed to.**

**Read third time.**

**The PRESIDENT**: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message to inform them that the bill has been agreed to without amendment.

## State Taxation Acts and Other Acts Amendment Bill 2023

*Second reading*

**Debate resumed on motion of Jaclyn Symes:**

That the bill be now read a second time.

**Evan MULHOLLAND** (Northern Metropolitan) (14:41): The concerning thing about this bill is that it was one of the first acts of this newly reset government, the Allan Labor government, that they introduced two new taxes. But I first want to comment on the Greens, actually, and I want to comment on the pickle the government finds itself in. You have a Greens political party making extraordinary demands. One of them is a rental freeze that is supported by no economists and that is supported by no real-world evidence, from what we have seen. You have got them making demands to delay the public housing changes, which I am sure Ms Shing would be very interested in – delay or permanently put them off – and you also have the Greens putting forward today some wacky Big Brother-style system where they would force every Victorian to give over their data to the government about who is living in their home. That is what the Greens have come up with today. These further measures will only punish Victorians at a time when they can least afford it, drive critical investment interstate and worsen Victoria's housing affordability crisis.

**Harriet Shing**: At least we're listening to what you have to say.

**Evan MULHOLLAND**: I am glad. I will take the interjection, and I will say I am glad, because when you have got the Greens' crazy proposals versus perhaps just putting this bill to one side, I would put the bill to one side, because when you look at it in its entirety it is not going to raise nearly enough revenue to fill your budget black hole. In fact compared to other measures it is quite minuscule.

So when faced with your predicament – and it is a predicament; we have seen the media briefing, we have seen that you are stuck between dropping the bill and dealing with the Greens – I actually want to offer the government some practical suggestions that the opposition has made, some issues that the opposition has with this bill. We have spoken to industry, stakeholders and investors. Indeed I have spoken to developers in my electorate, and I want to point out particularly with multistage developments and land – this would be the vacancy tax that applies to undeveloped land as part of the State Taxation Acts and Other Acts Amendment Bill 2023 – consideration should be given to multistage developments, land requiring mediation, delays to development outside the control of the owner and delays to building permit issues due to unanticipated post-permit controls. So if you have got a development and you have got five stages of development, it is very impractical to build it all at once and in fact very uneconomical to do so. But you might have a stage – and I say this sincerely to the government: look at this bill – in a lot of your electorates where you have got five parts to a development. They cannot build it all at once, and the unintended nature of the bill is that the government will in turn charge perhaps the last two parts of that development extra land tax, even though there are already plans underway to develop that land.

The government should have a look at that and reconsider it. When they adjourn it off, perhaps they can take a good look at that part. The government should also consider including exemptions for holiday homes owned by a company, association, organisation or self-managed super fund. Also consideration should be given to the application of the vacant residential land tax to off-the-plan apartment sales, which can at times take a significant period of time despite being actively on the market for sale. The proposed five-year time line – this is the tax on undeveloped land – should commence when the land is ready for development and also give consideration to the local government permit process and all sorts of other delays that are caused by perhaps Melbourne Water, cultural heritage assessments and other things of that nature. I am just hopefully making some helpful suggestions for the government to ponder when they adjourn this off and take a good look at it. You can take the Greens' suggestions, which will kill investment in Victoria, or you can have a good, long, hard think about the nature of this bill. I think it is a bad bill. My colleagues think it is a bad bill. But I

would say that the Greens' demands will make the housing crisis worse. I think this bill will deter even further investment in Victoria, but the Greens' amendments will stop investment in housing in Victoria. It is a pickle that you are in.

I also think it would be beneficial if the government were to be transparent, and we have seen them do it in a number of other ways, reviews et cetera. The government might wish to publish the anticipated uplift in housing stock as a result of this bill's introduction and passing, because that is supposedly the intent of this bill. Perhaps the government could in a transparent way publish and review the uplift of housing stock as a result of this bill if it were to pass. That would be very interesting to see.

In recent times this Labor government have outdone themselves. They have been not just announcing new or increased taxes every two months but announcing new or increased taxes every week. We saw that with this floated consideration that they would apply the GAIC, the growth areas infrastructure contribution, to everyone across Victoria. We know this government like to say they are a tight ship and it is our side or whatever that is leaky. But you had two separate cabinet ministers leaking that it was being discussed that they were planning to expand a tax to the whole state of Victoria. The government is not doing a very good job at that tax, considering the GAIC has about half a billion dollars in revenue sitting in Spring Street coffers and you have not spent it in 2½ years.

At the time I called this out, Daniel Andrews was like, 'We can't get it out the door, because we take careful consideration on projects. We work with local councils to deliver projects. We take the time to do it.' But I know for a fact the government has been quick in writing letters to councils saying 'What do you want?' in the past month – which means his defence at the time they were not even doing. They were not even consulting with the community or councils as to what they wanted. I would rather see a situation where that GAIC money that comes from developers and people buying in actually goes to the infrastructure as communities are being built so you do not end up with another Kalkallo, so you do not end up with deserts of housing estates, as we have seen, with no duplications of roads, no bridges, no bus stops and no public transport networks to these places.

Since the government delivered the budget earlier this year, we have had a new schools tax, a new rent tax, a new jobs tax, a new health tax and a holiday and tourism tax. The remarkable thing about these two taxes is that they were introduced just days after the government put forward the housing statement and signed a housing affordability partnership that said they would work closely with the people they were supposedly working with on the housing statement. And Pallas introduced it at an industry breakfast. I can only imagine the accolades he was expecting to receive, but I suspect – I know – it did go down like a lead balloon. Cath Evans, the executive director of the Property Council of Australia's Victorian division, said she was shocked at Mr Pallas's comments and noted the government made no mention of the plan when it jointly signed an affordability partnership with the sector just two weeks earlier. Following that announcement, journalists waited patiently for him to turn up for his scheduled 11 am appearance in the morning on Tuesday, and he did not actually turn up. Maybe he had already checked out and was thinking about early retirement, as we might have heard. They waited until midday, when the Parliament resumed, and he did not turn up at midday either. Question time came and went. It was only at around 3:15 pm, with his tail between his legs, that he showed up to the doors and answered questions that journalists had. They had been waiting there since about 7:45 in the morning. We know why he did not turn up – because he knew these taxes would punish Victorians and impose a cost on Victorians when they can least afford it.

It is quite clear that the government has failed to consult with stakeholders. You had several of the people who had signed the housing affordability partnership saying that it was already in tatters. In the housing statement there are a lot of pages, I noticed, that literally say 'Intentionally left blank'. There are a lot of flashy photos and things like that, but it is clear there is a secret chapter to the housing statement – the taxes chapter – because we see they are pondering expanding the GAIC and taxing housing even further, and we see it with this bill, which was not part of the housing statement. So my question is: what more taxes do you have planned on the property industry? If your intention is to build more homes, taxing property is not the way to do it.

This government think taxation is the answer to the problems they have created – to pay for their mistakes, cost blowouts and overspending that they have become accustomed to for over a decade. With this bill they are introducing the 51st and 52nd new or increased taxes that they have imposed upon the Victorian people since they were elected and since they promised there would be no new taxes. Victorians are already subject to the highest taxes and the highest property taxes in Australia. In the absence of a detailed plan to end waste and better manage spending, Victorians can have no confidence that any of the revenue raised for new taxes will assist with the housing crisis.

The purpose of this bill is to expand the vacant residential land tax, currently applied to residential properties in Melbourne's inner and middle suburbs empty for more than six months, to unoccupied residential properties across the state. It is also to tax residential land that has been undeveloped for more than five years in established areas of Melbourne, with the intent to discourage long-term land banking and the intent to encourage new housing development. I have certainly spoken to a lot of the industry that reckon that that point could be much more targeted on discouraging long-term land banking, because currently it is a catch-all. As I was saying, if you have got a development that needs to be sequenced, that needs to be done in four or five parts, it is uneconomical to build it all at once, and there probably are not the labour and supplies in this state to do that, because we know they are all being sucked into the Big Build. There are much better ways that government could be more targeted, and when they adjourn it off that might be something to take a look at, rather than signing up to the Greens political party's radical agenda. I know the government likes to work with the Greens quite a bit, but on this one it will have dire consequences for people getting into the housing market.

The bill contains a raft of other minor and technical changes. It boggles the mind that Labor's solution to the housing crisis is just more taxes – but not surprising. Their so-called housing statement does nothing to address the key issues causing Melbourne's housing crisis. New taxes on property will only push the dream of home ownership further out of the reach of Victorians. Ever-increasing taxes will do nothing but drive critical investment in housing supply interstate, placing additional costs on property. The Labor government should be reducing taxes to make homes more affordable. The story of taxation under this government is a sorry one. Since Labor was elected nine years ago, Victoria is set to double the tax take, and the Labor government has introduced more than 50 taxes – now 52 taxes. They have got their half century; they are going for a century. No government in history has ever taxed its way to prosperity, not one, yet the Andrews government has on average introduced a new tax or increased an existing tax every two months since 2014, after promising not to do it.

The Liberal and National parties are opposed to Labor's schools tax, jobs tax, rent tax, health tax and potential holiday and tourism tax. These are all taxes on aspiration and all taxes on a fair go. We are committed to repealing Labor's schools tax should we win the next election, and we want to do more to help reduce these costs for Victorian singles, families, businesses and communities. It is actually why we have released a discussion paper on tax reform. We want to make sure the lives of Victorians are getting easier, not harder. We have released a discussion paper on tax reform because we want to be a propositional opposition, and I know my colleagues Brad Rowswell, the Shadow Treasurer, and Jess Wilson, the Shadow Minister for Finance, have been going all around town speaking to businesses, speaking to small businesses, speaking to big businesses, speaking to community organisations and speaking to non-profit groups about how the tax system can work for them going forward.

If we come to government in 2026, we are going to be left with a big mess to clean up, and we want to have a positive vision for the tax system in our state. I held our tax discussion paper forums in a number of locations, one in Preston with North Link, the advocacy group, and I actually held one in Wallan in my electorate, right near a member for Northern Victoria's office. I held a tax discussion forum in Wallan with local businesses, who very much enjoyed contributing to and having a discussion about tax in Victoria and the impediments to growth for their businesses. The Shadow Treasurer Brad Rowswell was very warmly received by locals in Wallan, and he was very warmly

received by North Link as well, which is an economic advocacy peak body in the Northern Metropolitan Region.

I could go on to a number of things, but I can say to the government –

*Members interjecting.*

**Evan MULHOLLAND**: Well, I am very happy to keep going. I am absolutely very happy to keep going, and I might go on to payroll tax, actually. There is payroll tax that the Victorian government has increased at an additional rate of 0.5 per cent. It will apply to businesses with national payroll above $10 million, and businesses with national payrolls above $100 million will pay a further additional 0.5 per cent. This surcharge will apply for 10 years until June 2033. The Victorian government is taxing jobs and encouraging businesses to invest and employ in other states, so much so that the Labor Premier of South Australia is encouraging Victorian businesses with open arms to come to his state, where seemingly it is much easier to invest, it is much easier to employ people and it is actively targeting investment from Victoria. As I said, you cannot tax your way to more jobs. You cannot tax your way to prosperity.

Then there is the rent tax. The Victorian government has increased property taxes, and that will of course mean higher rents for Victorians. For many properties, land tax has increased from $275 to $975 a year. This will be a tax on renters and actively discourage investment in housing. The increase in land tax will be passed on to tenants. I speak to a lot of real estate agents in my electorate, and they tell me since the introduction of new land taxes appraisals are up. In a lot of places they are up by around 25 per cent. What that means is that people are getting out of the property market. People are feeling that it is an insecure investment. In fact my research and consultation indicates what other peak bodies do and research institutes do, which is that about one in four property owners are getting out of property investment. It is very easy to say, 'Well, they're just rich landlords.' Well, your average landlord is a person or is a family on an average income of about $100,000 a year who have invested in property to set themselves up for the future, and instead of encouraging that investment this government demonises that investment.

Then there is the holiday and tourism tax, where the government is seeking to impose a holiday and tourism tax by applying a short-term rental accommodation tax. This could add over $100 to the cost of a weekend away by charging consumers of short-stay accommodation at a rate of potentially 7.5 per cent. The Victorian government is taxing Victoria's tourism industry and making it harder for regional communities to attract tourism and business, adding yet another tax to Victoria's nation-leading property taxes. It will only drive investment away from Victoria. I think the government might be having a second look at that particular tax after the High Court decision, because it is a tax directly on consumers, and perhaps they might be getting that advice that they might not be able to proceed with that particular tax. I do not know.

Then there is of course the health tax. The Victorian government is taxing general practitioners, which will add costs to patients, threaten universal health care in Victoria and make it more difficult for communities to gain access to comprehensive health care when they need it. Labor's health tax will cause GP clinics to close – we have heard around 30 per cent will close – and add considerably to out-of-pocket costs, and it will end bulk-billing as we know it. Now the Treasurer has come out and said, 'Well, if you're going to close, let me know, and I will see if I can waive it.' If they are on the verge of having to close, surely they are making decisions about bulk-billing as well, which means the practical effect is to end bulk-billing.

I was chatting to a GP from the electorate of Greenvale. A number of them came to Parliament for our meeting with my colleague Ms Crozier. GPs in Greenvale are saying that this health tax will have absolutely dire consequences and will flood emergency rooms because people will not be able to afford to visit a doctor. This is the end effect of what they are doing. The people who will suffer most are in working-class areas where people are desperately struggling with the cost of living. The

government's response is to tax health and to tax GPs, which will ultimately hurt Victorians that can least afford it. It is shameful.

Do you know who else thinks it is shameful? Mark Butler, the federal health minister, who has given some strong words against the government's health tax. The government did not really want to comment on that today, unsurprisingly – a comrade breaking ranks and criticising his own side. But we did see the federal health minister criticise his own side, criticise the rabble down here in Victoria, for taxing health. This will have a dramatic impact on people going to the hospital, and it will end bulk-billing as we know it.

My colleague Ms Crozier was out in Mulgrave the other day visiting a GP clinic there. People in Mulgrave are very worried about what this will mean for bulk-billing – very worried. As they have a right to be, because the government originally said, 'Oh, nothing's changed,' but it clearly has changed. The Treasurer basically admitted it has changed in his response to GP groups in his letter, which also said he could just waive it if you were going to close – 'Let me know.' If they are getting to that decision of closing their clinic, they are obviously making decisions around bulk-billing as well.

This is a bad bill. This is a very bad bill. I actually wanted to speak to my reasoned amendment, which I am happy to have circulated. I move:

> That all the words after 'That' be omitted and replaced with 'this bill be withdrawn and redrafted to:
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> (a) take into account consultation with key housing industry stakeholders on the impact of this bill; and
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> (b) ease cost-of-living pressures to ensure every Victorian has the best opportunity to enjoy the social and economic benefits home ownership provides.'.

As I was saying earlier, colleagues, you have a choice. You can drop this bill, or you can deal with the radical suggestions from the Greens political party that will kill investment in Victoria: rent caps, rent freezes and wacky Big Brother style schemes that would make all Victorians hand over the data of who they are living with and who is living in their home that will probably cost more than the revenue collected. This is a chance for the government to admit fault. This has been bad news from the start. You had a disappointed Treasurer after he did not get the position he wanted, so the first sitting week back after losing the deputy leadership to Mr Carroll he thought, 'I'm not going to announce things in a proper way. I'm going to announce this at an industry breakfast and take everyone else by surprise.' We saw the media briefing. Do not say it did not come as a surprise; colleagues were very unhappy about it. You could bookend that by saying it was poorly planned and implemented from the start. We would rather drop this bill than deal with the ridiculous, wacky suggestions from the Greens political party.

**Ryan BATCHELOR** (Southern Metropolitan) (15:11): I am pleased to rise and speak on the State Taxation Acts and Other Acts Amendment Bill 2023. This is obviously one of the regular sequence of tax bills that the government brings forward to the chamber, often to deal with a raft of minor amendments to the tax law to ensure that the drafting provisions on the books reflect the original intent of policies but also to ensure that where certain errors of drafting in the original legislation were uncovered, those areas can be rectified. But occasionally, as in this bill, there are a couple of material changes to Victoria's tax law that these bills seek to introduce.

Before I get into the detail of those material changes to tax law, I just want to take a moment. It is important that we debate tax laws in this place, because taxation is an important part of ensuring that government services can operate. Bills that levy tax do so for a purpose. I think before we get into a big debate about the details of the particular measures, we need to look at the underlying purpose of taxation, and that is to raise the revenue necessary to do the things that Victorians expect governments to do, and that is to pay our teachers, pay our nurses, pay our police, build new hospitals, build new schools and build the necessary critical infrastructure that our community expects our state government to deliver. If you support those things, if you stand up in this place and support our teachers and our nurses and our police and our infrastructure and say that more needs to be done to

improve those services, then you also need to support a robust and adequate taxation system to fund them, because otherwise the claims of support are hollow, just like the people who make them.

The first measure that we have got in this legislation, the bill before us today, that I will talk about materially is the changes to the vacant residential land tax. What that will do is encourage through the expansion of the vacant residential land tax more currently uninhabited properties to be made available, which should assist in alleviating some elements of the housing affordability crisis but also the renting crisis and also encourage the faster development of vacant land in established areas of the state. The other key change, which I will get to in a moment, deals with land tax apportionment and the windfall gains tax. The first of these two measures is, at its core, to try and increase the supply of housing that is available either on the rental market or for purchase by owner-occupiers or, in the case of undeveloped lots of land, to build new homes. The reform in this legislation seeks to expand the application of the vacant residential land tax, which currently is imposed on residential properties that are not lived in, that are unoccupied, in 16 of Melbourne's inner and middle suburban councils, and it expands that across the entire state. The existing provisions for the vacant residential land tax for those who do have a property that is unoccupied will expand a levy on those properties to encourage alternative and better uses. Under the amended vacant residential land tax, the period that properties can be deemed vacant will start on 1 January 2024, with the tax change commencing in 2025.

The vacant residential land tax has been operating in Victoria for a number of years, limited to the original 16 of Melbourne's inner and middle suburban local government areas, but this change will expand the application of the tax statewide, and the exemptions that go with the tax will also be expanded statewide. Things like holiday homes, properties that have been recently acquired or which are regularly occupied for work purposes and properties under construction either for new builds or for renovations will be exempt from paying the tax. So people who have got a holiday house do not need to worry about these changes; people who are building a new home which is under construction or who are renovating their home and have moved out and therefore there is no-one living at the property will not be affected by these changes. These changes are designed to stop people – property investors – buying a house, leaving it vacant, trying to ride the capital gains growth on that property and preventing someone else from using it as a place where they can live. It is all about motivating existing supply that is not in the residential property market either for renters or for prospective homebuyers into that market, or if there is land that is not being used – residential land that is undeveloped that could be developed. This tax will apply to those properties and hopefully lead to the transition of those from unproductive uses to ones that are actually putting a roof over people's heads. That is exactly what the tax is designed to do.

The change will also close a loophole where the vacant residential land tax did not apply to unimproved land, which had previously enabled this valuable land to slip through the cracks of the regime in cases where that land would otherwise be suitable for residential development. So again it is encouraging that land that may be unimproved to be brought into the development market. We think that creating incentives to reduce the number of houses that are not lived in is a good way to ensure that more Victorians have a place to live. It will help ease the housing crisis and should help ease the rental crisis, and it is just another example of concrete action that the government is taking.

The second important and material change that this legislation before us today, the State Taxation Acts and Other Acts Amendment Bill 2023, will do is change the land tax apportionment and windfall gains tax apportionment and protect homebuyers from being landed with these taxes when they purchase properties. What the legislation will do is prohibit the apportionment of land tax and known windfall gains tax liabilities between a vendor and a purchaser under a contract of sale of land. This change has no impact on the revenue side because in the end these taxes were being paid; it has no effect on how much money goes into the State Revenue Office.

But what we have seen happening in practice is that those owners who were subject to either land apportionment tax or known windfall gains tax liabilities have been apportioning those land tax and windfall gains tax liabilities onto purchasers – so passing a tax liability that the vendor should have

paid on to the purchaser. In many cases those purchasers may not have been otherwise subject to those taxes. So what we are doing through this legislation is protecting homebuyers from paying the land tax liabilities of vendors, and that is a good step for those homebuyers, it is a positive step for homebuyers, and it gives them safety and gives them security from being unfairly exploited by unscrupulous vendors who are trying to dodge their own tax liabilities by passing them on to someone else.

It reflects the really important principle that those people who are liable for taxes should pay them, and they should not try and bump them off to someone else – in this case under contracts of a sale of land. We think that this is particularly pernicious because there are certain circumstances, and there have been cases of this, where the apportionment of the land tax settlement is often not known by the purchaser at the time of entering the contract. So contracts are being signed in good faith, and then it is only at the time of settlement where the precise nature of the quantum of liability of land and windfall gains tax that is being passed on is made evident, which means that it makes the point of settlement very difficult for purchasers and can lead to quite surprising, unexpected and difficult circumstances for many of them.

The legislation before us today would prohibit these sorts of arrangements, improve the transparency in the land transaction, particularly around settlement, and reflect the government's original intent: when we introduced the windfall gains tax, it was designed to be a tax, as it says, on the windfall gains of property developers. It is not fair that those property developers are seeking to off-load their tax liabilities onto purchasers who would not have had to pay it, because they are not subject to it but are being lumped with the tax bill. So we are making it beyond doubt that that behaviour is not acceptable. These amendments will apply to contracts of sale from 1 January 2024, so there is the necessary time for the systems and processes and for the contracts for the purchase and sale of land to be adequately dealt with.

The bill in its detail does a range of other things. It has a long list of other minor and technical changes to a range of state taxation legislation. I will not go through them in detail but there are amendments to the Duties Act 2000, the First Home Owner Grant and Home Buyer Schemes Act 2000, the Land Tax Act 2005, the Valuation of Land Act 1960, the Local Government Act 1989, the Windfall Gains Tax Act 2021 and the Treasury Corporation of Victoria Act 1992 to correct a range of things, ranging from major and material issues that I have talked about in detail to some very minor and otherwise technical amendments.

I think in consideration of this tax bill, as with all tax bills, the people occupying this chamber need to give some consideration to what they think should happen if these types of bills do not pass. If the state government is unable to raise the revenue it seeks to raise through its taxation regime, there are really two choices that people have in front of them. We can either raise the taxes that are necessary to fund the services of the government or we can cut those services. So for those speaking against this bill, for those voting against this bill, wherever they sit in this chamber, they should be honest about the choice they are actually making – that is, between funding our services and not funding our services; it is between supporting the things that Victorians rely on, the infrastructure that they need to get them to work, the schools and hospitals, or not.

If you do not want the state government to be passing tax bills through the Parliament, then you have got an obligation to the people to come into the Parliament and explain what stuff you want state governments not to do, because that is the choice that we have. There are not any free choices for members of Parliament in legislation that gets put before us. You have got to make a judgement, and the judgement before us here today is: do we support legislation to increase taxes on vacant land and to ensure the proper apportionment of land tax and windfall gains tax between people who are supposed to pay it? If you do not believe that, if you do not support this bill, then you should come clean and explain what services you want cut, because that is the natural consequence of not supporting state taxation – it is seeing our schools go underfunded, it is seeing our hospitals go underfunded and it is seeing our transport infrastructure not be built. Every time we get someone not from the

government come in and ask us to fund this program, fund this service, do more of this sort of thing, people should reflect on whether they have come into this place and voted for the tax regimes that are needed to pay for them as well.

**Bev McARTHUR** (Western Victoria) (15:26): In rising to speak on the State Taxation Acts and Other Acts Amendment Bill 2023 I find it difficult to say anything original about this government and its attitude to tax. This bill contains the 51st and 52nd new taxes since the former Premier's commitment to no new taxes, so I cannot be alone in lacking inspiration. In fact if we look at the tax itself, it seems that even the Treasurer has run out of new things to tax, so he has had to go back yet again to property, to landowners and especially to those individuals who prepare for their own future and their own retirement so they are not a burden on society – 'No, we'll tax them.' In fairness, it must be hard for the Treasurer to find anything new to tax, especially since the High Court decided his effort on electric vehicles was illegal. On that note, his party must also be hoping he consulted with the lawyers about these taxes more than he did his political colleagues, or he could be back in court. The Assistant Treasurer did not seem to know what was going on just hours after the Treasurer's business breakfast bombshell, and the Premier's hasty efforts to appear in charge were pretty unconvincing.

I have a tip for the Treasurer. If you cannot think of anything more to tax or anything new to tax, if you cannot be bothered to consult with your own colleagues about new taxes, if you cannot even make sure your taxes are constitutional and legal, there is a simple solution: stop spending. Mr Batchelor suggests that would mean a cut to nurses and police and services. No, it would not. The spending of this government is totally out of control because it cannot spend our money wisely. $1.3 billion to cancel a road contract, at least half a billion to cancel the Commonwealth Games, let alone the billions in overspending on every single project you embark on – you are incapable of managing any project and doing a job properly. So there are billions to be saved in this government, but you do not know how to manage one project. Over the past nine years this Labor government has introduced or raised a tax every two months, on average. Now they seem to be coming out weekly, and they have had to because spending is out of control. The forward estimates in the last budget showed Victoria's debt will hit $171 billion by 2027 and that debt interest payments will rise to $22 million per day. These interest payments achieve nothing for the state. They do not fix a road. They do not pay a teacher. They do not fund a hospital. They do not pay a nurse. They are just debt interest payments. The budget, even without the spiralling cost of living, shows us that things are going to get a lot worse. Taxes taken from the Victorian economy will rise in the years to 2027. If you think you are struggling now, I am sorry to say the future looks a whole lot worse.

And we know why this has happened: budget blowouts, major project spending out of control, an ever-increasing public service in number and wages and a lower percentage of productive industry shouldering an ever higher burden of tax. At the last budget the Treasurer boasted of increased revenue, as if that was a good thing, but the rise from an $83 billion tax take this year to $89 billion next year is $6 billion stripped from businesses, ratepayers and taxpayers. The last budget revealed government revenue will hit $99.9 billion by 2026–27, and the bill we are discussing today will take us up towards, if not beyond, the threshold of a $100 billion state. It is an impressive figure but a disaster for those of us who understand what big government really means and who recognise the horrifically destructive effect this will have on our state's productivity and ultimately our prosperity.

So the bigger picture, the background to this bill, is pretty awful. The detail, I am sorry to say, is no better. I alluded earlier to the fact that the Treasurer had apparently scrawled this policy, the statewide expansion of the vacant residential property tax and inclusion of development land, on his menu at the Property Council of Australia breakfast last month. I am sure his ticket was complimentary, but it was a pretty expensive breakfast for Victoria. Clearly there was no consultation with the industry or individuals who actually understand the subject of this bill, who know how the property market works and who any normal government would put top of the list of people to speak to, even if they do not follow their advice directly.

I have got a few quotes here. I think they are worth considering for not just the content but the tone. I have heard a lot of industry groups criticising governments in the past, but the sheer shock, outrage and anger really came through in these comments and show how unprecedented this announcement was. Real Estate Institute of Victoria CEO Quentin Kilian described it as:

> … just another regrettable demonstration of poor property policy development, and shortsightedness from the Victorian Government.

And he pointed out the effect disincentivising property investors will have on an already overheated rental market:

> The exodus of rental providers has increased over the past year and with yet again another round of taxation aimed at the property market, there is no doubt that investors will continue to leave Victoria, exacerbating the rental shortage.

In combination with the already heavy toll exacted by this year's budget, there is no way this can do anything other than breed uncertainty and ultimately disinvestment. Mr Kilian concluded:

> We can assure Mr Pallas, and his team of policy makers, that the only behaviour this idea will initiate is for more landowners to sell-up and continue to turn away from Victoria for investment.
>
> It will create more uncertainly in investment at a time when the participants in the sector are crying out for consistency and commonsense and concepts that inject more confidence into real estate regulation.

The property sector's shock was all the more palpable given the affordability partnership the government had signed with key housing players just weeks earlier. I am always cynical about the worth of these partnership agreements, but they did not just ignore this one, they flat-out contradicted it. The Property Council of Australia CEO Mike Zorbas described the tax expansion as a trust-burner and said:

> Here's a tip for state governments trying to reach ambitious housing goals in partnership.
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> Don't "do a Victoria".
>
> Don't go slow on housing and approvals for the past few years and then seek redemption through a partnership with industry that you set on fire inside a fortnight.
>
> …
>
> Burning through the trust. Always a bad way to start a partnership.

The Victorian director of the property council took the same view. Cath Evans described her disappointment that the agreement which her organisation fully intended to honour had been abandoned:

> The Partnership clearly outlines that consultation is a shared responsibility and that we all agree to work together to find solutions in a complex economic environment.
>
> Sadly, 8 business days later, the Treasurer, who was a signatory to the Partnership, has announced the introduction of new and expanded taxes without any consultation … and we are yet to understand how these reforms will improve the availability of rental stock to the market or increase the supply of new homes.

These widespread views should certainly cause pause for thought on the attitude the Allan Labor government takes to incredibly important sectors in our state economy. But, to be honest, even the best consultation process in the world could not disguise the fact the measures contained in this bill are unfair, damaging and counterproductive. Extension of the existing vacant residential land tax to include all regional Victoria and additionally to cover all Victorian residential land undeveloped for five years and more could never be a popular policy, especially after the recent windfall tax hit and the budget's land tax grabs.

Landlords have been repeatedly hammered in this state. At the same time rents have risen. Are we really surprised? I have stressed before in this place that many landlords do not actually own the properties they lease out. They are still paying off mortgages that have been affected by interest rate increases not borne by their tenants. Moreover, they foot the bill for soaring maintenance costs, real

estate charges, insurance for landlords and VCAT charges if disputes arise, as well as the recent hikes in land tax and rates, to say nothing of your 135 regulations on landlords. When they buy they shoulder stamp duty and will eventually deal with capital gains tax upon selling. It is worth noting that many landlords refrained from hiking rents during lockdowns, with some even pausing payments to support tenants facing financial hardship. Landlords shoulder these expenses and risks, yet they are navigating a growing maze of government regulations that could intensify at any moment.

Despite this, one side of politics repeatedly demonises landlords as land-banking, profit-hungry vultures. Our last Premier was particularly keen on this line. On introducing one massive set of new levies he dismissed the financial challenge landlords face, suggesting they simply claim it on tax. That is one reason rents keep rising. Just months later in this bill our new Premier seems set on the same approach with the expansion of this vacant residential land tax. The exit of rental providers has increased over the past year – unsurprising given the round after round of taxation aimed at the property market. Last month rent prices in Melbourne rose to the highest recorded level ever, the average increase $95 a week to $520 a week, nearly a 25 per cent increase in one single year. There is no doubt that investors will continue to leave Victoria, exacerbating the rental shortage.

Landlords really are not the culprits here, however much one side of politics wants to demonise them. The problem is whatever political point you wish to score it will not actually solve the problem. The housing market is driven by economics, not political slogans, and increased taxes and regulations have one inevitable result: reduced supply and therefore higher prices. That is why I oppose this bill. The principle of the new taxes is wrong; the detail is wrong; the economic situation is wrong. No tax is a good tax, but this bill shows just how jaded this government is. It is intellectually as well as monetarily bankrupt.

**Michael GALEA** (South-Eastern Metropolitan) (15:39): I also rise today to speak on the State Taxation Acts and Other Acts Amendment Bill 2023, and I feel to start with I would like to pick up on a couple of points from the previous contribution. First, I am going to be generous and I am going to actually pick out the one thing from Mrs McArthur's speech that I agree with, which is her comment that the housing crisis is driven by economics. Supply is the answer, and that is exactly why this government has released a housing statement that goes to the heart of the issue and across many different parts of this issue. We have multiple ministers with a focus on this as part of our housing agenda – as part of this housing statement. We heard in question time today from Minister Shing about the huge amount of work being done with regard to that regeneration of social housing that is ongoing, whether it is through the much-needed replacement of the 44 towers or through other smaller projects as well, in a way that means we are not only actually making these places inhabitable – genuinely not to overexaggerate that but making them inhabitable – as they are currently uninhabitable –

**Bev McArthur**: Habitable.

**Michael GALEA**: Habitable, yes, you are quite right to correct me there – habitable. We are making them habitable, but we are also expanding the supply quite dramatically –

**Bev McArthur**: I'm trying to help you out.

**Michael GALEA**: I always appreciate support from you, Mrs McArthur. We are dramatically increasing the supply as well with these social housing projects. What we are also doing is addressing this through some very systemic reforms – which I am sure I will have the opportunity to talk to in a later motion at some point today – in relation to the planning across metropolitan Melbourne and indeed across regional Victoria as well that are going to have a dramatic impact on the supply that we need to provide and that this government is determined to provide in order to ameliorate this housing and rental crisis and to provide the housing and the housing options that Victorians need. It is a very exciting package of works from many, many different facets, and one point on which I do agree with you, Mrs McArthur, is that this is a housing crisis driven by supply and by economics.

**Bev McArthur**: You'll reduce supply if you keep taxing everybody.

**Michael GALEA**: Which is exactly what we are not doing, Mrs McArthur.

**Ryan Batchelor** interjected.

**Michael GALEA**: This is exactly what my next point is, to pick up on Mr Batchelor's comments, who quite rightly says we hear sound and fury and fire from the other side every time we talk about tax. It sounds like if they had their way we would have no taxes at all. We also hear sounds of fire and fury about regional roads, as a good example, and that is something that we are already investing in and increasing our investment in the maintenance of. Where will the funding for this come from if we do not have a robust taxation structure? Where will it come from?

That is what those opposite do not answer. They do not seem to want to answer, and it just seems to reinforce again that they are not interested in answers because they are not interested in governing. They are not interested in trying to get into government. They seem to be quite happy in opposition, and if they keep going on this route, that is probably where they are going to end up staying. If you want to actually do things for this state, as Mr Batchelor says, you have to actually look at all sides of the equation. You have to make it work. You cannot just say on the one hand 'Remove all the taxes and fund all these things' and on the other hand 'We're only going to support bills if you do everything that we want.' I have said this a few times in recent weeks, but the very nature of this place is that we work together, we engage and we argue quite a lot, and we do so in a way that is conducive to making better legislation.

**Bev McArthur**: But you don't listen.

**Michael GALEA**: I will take you up on that, Mrs McArthur. We absolutely do listen, and there are a number of examples from recent weeks alone in this place where we have done exactly that, and we have come to outcomes which have been amenable to different parties across the aisle. You and I have even agreed on some things too – can you believe that – Mrs McArthur. This is a reasonable step forward on the housing issue, which is one of the most profound issues facing our state at this point.

I note that with my colleague Mr Batchelor on this side, as well as my colleague on the other side of the aisle Mr McCracken, the three of us are all participants in the Legal and Social Issues Committee, one of the standing committees of this place. As part of that we have recently been and in fact are still conducting an inquiry into this very issue. We have heard some very illuminating evidence as well from many different quarters. One of the clear things that is coming through is that we really do need to change the supply. We need to do a lot of things with social housing, and it is great to see that we are already doing them. In fact the first hearing that we had after this housing statement was announced I would say overwhelmingly showed people, whether stakeholders or other experts from a different array of backgrounds in this space, in a wide array of support for this housing statement.

This is a wide policy that is going to make a huge impact in many different ways, and the bill that we have before us today has in fact two particular changes that we will be pursuing as part of these reforms. The first one is changes to the vacant residential land tax. Not to go over old ground here, but my colleague Mr Batchelor referenced that the current tax targets 16 mostly inner-city councils within metropolitan Melbourne – the inner belt of 16 councils where this tax currently applies. But I am sure all members in this chamber would agree that issues pertaining to housing affordability, to the ability to rent a house at all, to the ability to affordably rent a house, are not constrained to 16 councils in the centre of Melbourne. They are statewide. They are in my region in the south-east. They are in regional Victoria as well and right across this state. That is why this is a sensible reform which expands the vacant residential land tax not just to a select portion of inner and middle Melbourne but to those broader outer suburban and regional areas, constituencies like mine, which are particularly suffering through this. The second thing is –

**Bev McArthur** interjected.

**Michael GALEA**: Mrs McArthur, you like to say that we say that people need to be taxed. The second whole point of this is actually protecting customers, protecting consumers from being unfairly taxed. If you have listened to our contributions, you will actually know that the windfall gains tax can currently be passed on unfairly without much notice, in fact without much awareness, to unsuspecting buyers, whether it is a first home buyer, a young couple getting into the housing market – and we have got many of them in growing areas like Clyde North and Berwick, areas that I represent, or Cranbourne – or whether it is an established buyer. Maybe it is your third home that you have moved into that you have bought. Whatever stage of your journey you are in, for people buying homes there are some, let us say, relatively unscrupulous people who try to pass those taxes, very unfairly, on to working families, and that is exactly what the second part of this bill seeks to address by preventing that from happening by saying, 'No. If you're subject to the windfall gains tax, you will be the one to pay the windfall gains tax. You will not pass that on, whether it is to a first home buyer, to another family situation moving into their new home, to a consumer, to a homebuyer.' This is actually a bill, contrary to the loud objections that we hear from across the other side, that is actually going to protect consumers from that tax. This is actually something that is in the interests of many of my constituents and in the interests of people who are purchasing a home, because they will not be subject to those charges.

These reforms are not the entire picture by any means, but they are two reforms that go some significant way towards achieving the rental reforms that we have laid out, achieving the housing reforms that we have laid out in this housing statement.

**Bev McArthur** interjected.

**Michael GALEA**: You can say that, but the population is actually growing quite significantly. In fact people are moving, I think, to Victoria more than almost any other state. I know the Liberals love to talk down Victoria; they love to constantly talk down Victoria. We have heard in the last few days, as members to my front and left are reminding me, that the CommSec report just a couple of days ago said we are the number one performing economy in Australia. With all due respect to our friends in South Australia, who someone mentioned before, it is not South Australia. It is not Western Australia, and it is not Tasmania. It is not New South Wales, and it is definitely not Queensland. It is of course Victoria. Victoria is the number one. And I believe as well – and I only caught it in passing this morning – that we are the most livable state as well. We might be tied at the top with South Australia with that one – good on them. Their tram network is not quite as large as ours, which I am sure comes as a great discomfort to you, Mrs McArthur; I know you do love Melbourne's bustling trams. But we are indeed apparently the equal most livable state as well. So not only are we the number one, best performing economy, we are also one of the most livable places to be.

Contrary to what those opposite always love to say – they are always running down this state – the fact is people are voting with their feet. People are desperate to come to Victoria. We are seeing the challenges of that, and we are responding to that with the housing statement. The housing statement is a huge step towards addressing the issue. The issue is not that people are wanting to leave Victoria – quite the opposite. If people were wanting to leave Victoria, we would not have a housing issue. People want to come here. That is why we are putting this statement in place. We are putting these reforms in place with this bill that is before the house today because we know that people want to come to this state. Why wouldn't you? We are the leading biotechnology state in the country and one of the top three for medical research in the world. The top three cities are Melbourne, Boston and London. There are so many wonderful parts, obviously: our sport, our culture and, again, our economy, whichever part of business you are in. We are the number one performing state in the country from that CommSec report. Why wouldn't you want to be in Victoria? If we did have the situation that those opposite love to paint – and I am sure their friends on *Sky News* are saying 'Yes, people will see busloads driving out of Victoria; they can't wait to leave' – we would not have a rental shortage. We would have the opposite problem.

**Harriet Shing** interjected.

**Michael GALEA**: 2.7 per cent unemployment, the Minister for Housing reminds me. I might be mistaken, but is that not one of the –

*Members interjecting.*

**Michael GALEA**: 2.4 per cent? I stand corrected: a 2.4 per cent regional unemployment rate, which is remarkably low. It might even be one of the lowest on record.

**Harriet Shing** interjected.

**Michael GALEA**: It is the lowest on record. It is certainly lower than anything that those opposite, who claim to speak for regional Victoria, have ever been able to deliver, whether this century in the four years that they were entrusted to govern or in many more years in the last century in which they were. Look at what happened then to regional Victoria. We do not need to bring back the K-word and say what happened to all our regional rail lines.

*Members interjecting.*

**Michael GALEA**: Yes, why bother investing when you can close them down? But we have actually expanded them. People actually want to move to regional Victoria as well. As I say, this is a bill that recognises that, because expanding the tax beyond those 16 councils to be statewide is recognition of the fact that there is a housing issue in regional Victoria. Why wouldn't there be, because regional Victoria is a great place to live. It might not be quite as good as the South-Eastern Metropolitan Region, but it is a fantastic place to be. You have got V/Line fares capped at the metro rate, you have got the Regional Rail Revival and you have got huge investment across all corners of our state, not just in Melbourne. This is not a government that refers to regional Victoria as the toenails of the state. This is a government that puts regional Victoria at the heart of its policy. That is why this bill recognises that, in part with the expansion of that vacant residential land tax, because people in regional Victoria should not be restricted from moving to a home. If they can see a home up their street that has deliberately been left vacant and they need a house, I think that they should have a right to be able to live in the town that they wish to live in, in their home town or wherever that may be.

I refer back to my opening comments to conclude –

*Members interjecting.*

**The ACTING PRESIDENT (John Berger)**: Order! There is too much noise in the chamber.

**Michael GALEA**: It is very much quality noise, and I appreciate the interjection. Those opposite do not seem to grasp that in order to fund these things, in order to continue to fund this record investment in regional Victoria – and to fund these regional roads, Mrs McArthur – you do actually need to have a sound tax structure. This is one small part of that. I know that you do not like to hear that, I know that you will not accept that, but on this side of the house we recognise that there is a balance that we need to strike in order to get the best outcomes for all Victorians, whether they live in regional Victoria, in the inner city or in my wonderful electorate of the South-Eastern Metropolitan Region. I commend this bill to the house.

**Gaelle BROAD** (Northern Victoria) (15:54): I rise to speak on the State Taxation Acts and Other Acts Amendment Bill 2023. There are a number of proposed changes to the act, but this bill certainly does hit landowners with yet another tax. The Labor government's decision to expand the vacant residential land tax to regional Victoria will impact many local families and retirees, and the Nationals and Liberals oppose the bill. The vacancy tax currently applies to houses in Melbourne's inner- and middle-ring suburbs that have been unoccupied for more than six months, but it will be expanded to include unoccupied residential properties across the whole state from 1 January 2025. Owners will be taxed an extra 1 per cent of the capital improved value of the land, or $5000 for every $500,000, unless they can prove they lived at the property for at least four weeks of the year or rented it for at least half the year. This government likes to talk about the Kennett era, but they have been in for nine years, and

what we have seen is just waste, waste, waste and tax after tax – so many taxes that even the new Premier was caught off guard by this one. We now have the biggest state debt in Australia, and now Victorians are being punished for Labor's financial mismanagement.

The Allan Labor government claims the decision to extend the tax was made in an effort to address the growing housing crisis. They made the same claim when they first introduced this tax to 16 inner-city suburbs back in 2017, arguing that this tax would boost housing supply and make housing and renting more affordable, but with the median Melbourne unit rental price rising by 22.4 per cent over the past year it would be tough to argue that housing and renting in Melbourne's inner suburbs has become more affordable. Now they are trying to use the same argument for regional Victoria, where the cost of renting a house has already increased by over 11 per cent in the past year.

Under this government we have seen tax after tax introduced. We have had so many taxes. This would be number 52, but to name just a few others, we have got the numberplate tax that has been introduced; the increased fire service property levy; a 50 per cent increase to births, deaths and marriages fees; an increase to the WorkCover average premium rates; an increase to the payroll tax on business; and also the schools tax – the payroll tax on independent schools. We have stamp duty and land tax and now the new taxes, such as the holiday and tourism tax, the rent tax and now this, the vacant residential land tax, which will only serve to make Victoria less attractive to investors to buy and maintain properties on the rental market.

Victorians already pay the highest taxes – over $5000 per person – of any state in Australia, including the highest property taxes per capita in the nation. Less rental properties will only cause greater competition in the rental market and result in a greater reliance on social housing. The government should be looking at ways to incentivise additional rental stock, rather than driving people out of the market. Instead of increasing supply and reducing costs, Labor has increased taxes on homes and driven up the cost of residential construction through their Big Build waste and mismanagement. Rents are at record highs and growing, with the median house rent growing over 11 per cent and the median unit rent growing 22 per cent year on year. Instead of Victoria being a great place to live, under this government it has become a great place to escape. More and more people and businesses are moving interstate.

The new vacant property tax will apply to holiday homes, and owners will need to prove their use of a property or be slapped with the new vacant property tax. The government has confirmed it will soon start looking into water and sewerage usage of holiday homes to assess how often home owners visit a property. In addition, the government will encourage neighbours to dob on each other, and the State Revenue Office may then require home owners to prove they have used the property, including handing over receipts for nearby shopping purchases. This new vacant land tax is estimated to bring in just $37 million in extra funds, and it is hard to believe the extent that this government is going to and the nightmare of administering this new tax when we are currently paying $15 million a day in interest payments on our state debt – each and every day – yet this government continues to bind the state up with more and more rules and requirements, making life harder and harder.

If I can just talk to one of the main provisions of this bill with the vacant land tax, the period that properties can be deemed vacant will start on 1 January 2024, with the change commencing in 2025. Then, when we talk about how difficult it is to administer, existing exemptions will continue to apply statewide, including to holiday homes, properties recently acquired or regularly occupied for work purposes and properties being built or renovated. The government has provided written advice stating that the holiday home exemption is not available for land owned by companies, associations, organisations or self-managed super funds, but following the Treasurer Tim Pallas's announcement that the government would extend the vacancy tax to regional areas, the Victorian Farmers Federation expressed serious concern about the possible adverse effects this would have on houses intended for farm workers. While farm properties would not be affected, there are still concerns that there may be circumstances where houses used for farm workers are not located on farmland and therefore may be subject to this new tax.

Our tax system in this state needs review. Are our tax policy settings competitive? What is the impact of these new taxes on employment growth, on wage growth, investment and economic growth? What is the impact of all these taxes on families, on renters and on small businesses? Under this government the cost of living just keeps going up and all we see is more chaos and confusion. Policy decisions have been made on the run without doing the homework or considering the impact on people.

With this bill there has been no consultation with industry, but we have heard the feedback from them. The Real Estate Institute of Victoria CEO Quentin Kilian said he was disgusted by the fact that they had not been engaged:

> They might have changed leaders, but the approach is the same – they start with the premise of punishing taxpayers …

The Property Council of Australia chief executive Mike Zorbas said the:

> … hidden tax grabs are a major trust-burner.

I know, Ryan Batchelor, you mentioned earlier: well, what will it take? Should we cut services? Well, what about cutting waste? The Commonwealth Games is $600 million completely wasted, for delivering nothing, and this is just a tax that is going to raise $37 million – so $37 million compared to $600 million wasted. The government states this tax will go towards housing and the housing statement – 800,000 homes in 10 years. But my concern is the housing statement is just a statement. We heard about the Commonwealth Games how excellent and amazing and good it was going to be – great headlines, nothing delivered.

I have spoken with people in the building industry and I have spoken to architects as well, and there are big question marks over the ability to build that amount of houses in that amount of time, because at this point we do not have the supplies and we do not have the builders. There is a significant shortage, and this government again do not seem to do their homework before making these big announcements. Now my concern with all these new taxes that are being introduced is we do not just have a shortage of teachers in this state, we have a shortage of accountants just to get through all this. When you raise the question on the other side of the house: do we really want to be in government? Well, I can tell you it is 1100 days to the next state election in 2026, and I am counting the sleeps. I can assure you that what we are seeing here are just more taxes when Victorians are experiencing skyrocketing living costs. I want to thank Evan Mulholland, who spoke to the reasoned amendment – one that I hope members of this house will support.

**Lee TARLAMIS** (South-Eastern Metropolitan) (16:03): I move:

> That debate on this bill be adjourned until the next day of meeting.

**Motion agreed to and debate adjourned until next day of meeting.**

## *Motions*

## Housing

**Ryan BATCHELOR** (Southern Metropolitan) (16:03): I move:

> That this house recognises the Allan Labor government is getting on with a package of reforms to the planning system to clear the backlog of approvals and build more good-quality homes faster, including:
>
> (1) clearing the backlog of 1400 housing permit applications that have been stuck with councils for more than six months;
>
> (2) making sure big planning decisions are made faster by expanding Victoria's development facilitation program;
>
> (3) introducing clear planning controls to deliver an additional 60,000 homes around an initial 10 activity centres across Melbourne;
>
> (4) making it easier to build a second small home on your property;

(5) streamlining assessment pathways with a range of new deemed-to-comply residential standards for different types of homes;

(6) introducing legislative reforms to strengthen our planning system;

(7) expanding Future Homes provisions so that it now applies in well-located places across the whole of Victoria and working with industry and universities to develop new designs; and

(8) bolstering the Department of Transport and Planning by bringing on 90 new planners to help with a range of priorities like clearing the backlog, making good decisions faster and increasing housing choice in activity centres.

I rise to speak on motion 204 on the notice paper in my name, largely in relation to the package of reforms to the state's planning system that was announced in the recent housing statement, which aims to get on with clearing the backlog of planning approvals to the extremely important policy end of building more homes in this state, because that is what the housing statement was focused on. It is more than just a statement, it is a package of fundamental reforms that are going to accelerate housing construction in the state and lead to the delivery of 800,000 new homes in this state over the next decade.

The motion in my name goes through a range of matters. It talks about clearing the backlog of housing permit applications, the more than 1400 that have been stuck with councils for more than six months. It goes to ensuring that the big planning decisions are made faster by expanding the development facilitation program. It looks at introducing clear planning controls to deliver an additional 60,000 homes around an initial 10 activity centres across Melbourne, and I have got a couple in the Southern Metropolitan Region that I am keen to talk about in the context of this debate.

One of the things that I think have really caught the attention of and excited a lot of Victorians is the ability to build a second home – a granny flat out the back, a second small home on your property. We are making it easier to do that. We are about streamlining assessment pathways with a range of new deemed-to-comply residential standards for different types of homes so that more homes can get through the approvals process faster. There will be a package of legislative reforms to strengthen the planning system. We will be expanding the Future Homes provisions so that they now apply in well-located places across the whole of Victoria, and we are working to develop new designs that will apply to these new developments under the Future Homes program. Significantly – and it was the subject of an interjection in the last contribution – we are bolstering the Department of Transport and Planning by recruiting 90 new planners to help with a range of these important priorities, like clearing the backlog, making good decisions faster and increasing housing choice in activity centres across Melbourne.

There was a bit of conjecture earlier in the chamber about what is happening to Victoria's population. There was a bit of conjecture that people are not coming to Victoria anymore – that somehow there is not growth in Victoria's population. I found that a little concerning, because unlike most of the things that come from those opposite, those were statements that were completely divorced from reality. We just have to have a little look at the statistics to demonstrate actually what has been going on with Victoria's population. I know the opposition do not like facts to get in the way of a good story, but I am about to inject a couple of them into this debate today.

For the year ending March 2023, the latest population data available from the Australian Bureau of Statistics shows 161,700 new Victorians in the last 12 months. It does not sound like our population is going backwards. It has grown by about 2.4 per cent, the second-fastest growth of any state over that period in the nation. I would not want the opposition to get distracted in the debate by facts, but they are important from time to time. It is important to actually understand what is happening in this state if you ever – ever – have any hope of leading it. That is what this government understands. It is that more and more people want to call Victoria home. For them to be able to call Victoria home they have got to have a home to live in, and that is what our housing statement is about. More than just a statement, it is a plan to build 800,000 homes in this state for the hundreds of thousands of Victorians,

the new Victorians, who are coming to join us all in what we all know to be the greatest state in this nation.

Of course one of the impacts of population growth over sustained periods of time is that it puts pressure on our housing system. It puts pressure on all the various aspects of housing across our state, and that has the effect of engaging the dynamics of supply and demand in the market. That is fundamentally what has been going on for an extended period of time: more and more people have been coming to Victoria, and we have not been as fast as we need to be in generating the housing for those people to live. That is one of the reasons why we are seeing what I think rightly is being described as a housing crisis, a crisis of both affordability in our housing market – there is a crisis for those who are seeking to buy their first home – but also obviously there are problems with the availability of that supply, and that is having an effect, making homes more and more expensive.

We do absolutely understand that housing is becoming more expensive for Victorians, and that is why we are trying to make sure that more homes get built, because if we have got more homes being built, it is going to put downward pressure on those prices. According to the Centre for Equitable Housing at Per Capita, in 2021 in Australia house prices rose by 19.4 per cent, one of the fastest growth rates in the world. To give you a sense of scale and what has happened and changed over time, in the late 1990s the total value of Australia's dwelling stock was about twice the value of our total GDP, so to give you a sense of relativities there, but by 2021 this had risen to 4.35 times – the total dwelling stock was valued at 4.35 times the total value of GDP. So in that 20- to 25- or 30-year period, the total value of our housing stock had grown from about twice the total value of GDP to more than four times the value of GDP. That just means largely that our homes have become more expensive.

One of the other things that has happened over that time which has hurt people's ability to afford homes – and this probably is a consequence of the deliberate design of some national economic architecture over the last decade – is that wages and incomes have not kept up with that growth. One of the problems we have seen over an extended period of time, to get to fundamentally why it is important that we need to do more on housing, is that we have seen a set of economic circumstances where people's wages have not been growing in the way that has been necessary to afford housing in this country. Part of the reason housing is becoming less and less affordable is because people's wages have not been going up as fast as they need to, and that obviously is one of the dynamics that is at play. Whilst this housing package and the set of planning reforms that are the subject of this motion obviously cannot address this, it is one of the conditions that is leading to the necessity for taking this sort of action.

The other thing that is also going on that I think is worth putting at the start of this debate for context is that as house prices are going up but incomes are not rising as fast, the amount of household income that is going towards housing has increased significantly over the years, so people today are spending much more of the income that they earn on housing than they have in the past. Again, to give context as to why it is important for the government to be taking the action that it is taking in the housing statement, we know that for a family – again according to the Centre for Equitable Housing at Per Capita – in the 1970s the average mortgage repayment over the course of a mortgage was about 11 per cent of a family's gross income. By the time we got to the mid-1980s those average repayments over the course of a mortgage had increased to about 19.5 per cent of gross income, but for a family who bought a home in the 2000s, they are spending about 25 per cent of their gross income servicing their mortgage debt. So we know that the effects of increased housing costs and the increased cost of housing relative to incomes over the generation have meant there has been about a 130 per cent increase in the cost of housing as a proportion of income for people buying homes in the 1970s compared to the 2000s, and that trajectory is only increasing.

Why is this relevant? It is relevant because it underlines the need for governments who have levers under their control – and as a state government we have got a set of levers under our control. We do not have the same set of national economic levers that the federal government does, and we for too long have had a federal government that does not care about these issues. That changed, fortunately,

last year, and it is good to see new policy directions out of the Commonwealth under the federal Labor government. They will take time to flow through. But here in Victoria, where we do have a set of policy levers that we can pull to do our bit to try and help address the housing crisis, we need to pull them, and that is what the housing statement is doing.

The economics of supply and demand, as I mentioned earlier, tell us fundamentally that the big challenge we have ahead of us in what the state can do is in looking at putting in more supply. The dynamics of supply and demand, even for those of us who did not particularly excel at doing any economics at university, are reasonably simple to understand. As demand increases and supply contracts, prices are going to rise, so what we can do to increase supply should have the effect of ameliorating growth in those prices. If we can overcome the problems of scarcity in a competitive market, we can put downward pressure on prices, and largely that is what our housing package is seeking to do. It is a fact that the current set of planning and permit systems in the state are failing to keep up with demand. In the last year the number of dwellings approved in the state fell by 26 per cent, and we know that there is a backlog of around 1400 applications for multi-unit housing developments that have been sitting with councils for more than six months. Clearly something is not working in the system when we have got these population trends, more people wanting to come here, over time housing going up and more people wanting to buy but not enough housing being approved.

We know, to take an example out of my electorate, the City of Stonnington rejected around 20 per cent of planning applications last year. Yarra council progressed just 38 per cent of applications within the required time frames and had an average processing time of 188 days. We know that restrictive planning laws and restrictive planning frameworks are preventing new developments, and the attitude of some local councils plays an exceptionally important role in deterring new developments. A 2018 report from the Reserve Bank of Australia found that zoning restrictions had raised the price of the average house in Melbourne by 69 per cent above the value of the physical inputs required to provide it. The Australian Housing and Urban Research Institute found in 2018 that land use planning mechanisms have worked to support the supply of affordable housing in other jurisdictions and in good comparator jurisdictions like the UK and the USA and that they can help us here in Australia.

It is very clear that if you are concerned about taking action on the planning system to deliver more homes, you have got to figure out ways to facilitate more higher density developments occurring in locations in this state that are well serviced already by good pieces of infrastructure, because if we need to build more homes we have basically got two major options. One is to keep building developments on the edge of our current urban developments. I know that is something many in this chamber, particularly you, Acting President Galea, are aware of on Melbourne's urban boundary. Increasingly and for many, many years the solution has just been, 'Let's just keep pushing the boundary out. Let's just keep building more and more new developments on the outskirts of our existing metropolitan zones,' and for many that has been the simple solution because it is far away, easy to do, out of sight, out of mind. The consequence of this is that people who need a home, want a cheaper home and buy in these developments are often left languishing without the infrastructure and services that they need to live high-quality lives. That is through no fault of their own, but the infrastructure is not keeping pace.

So the challenge that government has is that it is far more expensive to deliver new infrastructure projects to meet growing urban boundaries than it is to try to facilitate more development closer to existing infrastructure, and much of what this housing statement, on the planning side, is seeking to do is to expedite and make easier the building of more housing closer to existing infrastructure. That is what a large part of the drive in the housing statement is seeking to do, and I particularly want to talk a little bit about the 10 new metropolitan activity centres that the government has designated that will account for a large part of where we want to concentrate much of the new high-density development in our cities.

There were 10 sites identified across metropolitan Melbourne as being where these should take place. I want to talk about the one that I know best in the Southern Metropolitan Region, and that is the

activity zone in Moorabbin. I want to talk a little bit about why it makes so much sense to put a metropolitan housing activity centre in that location. For those of you who do not know Moorabbin, there is the Moorabbin train station on the Frankston line, a line where we are investing significantly to make it level crossing free by the end of this decade. A huge amount of infrastructure work has gone on, and there is significant future work planned to remove the last of the level crossings in that region. Moorabbin train station is next to the Nepean Highway, which is one of the significant arterial roads that has thousands of cars going into town and down to Frankston. It is on South Road, enabling connections out to the Mordialloc Freeway. All of this existing infrastructure that the government has invested in – this train station and this activity zone sit at the heart of it. There has already been some good development occurring in and around Moorabbin, but clearly we can do more. If you go down and look at where some of the existing developments are, the multistorey – 10 or so storeys – developments, there is plenty of opportunity for future development to go above the existing shops. It is not, in fact, a long way from just down the Nepean Highway, where someone had the great idea a couple of decades ago to take advantage of the space above the Nepean Highway to help build a shopping centre. So some innovative –

**Joe McCracken**: Was it Jeff Kennett?

**Ryan BATCHELOR**: Who knew? By locating more people in this place, we are going to be able to facilitate and take advantage of the existing infrastructure that we have put in place here – transport links, roads, rail, buses and train stations down the road. It is exactly the kind of place that will do.

So the process that the housing statement outlines, the planning reforms that the housing statement identifies as being able to facilitate this development, is that the state will go into this activity centre and develop the new structure plan. It is going to go in and plan this activity centre for this type of development. The Minister for Planning has already had constructive conversations with the local councils in that part of the world, and I know that Minister Kilkenny is having similar conversations with local governments that are affected by other activity centres. By engaging with local councils we are bringing together the best knowledge that we have got at a local level with the best strategic planning we have got at a state level to deliver these centres and build these new homes. Once we have got those structure plans in place, once the planning work has been done to facilitate these additional homes, we will see a development facilitation pathway available for those projects that are valued at more than $50 million or where there is 10 per cent of the total stock for social and affordable housing to enable that development to occur faster.

The policy mix we see here is one where we are working with local councils, using existing infrastructure and promoting social and affordable housing to occur in new sites across Melbourne so that we can put more of the people who are coming to Victoria closer to where we have got existing infrastructure and existing services so we are not putting as much pressure on expanding developments in outer urban areas. We have got that one in Moorabbin which I know, just down the road from my electorate office, but there are others in Broadmeadows, Epping, Frankston, Ringwood, Camberwell Junction, Chadstone, Niddrie at Keilor Road, North Essendon and Preston High Street.

The other thing I will say very briefly is that just at the back of the existing boundary is the old Bayside citizens advice bureau, which is now the Bayside Community Information and Support Service, which is providing exceptional support to individuals in that part of the world who need assistance. I visited their premises the other week and had a good chat to them about what we need to do to support them, and I hope that, working with the local council over the next few years as we develop and transform this part of the world, we can help expand their footprint and give them facilities that meet their needs. There is also, just up the road, a site where some new social housing is going, and I think that will add exceptional value to the local community.

There are a couple of other things I want to just quickly go through. I have spent quite a long time talking about the exciting activity centre that we are going to get in Moorabbin, but I just want to talk about just some of the other things that we are going to do as part of the housing statement to help

facilitate quicker planning across the state. We want to clear this backlog of planning applications – 1400 planning applications – that have been stuck with councils for too long. We know that faster approvals mean getting more homes sooner and that is going to ease the pressure on house prices. We have got to use, as I said, the development facilitation program so that where we have got large developments of at least $50 million and where they deliver at least 10 per cent social and affordable housing, including possible new build-to-rent projects, they are able to be facilitated and developed sooner.

I just want to spend a couple of minutes talking about one of the areas where I think there is a lot of excitement, and that is making it easier to build a small second home on your property. Currently there are a range of restrictions that prevent people from building a small second home out the back, what many would call in old parlance a granny flat – it does not always have to be your granny that goes out there; it could be anyone – and it has been quite difficult. People have found very frustrating the barriers that are put in place when converting maybe an old shed into a dwelling or maybe building a new facility, and we know that as people look for different ways to do the kind of intergenerational living that we know is becoming increasingly common, the burden of getting a planning application has been quite significant. That is why in most circumstances you are not going to need a planning permit if these small second homes are less than 60 square metres.

I just want to talk a little bit about some research that was released just the other day which goes into a bit of detail about just how much space there is for this to occur, should landowners want to of course; this is a choice that individuals can make, that families can make. Research published a couple of weeks ago identifies around 655 homes across capital cities in Australia, so Australia-wide, that have the space to build a self-contained two-bedroom development onsite. In Melbourne around 13.2 per cent of properties have the potential to do this should the individuals who own these homes choose to do so. This is a choice for landowners, making it easier should they desire to build a new flat out the back of their existing property for an elderly relative. Maybe it is for a grown child who cannot seem to leave the nest.

I do not wish to go into any kind of speculation about the range of options that people could put these new second properties to. Suffice to say that building them will generate a lot of additional housing in a relatively short period of time relatively efficiently. We have seen certainly that the experience of other jurisdictions where they have introduced similar rules is that it has been quite quick for this to occur. In parts of Sydney and parts of New South Wales where similar rules were introduced and changed not too long ago there was a marked uptake of these changes, and quite quickly we saw more dwellings being built at the back of other people's houses – a very efficient way of building extra rooms to accommodate extra people without needing to build up or out. I think we are seeing sensible decisions like this as being significant ways the state government, through the housing statement, is facilitating what we are doing.

The other thing that I think is important just to briefly touch on is the Future Homes program. For those of you who do not know about it, I will just spend 30 seconds explaining. Future Homes is a program that has sets of ready-made architectural designs which can be purchased by developers, adapted to a site and facilitated through a streamlined planning process. Architectural thought goes into particular high-quality designs that we can place on sites to ensure that, instead of having to start from scratch, developers in these sorts of places can take what is largely a ready-made, off-the-shelf design to accommodate new housing and get faster development.

We are going to create more high-quality designs for four- and five-storey developments and expand the areas they can be used. We are also changing the types of homes that require planning permits so that single dwellings on lots bigger than 300 square metres and not covered by a pre-existing overlay will no longer require a planning permit. This is going to streamline the planning system and reduce the burden on councils, but fundamentally we hope to expand the number of dwellings and the capacity of these dwellings to accommodate Victoria's growing population, because we know that Victoria's population is growing. I think it was by about 2.4 per cent in the last year that our population has

grown. There is a lot that has gone into causing the housing crisis in this state, and there is a lot that needs to be done to try and fix it. What the government has done in the housing statement is demonstrate that it is committed to delivering the homes that Victorians need.

**Evan MULHOLLAND** (Northern Metropolitan) (16:34): I thank Mr Batchelor for moving this motion, because it gives me an opportunity to respond to the motion and what he has put forward and what he has said. It gives us an excellent opportunity to consider this tired old Labor government's record on housing. As many of you know, Labor have been in government for almost a decade, and far from delivering abundant housing, Labor have delivered Victoria's rental and housing availability crisis. The housing statement is an admission that the status quo is not working. In fact the former Premier said that the status quo is not an option. If only Labor was not responsible for the status quo. According to SQM Research, when Labor was first elected in 2014, Melbourne had 12,713 homes available to rent. That is quite a lot. Despite our state losing population during the pandemic and the flood of government press releases about home building, there are now only 6449 homes available to rent – all of this while our state is set to grow by 10 million by 2050. Labor is responsible for the status quo. The basic economics of supply and demand will tell you when there are less homes available, that will increase the price.

The government members, the Premier and the former Premier should be saying, 'It's me, hi. I'm the problem, it's me.' That is what they should be saying, because they are the problem. They are responsible for the status quo. Unfortunately, when it comes to housing, young people and renters are paying the price for Labor's ineptitude. I want to quickly go to Mr Batchelor's comment about precincts and activity centres – activity zones – and he did mention Broadmeadows in my electorate as an activity centre. I did wonder whether they could enlighten me and my constituents on whether an upgrade to Broadmeadows station would be considered as part of the Broadmeadows activity centre. We know RACV rated it in the top five worst train stations in Victoria, but I also say this because the former member for Broadmeadows actually promised an upgrade to Broadmeadows train station and then the government was forced later on to clean up his mess and say that basically the former member was freewheeling and, no, there was not a promised upgrade. But there is, I guess, some good news. The government has promised an upgrade to Broadmeadows station – in 2052 when the Suburban Rail Loop part 2 is completed. Isn't that nice? Isn't that nice for my constituents who have long waited for an upgrade to Broadmeadows station?

I did ponder it, and I would query that Preston has also been set as an activity centre, which will include a much greater, higher density in Preston. I find that curious because the government themselves have declared themselves quite nimby, and they heritage-listed the Preston Market and set the Preston Market development back and scaled it right down. They have clearly had a wink-wink, nudge-nudge moment and said, 'Well, there might not be an economic return on investment here, but for the rest of Preston, it is on.' Given that the Preston Market is right next to Bell station, the government policy so far seems to go against what the housing statement says about housing around transport infrastructure. I would note that the government did adopt the Liberals' and Nationals' Preston Market election policy, which was to heritage-list the sheds at the Preston Market. So there is the government taking up a good suggestion by the opposition. As Dr Ratnam would know, the government were completely silent on the Preston Market during the election campaign. They actually did not have a policy for it at all. The new member had a very close brush with political death, I would say.

The housing statement outlines no plan to restore confidence in our troubled residential construction sector. We have seen with the collapse of Porter Davis and many other residential construction companies that we do have a real problem in Victoria. We do have a real problem with supplies, labour and inflation driving up costs, and many experts believe that the mismanaged Big Build, which is over $30 billion over budget, is responsible for driving up the cost of labour, supplies and materials and is dampening the residential construction sector and the ability of our builders to build homes. The housing statement has basically blown up before it has begun. As revealed in the *Age*:

> The rate of home building in Victoria has dropped to the lowest ebb for almost three decades …

the lowest level since the early 1990s, putting doubt on the government achieving its housing statement targets. Experts say that:

> The state government could be forced to consider pausing major infrastructure projects to free up workers and resources …

given Victoria has suffered the largest drop in the number of construction workers, an 11 per cent decrease. A senior lecturer in construction management at Melbourne University said that it is clearly not possible in regard to the government's housing statement:

> The 800,000 target is not based on an understanding of the current construction capacity …

So you have got multiple experts and industry sources saying it is not possible. According to the Australian Bureau of Statistics over 83 per cent of those aged in the 15 to 24 age bracket and over 55 per cent in the 25 to 34 age bracket rent. Anyone who is currently a renter will tell you how tough the market is right now not only in terms of rents but also in terms of finding a place, and I elaborated on that yesterday in the rental freeze debate. Recent data from CBRE shows that rents are at record levels with median rents growing at 11.6 per cent and median unit rents growing at 22 per cent year on year. Worse still, there appears to be no light at the end of the tunnel. Vacancy rates have dropped a further 2.5 per cent year on year, indicating continued pressure on the residential rental market. I am making the significant point that Labor are responsible for the status quo. What have they been doing on housing since 2014? They are responsible for the current housing crisis we find ourselves in.

We know – and I was chatting about it before – the housing statement is a big flashy document with lots of pages saying 'Intentionally left blank', and then there is a secret chapter that came afterwards, a 'Part 2: the Taxes'. Labor seem to think there are no consequences for increasing taxes. The consequences are these: in 2014 weekly rents were around $466; now they are $702 per week – that is a 52 per cent increase. Labor have been in government since 2014. Everything that is happening at the moment has happened under their watch. They have been sitting there for almost a decade, and there have been many developments the government have knocked back across that time. We saw the former Premier early on in his premiership visiting places and saying, 'There will be no inappropriate development here and no inappropriate development there.'

As colleagues would be aware from my maiden speech and since then, I am a self-professed yimby. I was actually a yimby before it was cool, before there were official yimby organisations, and have been for a long time, because we value home ownership and the ability of people to find a place to call their own home. If they are in their own home, they have an investment for a lifetime, they have an ability to have a stake in their community and they have an ability to have a stake in Victoria.

But again Labor has mismanaged housing. They have increased taxes on housing. We have got the highest housing taxes in the states. So to meet their target, Labor need to build 220 houses per day every day, including weekends, Anzac Day, Christmas Day, Good Friday – all of those – Grand Final Friday, for 10 years. As I said, Labor's mismanaged and sometimes ill-regarded and ill-conceived Big Build is sucking up labour, materials and supplies from across the state, pushing up construction costs and pushing the dream of home ownership and lower rents even further away.

There is a real problem with investment, and that is a result of government taxes. One in four Melbourne landlords have sold their rental homes in the past year according to the Property Investment Professionals of Australia survey. This is a significant trend that should raise concern for tenants across the city, because when you have investors fleeing the market that rental availability is no longer there. A survey of 1724 investors across the country, including 538 in Victoria, revealed that property taxes were the primary motivation for investors to sell. Melbourne's decline in popularity among property investors is striking, as it went from being perceived as the nation's second-best place to buy in 2017 to just a 4 per cent approval, with only Hobart ranking lower.

Ben Kingsley, the chair of the Property Investors Council of Australia and managing director of Empower Wealth, expressed concern that Victoria could lose investors to other states or discourage

them from investing in property altogether. He also expects a surge in investor sales in Victoria in the coming 12 months due to upcoming land tax changes starting in January. We were here warning you about that land tax, but you can all face the consequences of that when investors flee the state.

And we see another tax, as I was mentioning earlier – expanding the growth areas infrastructure contribution (GAIC) for all Victoria. Two cabinet ministers confirmed that it is being discussed. They have mismanaged that fund. There is over half a billion dollars sitting in government coffers waiting to be spent when it should be being spent in growth areas, like in my electorate – in Greenvale or in Kalkallo or in Wallan or Beveridge. But it is not. These people should be getting footbridges, new bus routes, bus stops and community facilities as they move in, not years after, but that is what we have been getting under this government. They take all the stamp duty revenue from all these new estates in our growth areas and they spend it elsewhere.

They are spending $1 billion on level crossings in Brunswick. I reckon the people of Kalkallo deserve to have Donnybrook Road duplicated much more than the people of Brunswick deserve to have their level crossing removed. The government has approved the building of tens of thousands of housing estates on Donnybrook Road in the seat of Kalkallo and the seat of Yan Yean and has left residents trapped in their own housing estates. It takes over an hour to get out of your own housing estate when you are on Donnybrook Road. One of my residents, Rebecca, went into labour during peak hour in the morning, and it took her an hour to get out of her housing estate. That is because the government has not spent on the required infrastructure. So they have basically given up on growth areas. They have said, 'It's all too hard.' You have not even tried. You have not even spent the money available in growth areas. You have not even tried to build out in growth areas, because you have not actually invested there. You have approved everything but not actually spent the money that you collect from the stamp duty revenue. You would rather spend it on $1 billion for level crossings in Brunswick or dog parks in Brunswick, not actually on duplicating the entirety of Mickleham Road, duplicating the entirety of Donnybrook Road –

**Harriet Shing**: On a point of order, Acting President, perhaps this is an opportunity for Mr Mulholland to refresh his water and to then lean into the remaining 13 minutes that he has. I am struggling with understanding how this remains relevant to the point at hand. Mr Mulholland began well, but we appear to have wandered off into some kind of parallel universe, so perhaps you might bring him back to the subject at hand.

**The ACTING PRESIDENT (Michael Galea)**: Mr Mulholland, back to the bill, please.

**Evan MULHOLLAND**: If Ms Shing had been following along, I was referring to a potential expansion of the GAIC, and I was talking about Victoria being the highest taxed state in the country in terms of property taxes and the expansion of the GAIC, the impact that would have on all of Victoria and the impact that would have on property investment and therefore supply. So I think it is entirely related to the motion because of that. It is all related to the housing market, and I was talking about that particular tax because it is a tax that they have completely botched. So I think I am being entirely relevant.

Since 2009–10 new apartments have been taking more than 40 per cent longer to build, townhouses have been taking nearly 28 per cent longer and freestanding homes nearly 25 per cent longer. That is Labor's record. In the end young people, young families and renters pay for Labor's mistakes and inaction on housing. We must reject Labor's attempts to pull the wool over the eyes of renters with their housing statement, which is collapsing faster than the Commonwealth Games. We know that because experts, industry and economists are all saying it is unachievable.

Victorians need more private rental supply to solve the problem. That means we need to attract more investment, that means we need to stop taxing property that brings that investment. We know through our consultation at least that you have investors, large superannuation funds and others that are looking elsewhere, places other than Victoria. We need them to come into Victoria to build, to invest in homes.

We need them to. When you have got one in four investors getting out of property, that is a problem. Perhaps taxing them is the government's way of getting ordinary mum-and-dad investors out of the housing market so their mates in industry super can swoop in. Maybe that is the grand scheme. It starts by ending Labor's punitive taxes on homes and restoring integrity to public projects and decision-making to end the waste and mismanagement of this government.

**Sheena WATT** (Northern Metropolitan) (16:53): What a delight to follow my colleague in the Northern Metropolitan Region Mr Mulholland and speak on motion 204. We will I suspect differ in our remarks, and I will begin of course by highlighting that the Allan Labor government has a record when it comes to housing reform and making sure that there are critical investments to deliver record amounts of homes to Victorians. This government is delivering record investment with the implementation of these reforms as laid out in the motion before us, which will create a more streamlined process for the application of these said reforms.

Eliminating the requirement for a planning permit – I might start there. There is a lot in the motion, and I thank Mr Batchelor for putting together such a vast motion that has given us so much to talk about today. But with that, I want to talk about – what did we call them? – secondary residences, or granny flats as we know them. I think we should probably keep that terminology. It is known and loved right around the world, but I have got to say it is a great step forward to streamline Victorians' ability to build in their own backyards. This change not only empowers home owners to exercise their freedom in designing and building their homes but makes it easier for families to create the living spaces that best suit their needs and preferences. I have spent some time with Kids Under Cover, who are a phenomenal provider of additional home space for families and children, and I cannot speak highly enough about them and their work putting some fantastic unit apartments in the back, particularly needed for big growing families. It is actually exceptional, and I just want to pay them a bit of credit for that. This work and this reform will encourage innovation, economic growth and a stronger sense of community, ultimately contributing to more dynamic solutions.

That is not all. There is of course so much more that I could talk about. The centres of activity is one that has got some conversation started here in the chamber, but I have got to say, by strategically placing these homes, which is what we are doing – the 60,000 homes – around the state in centres of activity we will see vibrant, dynamic communities that offer such numerous benefits to Victorians and our state. I am so excited about these 60,000 homes, because what I hear is that a great number of them will be around the Northern Metropolitan Region. You see, guiding investments in the things a growing community needs, like improved streets, parks and community infrastructure, is entirely necessary, as is providing increased certainty to the community and activity centres about what kind of infrastructure and new development we can expect and developing models for clearer and simpler planning controls which can be replicated in the other centres, not just those in the northern suburbs. As was discussed by my colleague Mr Mulholland, there are some in, yes, Preston and, yes, Broadmeadows. There are others that I want to give a shout-out to, including Epping and North Essendon, which is great. These will give people so many options for housing in our great and mighty northern suburbs, and I am sure that my parliamentary colleagues in the northern suburbs are just as excited as I am to see all these new homes springing up all across the northern suburbs and are looking forward to welcoming new families into the Northern Metropolitan Region.

Having applications sit in our system for far too long just does not get houses built. We will begin the work to clear the backlog of 1400 housing permit applications that have been stuck for more than six months – six months. That is incredible. We have a dedicated team that works with project proponents, local councils and a referral agency to resolve issues delaying decision-making to avoid the projects ending up at VCAT and just getting the homes built, because that is what we need. Once we have a clearer picture of projects, and if decisions keep lagging, then the Minister for Planning will not hesitate to call them in.

These reforms highlight the government's understanding of the importance of safe and secure housing in nurturing vibrant communities. Adequate housing is not just a human need; it forms the foundation

of education, health care and overall community wellbeing. By prioritising the construction of these homes, the government is indeed fostering an environment where families can thrive – how exciting is that – children can excel in school and communities can grow, they can thrive and they can prosper. The government's commitment to positive reforms in planning moves us towards creating more efficient, sustainable and inclusive communities. We are focusing on comprehensive planning reforms, and we are making sure that big decisions are made faster by expanding Victoria's development facilitation program. This is an especially exciting one: we are streamlining the planning process for medium- to high-density residential developments that meet certain set criteria.

Let me tell you about that. That is construction costs worth at least $50 million in Melbourne or $15 million in regional Victoria and delivering at least 10 per cent affordable housing. These will include new build-to-rent projects. I will take a moment to shout out that I have in fact visited some of these build-to-rent projects in development right now and know from conversations with the Minister for Planning that there is an awful lot of enthusiasm and interest from the developer community about getting on board with the Victorian development facilitation program. It means that around 13,200 additional homes will be brought to market that would otherwise be delayed, and it will cut application time frames for these types of projects from around more than 12 months down to four.

Clearing the backlog of housing applications is crucial for several reasons. Firstly, it fosters trust between government and the community, showing that the authorities are responsive to the needs of the people, and timely approval of housing applications means families can plan their futures with confidence, knowing that their situations are secure. We have also made changes to the types of homes that require planning permits. Single dwellings on lots bigger than 300 square metres and not covered by an overlay will no longer require a planning permit. Single dwellings on lots smaller than 300 square metres where an overlay does not exist will be decided within 10 days – just 10 days – and I cannot imagine what a difference that will make. These are simple, practical changes that will see Victoria's planning laws change to have the interests of Victorians front and centre.

Talking about planning, I have got to say that this week the Premier, the Minister for Planning and the Minister for Skills and TAFE from this place Gayle Tierney launched a recruitment campaign for 90 new planners to deliver the bold reforms announced in Victoria's landmark housing statement, clearing the backlog of applications. Ninety is extraordinary. We need these planners, so if you are thinking about being a town planner, now is indeed the time to get on board. They are to be based in the Department of Transport and Planning. They will work in partnership with councils to support planners at a local level, delivering the state's planning priorities and making decisions faster. By hiring these additional planners – that is 90 additional planners – the government is investing in the expertise and the workforce necessary to speed up the approval process for housing applications. This means that Victorians waiting for their housing projects to be approved will experience reduced waiting times, and we know what a difference that will make. Shorter approval time lines translate into families being able to move into their homes sooner, providing them with much-needed stability and security.

The Allan Labor government is also ensuring the construction industry has a pipeline of skilled workers to build thousands of new homes, lifting eligibility restrictions for the free TAFE program – and don't we just love free TAFE over on the side of the chamber – so all Victorians can access government-subsidised training in more than 80 in-demand courses. There are some fantastic courses in that list of 80, let me tell you. Since the introduction of free TAFE in 2019, more than 153,000 students, let me tell you, have saved more than $394 million in tuition fees. I know Ms Terpstra is a big fan of free TAFE – she will not stop talking about it – with courses in fields like building surveying, building construction, civil construction, plumbing, services and many more, targeted at delivering the workers that will help the state reach its ambitious building target.

In addition to all that, we have the Allan Labor government's plan to invest $400 million into growth corridors, giving tremendous benefits to current and future residents. Let me tell you, by putting these funds into growth corridor suburbs the government is addressing the critical infrastructure needs, it is

true, so that communities and suburbs all around Victoria can thrive. These strategic investments improve the overall quality of life for residents but also plan for the long-term future, because they might be new right now but they will be thriving suburbs of the future. Let me just say that we also see that this investment demonstrates that the government is absolutely committed to reducing disparities between the different suburbs, ensuring that growth and development are not limited to urban centres alone. We are focused on the growth corridor suburbs and promoting balanced development, encouraging even more distribution of the resources and the opportunities.

There is so much more that I could go on with, but let me just tell you we are not stopping there when it comes to seeing the opportunities from the housing statement and it being linked to real action on climate change. You see, we are promoting energy-efficient housing, some green spaces and eco-friendly infrastructure – there you go – and it aligns with the desire of so many Victorians to live a more sustainable life for future generations. Also, it encourages the overall quality of life and contributes to the preservation of Victoria's most beloved and most appreciated natural beauty for the generations to come. We speak often in this place about just what a fine place the outdoors is.

Let me just say we are expanding the Future Homes program as well – there is so much more to go – to encourage the building of more new builds. This was a really interesting one, and I remember reading it with great enthusiasm, actually, because I thought, 'How is it that we are doing this?' What is happening with the Future Homes program is that four sets of ready-made architectural designs can be purchased by developers and adapted through a streamlined planning process. This will create more high density of the sort of four- and five-storey developments and will expand these into where they can be used. This is actually really exciting and will reduce a whole lot of unnecessary delays by fostering the development of neighbourhoods with easy access to essential amenity: health care, education and public transport. There really is a sense of belonging, a real sense of community that will be created here, including reinforcing the importance of social bonds and community.

The housing statement underscores the government's commitment to economic growth and of course job creation. We are stimulating the economic powerhouse of the construction sector, generating employment opportunities and stability. Can I just say that there is of course a need to just get on with it and make it faster, and that is what this is doing. Faster approvals mean more homes sooner. The changes before us are a testament to the government's dedication to its people and addressing the diverse needs and aspirations of the Victorian people. We are focused on what truly matters: providing affordable housing, fostering sustainability, promoting community wellbeing and driving economic growth. I have got to say that the housing statement really does represent a very significant leap forward towards building a better, more inclusive and prosperous future for the residents of Victoria.

In the housing statement what was not mentioned was a range of reforms around renters, some of which I know have been very enthusiastically supported by renters, including the limiting of rental increases and the fact that you cannot move out of one place and into another – you move in and it is not very long before the real estate agent finishes you up to move somebody else in and they jack up the rent. That is over now. That is one that I know was particularly exciting for a great number of folks in the rental market.

The other one that comes to mind is of course about bonds and bond transfers. I cannot tell you what a big change that will make, so I am very excited indeed to see that one, because the Allan Labor government are the only ones in this place who have a really solid, dignified plan for housing and are willing to commit to tangible actions that will make a difference each and every day to the lives of Victorians. We are doing the work that will see transformative change in the housing and planning sectors so Victorians can be better off. We are getting on with it. We are getting it done.

I think perhaps before I wind up I will just say that on Tuesday morning that announcement about 90 town planners was very exciting indeed, and if members know of folks who are interested in taking up a career in planning, please get on board. Right now is the time for your career to well and truly take off.

**Matthew BACH** (North-Eastern Metropolitan) (17:08): Few issues are more important for the future of our state and for the wellbeing of the Victorian people than housing, and so I am very pleased that Mr Batchelor has brought forward his motion today. I am a colleague of Mr Batchelor on the current inquiry into Victoria's rental and housing crisis, and I both note and approve of so much of the aspiration of Mr Batchelor's motion. He talks about the government's reforms to the planning system. He talks about the need to build more good-quality homes and faster. He talks about making big decisions more quickly. He talks about streamlining assessment pathways and strengthening our planning system. He talks about increasing housing choice in activity centres. All of these are laudable aspirations.

We all know that right now there is such a crisis when it comes to the affordability of housing. There is a crisis when it comes to home ownership and affordability for those who want to buy a home, especially for younger people. There is a real crisis in our rental market as well, and whilst I note and approve of so much of the aspiration put forward by Mr Batchelor, I also acknowledge the points made by Mr Mulholland regarding the depth of the crisis that we are in here in Victoria. Mr Mulholland stepped through some of the reasons for that crisis. What I would like to do then is to talk about what I believe is the way forward. I note the government's aspiration. My view, like Mr Mulholland's, is that the government does not go anywhere near far enough in its stated reforms. Mr Mulholland was a yimby before it was cool to be a yimby. I only became a yimby once I realised that it was cool to be one, so I may be late to this party. But I am here now, and –

**Tom McIntosh**: You're very cool.

**Matthew BACH**: Thank you, Macca. I am keen to use the time that I have left to push for good housing policy and good planning policy. I was interested to note that before he left this place the former Premier made some comments to the effect that young Victorians are not interested in the great Australian dream of home ownership. In the inquiry that Mr Batchelor and I have been involved in – Mr Luu is the chairperson of that inquiry – we have heard from so many renters their dreadful stories about the situation they find themselves in, about a total lack of supply and about unaffordability, yet what we have consistently heard is that there is such a desire from young Victorians in particular to get into the housing market, to own their own home.

We have also heard really consistent evidence from an interesting and eclectic array of experts about the need to build more homes where people want to live. Mr Batchelor talked about that. I agree with him. We do not want to continue to endlessly sprawl as a city, to push people further and further away from infrastructure. Infrastructure Victoria released a report just the other day to talk about the massive cost of our current model where the city just sprawls ever further away from the centre – the massive infrastructure costs. An organisation that we heard from at our committee the other day called YIMBY Melbourne has also recently released a report talking about the missing middle, and it was interesting that on the same day we heard from YIMBY Melbourne we also heard from the Centre for Independent Studies and the Grattan Institute. You do not always get unanimity from the Centre for Independent Studies and the Grattan Institute, but we did at the inquiry the other day – that there has been massive failure in our housing market because of big government, because of state government and local government intervention in the housing market, which has stopped reasonable development in places where people want to live.

Like I say, I do not criticise the intent of much of Mr Batchelor's motion. But noting what I have recently heard from YIMBY Melbourne, from the Centre for Independent Studies and from the Grattan Institute, among other expert bodies like Infrastructure Victoria, an excellent creation of this government, I think we need to go further, so I would use the opportunity that I have today to talk on this motion from Mr Batchelor to again say that if what we want is housing abundance, to achieve housing abundance we also must have housing freedom. We must look at evidence-based policies like abolishing stamp duty and instead moving to a land tax arrangement, like strict housing targets for local councils, linked then to necessary reforms to the Planning and Environment Act 1987 to make the planning system far more permissive. We need broad upzoning right across the inner suburbs and

the middle suburbs, where there is excellent infrastructure and where we know people want to live. In my view we need massive reforms of heritage overlays, which we know are weaponised by virtue-signalling busybodies at local councils. It was interesting to hear from Ms Watt about links to climate change – because of the restrictive nature of heritage overlays, you have busybodies from local councils ripping solar panels off the roofs of home owners in our inner and middle suburbs because that is not allowed under our current arrangements, which is surely mad.

I think that we should continue to want to grow as a city, and there is a way of doing this that is sustainable. I want to say to my friends on this side of the house that there is a way to do this that relies on both good policy and also good politics. Now that I am leaving this place, I can cease my charade that I am not obsessed with published opinion polling. The most recent opinion polls here in Victoria show that very few younger people are currently interested in voting for the Liberal Party, and that is a matter of great regret for me. I joined the Liberal Party at university. I was really passionately excited about Liberal values, but at the moment I have to acknowledge that we are not exciting young people about voting for the Liberal Party. The most recent published opinion poll shows that about 16 per cent of young people aged between 18 and 34 want to preference the Liberal Party first. That is a figure dwarfed by those who want to vote Labor first. It is also lower than the figure who want to vote first for the Greens party, but it does not have to be thus. In Canada, for example, we have a centre-right opposition that is poised to win government that has the support of 40 per cent of millennials – greater support among millennials than the left-wing government in Canada – and my understanding is the best analysis of these figures points to the policies of the Canadian opposition when it comes to housing freedom and housing abundance. Many within the Canadian centre-right opposition are avowed yimbys.

I have been speaking for some time about what I believe is an exciting new Liberal agenda. I accept the comments that have been made recently by many members of the Liberal Party that to win government in Victoria – which we have not done for some time, and obviously we have not held government consistently for so long in this state – we cannot be Labor-lite. We must draw clear, sharp, hard dividing lines between what we are offering and what the government is offering. Victorians must be clear that if they vote for the Liberal Party at the next election, well, they will be getting a different government, a better government, than the government they have right now. I would urge my colleagues to be brave in pursuit of Menzian values on housing and on housing freedom. I would urge my colleagues not to be intimidated by selfish, rich geriatrics who oftentimes may vote for us but who we know always have a predilection towards bigger government and greater regulation to protect their own wealth at the expense of younger people and new migrants. I would urge my colleagues to be brave, because I believe not only is this very good policy, it is also good politics, because Victoria's demographics are changing. We must look to the future. We must look to empower younger people, and the status quo is not an option, as Mr Mulholland said.

There is a grain of truth in what the former Premier said about the views of young people towards housing. I know that many young people have currently lost hope and do not believe that they will ever be in a position to own their own home. Well, on this side of the chamber we must always be for freedom, for private property, for property rights that currently are trampled on by both state government and local governments, and my argument – in particular to my colleagues – is that there is a way forward here for the Liberal Party that is entirely consistent with Liberal values and that ultimately will pay a great political dividend.

**Lee TARLAMIS** (South-Eastern Metropolitan) (17:19): I move:

That debate on this motion be adjourned until the next day of meeting.

**Motion agreed to and debate adjourned until next day of meeting.**

## *Bills*

## Early Childhood Legislation Amendment (Premises Approval in Principle) Bill 2023

*Introduction and first reading*

**The PRESIDENT** (17:19): I have a message from the Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Education and Care Services National Law Act 2010** and the Education and Care Services National Law set out in the Schedule to that Act to provide for the approval in principle of certain types of education and care service premises, to amend the **Children's Services Act 1996** to make certain offences infringement offences and to provide for the approval in principle of certain types of children's service premises, and for other purposes'.

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:20): I move:

> That the bill be now read a first time.

**Motion agreed to.**

**Read first time.**

**Lizzie BLANDTHORN**: I move, by leave:

> That the second reading be taken forthwith.

**Motion agreed to.**

*Statement of compatibility*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:20): I lay on the table a statement of compatibility with the 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 Early Childhood Legislation Amendment (Premises Approval in Principle) Bill 2023 (the **Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I have this opinion for the reasons outlined in this statement.
>
> **Overview of the Bill**
>
> The purpose of the Bill is to amend the Education and Care Services National Law (**National Law**) set out in the Schedule to the *Education and Care Services National Law Act 2010* (**National Law Act**), to establish an 'approval in principle' process in participating jurisdictions for proposed education and care service premises located in multi-storey buildings and to make approval in principle a precondition of service approval in certain participating jurisdictions. The Bill also amends the **National Law Act** to declare that the approval in principle process set out in the National Law applies in Victoria and that the Minister may declare, by order, that an approval in principle is a precondition of service approval in certain cases.
>
> The Bill also amends the *Children's Services Act 1996* (**CS Act**) to establish a corresponding approval in principle process for proposed children's services premises located in multi-storey buildings and to make certain offences under the CS Act infringement offences.
>
> **Human rights issues**
>
> The human right protected by the Charter that is relevant to the Bill is the right to a fair hearing in section 24(1) of the Charter.
>
> ***Right to a fair hearing***
>
> Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The concept of a 'civil proceeding' is not limited to judicial decision makers, but may encompass the decision-making procedures of many types of administrative decision-makers with the power to determine private rights and interests. While recognising the broad scope

of section 24(1), the term 'proceeding' and 'party' suggest that section 24(1) was intended to apply only to decision-makers who conduct proceedings with parties. In my view, the administrative decisions at issue here do not involve the conduct of proceedings with parties. Further, it is understood that unless a decision determines existing rights, the fair hearing right is unlikely to apply. In the context of this Bill, decisions determining existing rights would be limited to the cancellation of an existing approval in principle.

If a very broad reading of section 24(1) was adopted and it was understood that the fair hearing right was engaged by this Bill, this right would nevertheless not be limited. The right to a fair hearing is concerned with the procedural fairness of a decision and the right may be limited if a person faces a procedural barrier to bringing their case before a court, or where procedural fairness is not provided. The entire decision-making process, including the availability of reviews and appeals, must be examined in order to determine whether the right is limited.

***Approval in principle for certain service premises located in multi-storey buildings***

The new Part 4 of the National Law and Part 3A of the CS Act provide the Regulatory Authority with the power to grant or refuse an application for approval in principle of a proposed education and care service premises or a children's service premises (section 110 of the National Law and section 100E of the CS Act). The Regulatory Authority must refuse to grant approval in principle where it is not satisfied that the proposed premises and the location of those premises will be suitable for the operation of an education and care service or a children's service and will meet the approval in principle criteria. The Regulatory Authority must also refuse to grant approval in principle unless it is satisfied that the proposed premises will have direct egress to an assembly area to allow the safe evacuation of all children (section 111 of the National Law and section 100F of the CS Act). Part 4 of the National Law and Part 3A of the CS Act also provides the Regulatory Authority the power to amend (sections 115 and 116 of the National Law and sections 100J and 100K of the CS Act), transfer (sections 118 and 119 of the National Law and sections 100M and 100N of the CS Act), cancel (section 120 of the National Law and section 100O of the CS Act), extend (section 124 of the National Law and section 100S of the CS Act) or reinstate (section 125 of the National Law and section 100T of the CS Act) the approval in principle held by an approved provider.

If, on a broad understanding of section 24(1), a decision to refuse an application for approval in principle or to cancel, amend, transfer, extend or reinstate an approval in principle engages section 24(1), this right is, in my view, not limited. This is so because all decisions made by the Regulatory Authority in relation to approvals in principle are reviewable. Specifically, section 190 of the National Law and section 132 of the CS Act provide for internal review of a decision to refuse to grant, refuse to amend, amend, transfer an approval in principle under section 119 of the National Law or section 100N of the CS Act, cancel, refuse to extend, or refuse to reinstate an approval in principle. In each case the person receives notification of the initial adverse decision and where the Regulatory Authority makes a decision to refuse to grant, amend or refuse to amend, transfer under section 119 of the National Law or section 100N of the CS Act, cancel, refuse to extend, or refuse to reinstate an approval in principle, the person receives notification of, and reasons for, the adverse decision. Importantly, decisions to cancel an approval in principle can only be made following a show cause process (section 121 and 122 of the National Law and sections 100P and 100Q of the CS Act).

Finally, all decisions made by the Regulatory Authority on internal review under section 191 of the National Law and section 132 of the CS Act are subject to external review by the relevant court or tribunal (sections 192(a) and 193 of the National Law and sections 134(a) and section 135 of the CS Act) and thereby affords approval in principle holders or applicants a hearing before an independent and impartial court or tribunal and satisfies the requirements in section 24(1) of the Charter.

***Application of service approval where no approval in principle has been obtained***

The effect of the approval in principle on a subsequent application for service approval is dependent on the application of section 49A in the relevant jurisdiction. Section 49A applies to a Part 4 jurisdiction if the Part 4 jurisdiction has specifically declared by law, or an instrument made under that law, that section 49A applies to that jurisdiction. Section 49A will not have immediate application in Victoria but may be declared applicable in Victoria through a Ministerial Order, made in consultation with the Minister responsible for administering the *Building Act 1993* and published in the Government Gazette.

Where a jurisdiction has not declared section 49A applicable in that jurisdiction, a failure to obtain approval in principle will not in itself affect the outcome of an application for service approval other than risking that the building and premises design fails to meet the physical environment requirements for service approval. However, where a jurisdiction declares section 49A applicable in that jurisdiction, approval in principle is a mandatory precondition for service approval (for centre-based services in Part 4 buildings), requiring that the applicant holds a current approval in principle at the time of the service approval application (exemptions are set out in sections 49A(3) and (4)). Where the applicant does not hold approval in principle at the time of the

service approval application, or the premises are not constructed in accordance with the approval in principle, the Regulatory Authority must, under section 49A(2) of the National Law, refuse to grant a service approval.

A refusal to grant service approval where approval in principle is a mandatory precondition for service approval does not in my view engage the fair hearing right in section 24(1) of the Charter. Where a legislative provision mandates that a decision-maker must refuse an application where certain pre-conditions have not been satisfied, the decision-maker does not engage in a decision-making exercise when refusing the application and the fair hearing right is therefore not ordinarily engaged. In the event that the refusal to grant service approval under section 49A is capable of review (jurisdictional error or otherwise) sections 190(a) and 191(a) of the National Law provides a person who is the subject of a reviewable decision, the right to internal review. A decision made by the Regulatory Authority on internal review can on application be reviewed by the relevant court or tribunal (sections 192(a) and 193 of the National Law) and thereby satisfies the fair hearing requirements in section 24(1) of the Charter.

***Infringement offences under the CS Act***

The new section 178A of the CS Act makes section 112 (offence to fail to display prescribed information), section 113 (offence to fail to notify certain circumstances to Regulatory Authority) and section 116 (compliance directions) of the CS Act infringement offences within the meaning of the *Infringements Act 2006* (**Infringements Act**). It also creates a prescription power to allow for offences against the Children's Services Regulations 2020 (**CS Regulations**) to be prescribed as infringeable offences (section 178A(1)(b)). This means that infringement offences under sections 112, 113 and 116 of the CS Act, as well as prescribed offences under the CS Regulations, will be managed in accordance with the prescribed processes in the Infringements Act, which provides the option to pay a fixed penalty or request an internal review of the decision to serve the infringement notice for the contravention of the relevant provision or prescribed offence. Alternatively, the person has a right to request that the matter be referred to the Magistrates' Court of Victoria at any time before the outstanding amount of the infringement penalty is registered with Fines Victoria (section 16 of the Infringements Act). Accordingly, a person served with an infringement notice for the contravention of an infringement offence under the CS Act has an opportunity to a fair hearing in each instance that an infringement is received. Given these safeguards, I consider that the infringement provisions in the Bill are compatible with the right to a fair hearing in section 24(1) of the Charter Act.

**Conclusion**

I am therefore of the view that the Bill is compatible with the Charter.

**Hon Lizzie Blandthorn MP**
**Minister for Children**
**Minister for Disability**

*Second reading*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:20): I move:

That the bill be now read a second time.

## Ordered that second-reading speech be incorporated into *Hansard*:

The Allan Labor Government is committed to ensuring quality early childhood education and care, which plays a vital role in supporting the learning and development of Australian children in their early years and helps to lay the foundation for better health, education and employment outcomes later in life. In its last term, the Government enacted the *Early Childhood Legislation Amendment Act 2022* to implement most of the findings and recommendations of the 2019 National Quality Framework (NQF) Review (2019 NQF Review), which was approved by all states and territories and the Commonwealth through the Education Ministers Meeting.

**Key features of the Bill**

This Bill seeks to implement an outstanding recommendation of the 2019 NQF Review and enhance the regulatory system for early childhood education in Victoria and nationally by:

(a) amending the Education and Care Services National Law (National Law) to establish a scheme that allows developers, builders or education and care service providers to obtain an 'approval in principle' from the Regulatory Authority in relation to a premises for a centre-based service proposed to be built or renovated in a multi-storey building (the premises approval in principle scheme), and provide that a participating jurisdiction may declare that the premises approval in principle scheme applies in that jurisdiction as either a voluntary or mandatory application process;

(b) amending the *Education and Care Services National Law Act 2010* (National Law Act) to:

(i) declare that the premises approval in principle scheme applies in Victoria as a voluntary application process; and

(ii) provide a mechanism for Victoria to declare, by way of Ministerial Order and after consultation with the Minister with responsibility for administering the *Building Act 1993*, that the premises approval in principle scheme applies in Victoria as a mandatory statutory precondition to applying for and being granted a service approval;

(c) amending the *Children's Services Act 1996* (CS Act) to:

(i) establishing a mirror premises approval in principle scheme for Victorian children's services that will operate as a voluntary application process; and

(ii) establishing the ability for the Regulatory Authority to issue infringement notices for certain existing offences in the CS Act and Children's Services Regulations 2020 (CS Regulations), in alignment with the approach to infringements under the National Law.

**Amendments arising from the NQF Review to establish a premises approval in principle scheme**

The NQF operates nationally and regulates education and care services that are provided to children on a regular basis, including preschools (kindergartens), long day care services, family day care services and outside school hours care services. The NQF consists of the National Law and the Education and Care Services National Regulations (including the National Quality Standard).

Since its commencement in 2012, the NQF has been reviewed every 5 years to ensure it is current, fit for purpose and implemented through best practice regulation.

The 2019 NQF Review identified various system-wide improvements to the NQF. A specific area of focus was the challenges associated with services located in multi-storey buildings, particularly in relation to the safety and wellbeing of children attending those services.

In addition to the recommendations to improve safety measures related to services located in multi-storey buildings, the 2019 NQF Review also identified an emerging issue in Victoria and the ACT in relation to newly built or renovated early childhood service premises in multi-storey buildings which are completed consistently with local building law and planning law requirements, but do not comply with the NQF requirements relating to the physical design and environment of education and care service premises. In these circumstances, applicants for a service approval to operate an education and care service in newly built or renovated premises face the risk that their application will be refused unless costly post-construction rectification works are undertaken to make the service premises compliant with the NQF.

The 2019 NQF Review recommended establishing a premises approval in principle scheme for newly built or renovated service premises in multi-storey buildings in Victoria and the ACT to address this issue.

The Bill makes changes to the National Law to give effect to the 2019 NQF Review recommendation by providing for the Regulatory Authority to grant 'approval in principle' in relation to a centre-based education and care service premises proposed to be located in a multi-storey building. The Bill provides that a participating jurisdiction may declare that the premises approval in principle scheme applies in that jurisdiction as a voluntary process or, alternatively, declare that premises approval in principle is a mandatory statutory precondition to obtaining service approval (for a centre-based service in a multi-storey building).

The Bill applies the premises approval in principle scheme in Victoria as a voluntary application process, with the option to make the scheme mandatory in the future.

**Amendments to the *Children's Services Act 1996***

The CS Act applies to children's services in Victoria that were not brought into the scope of the NQF when it was established in 2012 (mostly occasional care and limited hours services). Since 2020, Victoria has aligned the CS Act with the NQF to ensure that the two schemes are administered consistently.

To maintain alignment between the CS Act and the National Law, the Bill will make corresponding amendments to the CS Act to establish a voluntary premises approval in principle scheme for newly built or renovated children's service premises proposed to be located in a multi-storey building. This will ensure that all proponents of centre-based early childhood services in Victoria (including both education and care services and children's services) are able to realise the benefit of the premises approval in principle scheme.

While the NQF provides for certain offences to be infringeable, the corresponding offences in the CS Act are not infringeable. This means that the same conduct could be an infringeable offence in some early childhood service settings but not others, depending on which regulatory scheme applies. Maintaining alignment between the NQF and the CS Act and CS Regulations is necessary to enable equal treatment of similar conduct by

approved providers under both the regulatory schemes. Therefore, the Bill will further align the CS Act with the National Law by making certain existing offences under the CS Act and CS Regulations infringeable.

I commend the Bill to the House.

**Evan MULHOLLAND** (Northern Metropolitan) (17:21): On behalf of my colleague Ms Crozier, I move:

That debate on this matter be adjourned for one week.

**Motion agreed to and debate adjourned for one week.**

## Environment Legislation Amendment (Circular Economy and Other Matters) Bill 2023

*Introduction and first reading*

**The PRESIDENT** (17:21): I have a further message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Circular Economy (Waste Reduction and Recycling) Act 2021** to further provide for matters relating to the container deposit scheme, the waste to energy scheme and the recovery of regulatory costs for those schemes and to amend the **Environment Protection Act 2017** to improve the operation of that Act and for other purposes'.

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:22): I move:

That the bill be now read a first time.

**Motion agreed to.**

**Read first time.**

**Lizzie BLANDTHORN**: I move, by leave:

That the second reading be taken forthwith.

**Motion agreed to.**

*Statement of compatibility*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:22): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

**Opening paragraphs**

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 Environment Legislation Amendment (Circular Economy and Other Matters) Bill 2023 (the Bill).

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

**Overview**

The Bill amends the **Circular Economy (Waste Reduction and Recycling) Act 2021** (the Circular Economy Act) and the **Environment Protection Act 2017** (the Environment Protection Act).

The amendments to the Circular Economy Act –

a. provide for matters relating to the container deposit scheme, waste to energy scheme and the recovery of regulatory costs associated with those schemes; and

b. enable regulations to prescribe variable fees for determining an application or accepting a submission under that Act or the regulations, for example, based on the time taken to determine an application; and

c. make other minor and technical amendments to that Act.

The amendments to the Environment Protection Act –

a. allow the Environment Protection Authority to retain financial assurances in specified circumstances to protect the State from having to bear clean up costs; and

b. ensure that liquidators do not become personally liable for clean up costs incurred by the Environment Protection Authority when a polluting company becomes insolvent; and

c. make other miscellaneous amendments to improve the operation of that Act.

**Human Rights Issues**

The following human rights protected by the Charter are relevant for the Bill: the right to privacy, property rights, the right to a fair hearing, rights in criminal proceedings and the right to liberty and security of person.

For the following reasons, I am satisfied that the Bill is compatible with the Charter and, if any rights are limited, those limitations are reasonable and demonstrably justified having regard to the factors in section 7(2) of the Charter.

***Right to privacy***

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. An interference with privacy will be lawful if it is permitted by a law which is precise and appropriately circumscribed and will not be arbitrary provided it is reasonable in the circumstances and just and appropriate to the end sought.

*Litter enforcement officer*

Clause 35(2) of the Bill engages, but does not limit, this right. It amends the definition of *litter enforcement officer* in section 3(1) of the Environment Protection Act to additionally include persons appointed under Part 3 of the **Game Management Authority Act 2014** to be litter enforcement officers. The litter enforcement officers can request a person to provide their name and address, issue notices, require further information and have powers of entry and inspection in relation to non-residential premises, which are circumstances that are precise, reasonable and appropriately circumscribed to the right to privacy.

The new class of litter enforcement officer does not have any greater powers than existing litter enforcement officers. The powers of litter enforcement officers are subject to the existing safeguards within the Environment Protection Act that apply to protect the right to privacy, including parameters in relation to when and how the powers can be exercised.

The amendment will support the objectives for litter management under the Environment Protection Act. As authorised officers carrying out functions under the **Game Management Authority Act 2014** regularly encounter illegal deposits of litter such as during events, hunting seasons and protests, empowering those officers to take action as litter enforcement officers, including by issuing infringement offences, is expected to deter littering.

Therefore, the right to privacy is engaged in circumstances that are precise, reasonable and appropriately circumscribed, and the right is not limited.

***Property rights***

Section 20 of the Charter provides that a person must not be deprived of that person's property other than in accordance with the law.

Amendments in clauses 25, 27 and 38 and Division 1 of Part 3 of the Bill may engage this right.

*Periodic licence fee*

The amendments in clauses 25 and 27 of the Bill amend licence conditions to require the holder of a licence under the Waste to Energy Scheme established under the Circular Economy Act to pay a periodic licence fee. The new licence conditions would apply to any existing licence holders and be triggered by the making of regulations to prescribe the relevant fee. While it is possible for a natural person to hold a licence, licence holders are more likely to be corporate entities due to the nature of the operations that are licensed. Any limitation on a licence holder's property rights would be in accordance with the law, as it would be in accordance with regulations made under the Circular Economy Act and would be for the legitimate purpose of recovering regulatory costs associated with the scheme from persons who are licensed under the scheme. Therefore, clauses 25 and 27 of the Bill do not limit property rights under the Charter.

*Vehicle inspection notices*

Clause 38 of the Bill inserts new sections 269A and 269B into the Environment Protection Act. New section 269A empowers the Environment Protection Authority (the Authority) to serve a vehicle inspection notice

on a person who is the registered owner of, or is apparently in lawful possession of a relevant vehicle, requiring the person to make the vehicle available for measurement, inspection and testing to determine whether –

(a) the person has a contravened a provision of the Act or the regulations in relation to the relevant vehicle; or

(b) there is a risk of harm to human health or the environment from pollution or waste in relation to the relevant vehicle.

Relevant vehicle is defined to mean a motor vehicle or other vehicle used to transport reportable priority waste. Failure to comply with a vehicle inspection notice is an offence under new section 269B.

The issuing of a vehicle inspection notice may deprive a person of their property rights in the vehicle that is the subject of the notice, as the notice requires the vehicle to be presented for inspection at a specified time and location. The deprivation of the property is temporary and is subject to safeguards and parameters set out in the Environment Protection Act, including requirements in relation to the notice that must be provided and the ability for a person who is served with a notice to request an alternative time, place or period of inspection. Any deprivation of property is also for the legitimate purpose of enforcing other requirements in the Environment Protection Act or regulations and identifying vehicles that pose a risk of harm to human health or the environment. Therefore, any deprivation of property would be in accordance with the law and would not limit property rights under the Charter.

*Refusal to release a financial assurance*

Division 1 of Part 3 of the Bill makes amendments to the Environment Protection Act, to enable the Authority to refuse to release a financial assurance, if having regard to specified considerations, the Authority is satisfied it is necessary to retain the assurance as security for the cost of remediation or clean up where there is a significant risk these costs may otherwise be borne by the State or the Authority.

This engages property rights under the Charter in limited circumstances where a natural person has provided a financial assurance that is retained in circumstances that previously would not have resulted in the financial assurance being retained.

Under the Environment Protection Act, the Authority can require persons undertaking certain activities to provide a financial assurance as security for the costs of remediation or clean up in connection with the particular activity. Currently, section 231 of the Environment Protection Act provides that a financial assurance must be released by the Authority to the person who provided it in specified circumstances, including where a person no longer holds a permission, or where a notice or Order no longer applies to that person.

New sections 231C to 231F provide that, the Authority may refuse to release a financial assurance where:

(a) the reason a person no longer holds a permission, is that a liquidator has disclaimed the person's interest in the permission, where the person is insolvent, or where the permission has been transferred, sold, revoked, surrendered or expired;

(b) the reason a site management order, or environmental action notice no longer applies to a person is, that a liquidator has disclaimed the person's interest in land or premises to which the notice relates, where the person is insolvent, the land or premises to which the order or notice relates has been sold, or where an occupier of land sells, transfers or abandons their interest in the land;

(c) the reasons for which an environmentally hazardous Order was issued remain.

To refuse to release the financial assurance in these circumstances, the Authority must either be entitled under existing section 227 to make a claim on the assurance due to costs already incurred, or likely to be incurred, for clean up activities, or when the Authority is satisfied, having regard to the considerations set out in new section 231G, that it is necessary to retain the assurance as security for clean-up costs, where there is a significant risk these costs may be borne by the State or the Authority.

The considerations set out in new section 231G include the likelihood that clean up or remediation will be required, and if so, the nature and extent and cost of that clean up, the likelihood of a party other than the State or the Authority bearing those costs, the extent of the impact of the contamination, pollution or waste on human health or the environment, whether the full extent of contamination may not yet be known, and whether the person providing the financial assurance has previously failed to comply with the requirements of the Environment Protection Act or instruments made under the Act.

The Bill also provides for the following:

(a) timing and notification requirements for decisions to retain financial assurances;

(b) where the Authority has refused to release a financial assurance, that decision must be reviewed and remade within 5 years or other agreed period, or earlier if the Authority is notified of a significant change in circumstances;

(c) for each further review, the Authority must consider causation and remoteness of any detected pollution, unless there has been no material change in circumstances.

(d) that a person may apply at any time for the financial assurance to be released under existing section 232 (noting that an application after the Authority has refused to release the financial assurance will be subject to the same considerations undertaken by the Authority in making that refusal decision); and

(e) that each decision to retain a financial assurance is reviewable by the Victorian Civil and Administrative Tribunal.

Accordingly, the power to retain a financial assurance is confined, subject to a number of protective parameters, and is justified having regard to the legitimate and important purpose of protecting the State, the Authority and the public from bearing the costs of clean-up or remediation caused by the person who gave the financial assurance.

***Right to a fair hearing***

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

*Validation of existing agreements*

New sections 191B and 191C inserted by clause 22 of the Bill may engage this right. The new sections validate existing agreements or purported agreements relating to the container deposit scheme between the State and the Scheme Coordinator and between the State and Network Operators. The legislative validation retrospectively applies amendments in the Bill aimed at providing clear legislative authority for some of the matters included in the agreements and validates any act or thing done or omitted to be done in reliance on the agreements. This validation in and of itself does not limit human rights. The validation ensures the lawfulness of the agreements freely entered into, to avoid and remove any doubt, confirming the agreement between the parties. The validation is specific as it is confined to the Scheme Coordinator Agreement and the Network Operator Agreements and is confined to a specific period of time. To the extent that the validation provisions retrospectively determine the rights of a party that initiates civil proceedings in respect of the agreements, the right to a fair hearing may be engaged. However, all existing agreements to be validated are between the State and corporate entities, therefore there is no limitation on Charter rights. Further, the amendments are reasonably required to provide certainty to all parties involved in the container deposit scheme and are not expected to have any adverse effect on any party as they are intended to give effect to the terms of agreements to which they have freely agreed.

***Rights in criminal proceedings***

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.

Section 25(2) of the Charter provides minimum guarantees to which a person charged with a criminal offence is entitled. Relevantly for the Bill, this includes a person not being compelled to testify against themselves or confess guilt.

Clauses 37, 38 and 45 of the Bill engage these Charter rights.

*Offence relating to vehicle inspection*

Clause 37 of the Bill amends section 268 of the Environment Protection Act to provide that it is not a reasonable excuse for a natural person to refuse or fail to make a vehicle available for inspection under new section 269A if making the vehicle available for inspection would tend to incriminate the person. The amendment therefore limits the protection against self-incrimination.

The limitation is similar to the existing limitation in section 268(2) of the Environment Protection Act for requirements to produce documents. These limitations on the protection against self- incrimination are required for the purpose of enabling authorised officers to monitor compliance with the Environment Protection Act and the regulations, and to mitigate risks of harm to the environment and human health by the issuing of remedial notices under the Act following an inspection. In relation to the requirement for vehicles to be made available for inspection, the Environment Protection Act sets out a framework for how and when vehicles can be required to be made available for inspection.

Any limitation on this right is directly related to its purpose, which is to enable the Authority to monitor compliance with the Act or regulations, and address risks to human health or the environment.

There are no less restrictive means reasonably available to achieve the purpose of enabling authorised officers to have access to vehicles to undertake these inspections. The existing inspection powers in the Environment Protect Act have not been effective in enabling the Authority to undertake inspections as needed.

For the above reasons, I consider that to the extent that the amendment to section 268 imposes a limitation on the right against self-incrimination, that limitation is reasonable and justified under section 7(2) of the Charter.

Clause 38 of the Bill inserts new section 269B into the Environment Protection Act, which makes it an offence for a person to fail to present a vehicle for inspection in accordance with a vehicle inspection notice issued under the Act unless the person has a reasonable excuse. As the Environment Protection Act does not specify a procedure for hearing and determining proceedings in relation to the offence, a summary hearing in the Magistrates' Court would apply in accordance with section 52 of the **Interpretation of Legislation Act 1984**. Section 72(1) of the **Criminal Procedure Act 2009** applies to summary hearings of offences and requires an accused person to present or point to evidence that suggests a reasonable possibility of the existence of facts that would establish a reasonable excuse for the offence. Therefore, the offence created by the Bill may be viewed as placing an evidential burden on an accused person. However, in doing so, the Bill does not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution who must prove the absence of a reasonable excuse beyond reasonable doubt. Case law has held that an evidential onus imposed on establishing an excuse or exception does not limit the Charter's right to a presumption of innocence, as such an evidentiary onus falls short of imposing any burden of persuasion on an accused.

*Liability of officers of bodies corporate*

Clause 45 of the Bill amends section 349 of the Environment Protection Act, which provides for liability of officers of bodies corporate. Section 349 deems officers of a body corporate to be liable if the body corporate commits an offence by contravening specified provisions of the Act and the officer failed to exercise due diligence to prevent the commission of the offence by the body corporate. The amendment removes section 290(1) from the list of specified provisions in section 349 as liability for officers of bodies corporate for offences under section 290(1) are covered in existing section 350 of the Environment Protection Act. This aspect of the amendment does not affect any Charter rights. The amendment also adds section 290(3) to the list of specified provisions in section 349. This aspect of the amendment may engage Charter rights in criminal proceedings as it operates to deem that a natural person has committed an offence against section 290(3) of the Environment Protection Act based on the actions of the body corporate. Section 290(3) makes it an offence for a person issued with an environmental action notice to fail to comply with reporting requirements specified in the notice. The prosecution is still required to prove the main elements of the offence committed by the body corporate and that the officer failed to exercise due diligence to prevent the commission of that offence. It is reasonable and appropriate for officers of a body corporate to be held liable in these circumstances, as officers of bodies corporate accept duties when they undertake such a position, including a duty to ensure that the body corporate does not commit offences. Accordingly, I am satisfied that the amendment made by the Bill is compatible with the rights under the Charter.

***Right to liberty and security of person***

Section 21(1) of the Charter provides that every person has the right to liberty and security.

*Vehicle inspection notices*

Clause 38 of the Bill may engage this right as it inserts a new offence into the Environment Protection Act for failure to comply with a vehicle inspection notice, which has penalties of up to 60 penalty units in the case of a natural person. The offence is required to deter non compliance with the requirements in the Environment Protection Act for vehicles to be made available for inspection to ensure the vehicles comply with requirements in the Act and regulations and identify risks to human health and the environment. The usual procedure requirements will apply to this new offence and the level of the penalty is consistent with other similar offences that already exist in the Environment Protection Act, for example, in relation to information gathering notices under section 255 of the Act. The new offence is therefore compatible with the criminal process rights set out in the Charter.

**Conclusion**

I am therefore of the view that the Bill is compatible with the Charter.

**Hon Gayle Tierney MP**
**Minister for Skills and TAFE**
**Minister for Regional Development**

*Second reading*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:22): I move:

That the bill be now read a second time.

**Ordered that second-reading speech be incorporated into *Hansard*:**

**Introduction**

Today, I introduce a Bill that amends the *Circular Economy (Waste Reduction and Recycling) Act 2021* (Circular Economy Act) and the *Environment Protection Act 2017*.

The Victorian Government is committed to legislating a circular economy across the state, which will generate employment opportunities, help achieve climate change goals, and provide the Victorian community with a reliable recycling system. The waste and recycling system plays a crucial role in our cities' and regions' efficient functioning and liveability.

Since the launch of the Victorian Government's circular economy plan, *Recycling Victoria: A new economy* in February 2020, the state's waste and recycling sector has entered a period of dynamic and positive change.

The Circular Economy Act gave effect to important components of the circular economy plan, including the establishment of Victoria's Container Deposit Scheme or CDS Vic. The Act also established the foundational powers and functions of the Head, Recycling Victoria (RV), a dedicated business unit within the Department of Energy, Environment and Climate Action.

Subsequently, the *Environment Legislation Amendment (Circular Economy and Other Matters) Act 2022* was passed. This Act amended the Circular Economy Act to provide further key policy elements. It also established Victoria's waste to energy scheme, which will introduce an annual cap on waste that can be processed in thermal waste to energy facilities in Victoria, and an associated licensing scheme. Recycling Victoria has since commenced the first stage of this licensing scheme, for existing waste to energy projects.

Significant progress has since been made towards delivering on the commitments in *Recycling Victoria: A new economy*, supported by the frameworks established in the Circular Economy Act. Some issues have been identified during the implementation of CDS Vic and the Waste to Energy scheme that need to be resolved to fully realise the benefits of these schemes to the community and the State. The Bill introduces amendments that address these issues to clarify and streamline the operation of the Circular Economy Act.

In particular, the Bill supports efficient operation of the Victorian Government's flagship circular economy program, CDS Vic, which will commence on 1 November 2023. CDS Vic will allow Victorians to return their used drink cans, bottles and cartons for a 10-cent refund at various locations including shopping centres, collection depots, and over the counter refund points. CDS Vic will reduce Victoria's litter by up to half, create new economic opportunities, generate 645 jobs and turn drink containers into new recycled products.

Specifically, the Bill will amend the Circular Economy Act to:

- clarify the cost recovery mechanism for CDS Vic to ensure the scheme regulator, RV, is able to recover all of its oversight and regulatory costs from the beverage industry,
- minimise operational risks for CDS Vic to support the scheme and to ensure it operates efficiently, as intended,
- provide for a mechanism to recover the costs of RV in administering the Waste to Energy scheme by enabling new periodic licence fees to be set,
- establish a Recycling Victoria Fund with Special Purpose Operating Accounts to support RV to recover costs and fund its operations under CDS Vic and the Waste to Energy scheme in a transparent and accountable way, and
- enable regulations to set variable fees for determining applications made or submissions received under that Act.

The Bill will also amend the Environment Protection Act to enhance its operation to better effect the intent of that Act. The *Environment Protection Amendment Act 2018* took effect on 1 July 2021, repealing the *Environment Protection Act 1970*, amending the *Environment Protection Act 2017* and introducing the new environment protection framework. The *Environment Legislation Amendment Act 2022* included some amendments to the *Environment Protection Act 2017* to ensure that it operates as intended following the commencement of the new framework. The Bill contains further amendments for this purpose.

The parts of the Bill that amend the Circular Economy Act will come into operation on the day after the Act receives Royal Assent. The amendments to the Environment Protection Act will come into effect on dates to be proclaimed, and at the latest by 1 October 2024.

**Summary of the Bill**

**Cost recovery for CDS Vic**

The Bill clarifies the mechanism to recover the costs of RV to enable it to regulate CDS Vic in full. The Circular Economy Act does not provide for RV to charge fees to cover the costs of acquitting all its statutory and contractual responsibilities to regulate and administer the scheme. The Bill will provide for a new cost recovery fee to be paid by the Scheme Coordinator to RV to manage the contractual framework and otherwise oversee the operation of CDS Vic. The concept of a cost recovery fee has been freely agreed between the Scheme Coordinator and the State in the Scheme Coordinator Agreement. This existing arrangement will be formalised and supported through the amendments contained in the Bill.

Under this new mechanism, the cost recovery fee will be passed through to first suppliers of beverages in containers approved as suitable eligible containers, through scheme contributions first suppliers are required to pay to the Scheme Coordinator.

The Bill will also remove the power to prescribe a fee for container applications to ensure these costs can be validly recovered through the cost recovery fee.

The cost recovery mechanism will ensure that the beverage industry will bear the scheme costs entirely, in line with the principle of 'extended producer responsibility'. This means that first suppliers of beverages in the CDS will bear the entire costs for managing beverage containers across their lifecycle.

**Minimising operational risks for CDS Vic**

I would like to proceed to discuss some other important changes that are being made to support the implementation of CDS Vic. The Bill contains several amendments to mitigate operational risks that have become apparent during the implementation of the scheme and need to be addressed to ensure that CDS Vic operates as intended.

Firstly, the Bill clarifies that the Scheme Coordinator or Network Operator Agreement may contain matters that are not specifically listed in the Circular Economy Act, as long as they are consistent with the Act. This provides flexibility for those agreements to include other matters, as agreed between the State and a prospective Scheme Coordinator or Network Operator.

It is worth noting that the existing agreements with the current Scheme Coordinator and Network Operators have already been drafted with other matters included by agreement of the parties; the Bill provides clear legislative authority for that approach.

The Bill also provides for these amendments to be applied retrospectively to agreements with the existing Scheme Coordinator and Network Operators that were signed and executed in March 2023, to ensure that the agreements can be given effect as intended by the parties at the time they were signed.

Secondly, the Bill allows concurrent contracts between the State and both an incumbent and a successor Scheme Coordinator. Under the Circular Economy Act, there may be only one Scheme Coordinator at any time. This amendment will allow a successor Scheme Coordinator to begin its mobilisation activities while the incumbent delivers the Scheme Coordinator function to the end of its contracted term.

Thirdly, the Bill amends the definition of a 'material recovery facility' (MRF) in section 3 to include any facility prescribed by regulations. This amendment provides for participation in CDS Vic by certain recyclers, including bottle-crushing service operators, that do not fall within the existing definition of a MRF but for whom there is strong policy merit for inclusion in the scheme. This will allow prescribed facilities to receive refunds for containers collected and sorted through their facilities.

The Bill also contains some minor amendments and clarifications for CDS Vic that correct terminology, enable the State to step in to perform the Scheme Coordinator's obligations under the Scheme Coordinator Agreement, such as in the case of performance failure, clarify supply arrangements for containers and allow notification processes and approval of eligible containers to operate more efficiently.

**Cost recovery for Waste to Energy scheme**

The Bill amends the Circular Economy Act to allow for periodic, recurring fees to be charged to waste to energy licence holders. The frequency and quantum of the fees will be set through subsequent regulations. Under the current framework, RV can charge one-off licence application and amendment fees, but no recurring fees that would cover the ongoing costs of the regulator's monitoring, compliance and enforcement activities for the waste to energy scheme. Without an ongoing fee, the Victorian Government would need to fund these regulatory functions on an ongoing basis.

Creating an ongoing fee is consistent with the Victorian Government's Pricing for Value principles, which support cost recovery for the provision of regulatory services to the extent that cost recovery supports efficiency, equity and fiscal sustainability.

**Recycling Victoria Fund**

To ensure RV can recover costs and fund its operations promptly and efficiently, the Bill establishes a Recycling Victoria Fund, which will include Special Purpose Operating Accounts for CDS Vic and the waste to energy scheme. Without these amendments, any fees paid to RV through CDS Vic and waste to energy scheme must go to the State's consolidated revenue and RV would need to seek funding through annual State budget processes to recover its CDS and waste to energy related costs.

A dedicated account for CDS Vic will provide a transparent and accountable mechanism to demonstrate that funds collected from scheme participants are only used to recover the State's costs in administering and overseeing the scheme.

This is important for extended producer responsibility schemes, such as CDS Vic, which is intended to function as a closed financial loop. The beverage industry participants funding the scheme will expect the industry contributions to be directed solely to the scheme. Creating a dedicated account for this purpose will assure the industry that the funds are being managed and used in line with their expectations.

Similarly, a dedicated waste to energy account will enable RV to recover costs promptly and transparently show that fees recovered are directed and limited to the costs of administering the scheme. The account will hold funds from fees to be paid by licence holders in the Circular Economy Act, such as fees for processing licence applications and periodic fees.

**Enabling variable fees to be set**

The Bill includes amendments to enable regulations to set variable fees for determining applications made or submissions received under the Circular Economy Act. Variable fees may be set based on, for example, the amount of time taken to determine an application.

The amendments are based on similar powers in the Environment Protection Act.

**Amendments to the Environment Protection Act**

In addition to the Circular Economy reforms above, the Bill will introduce the following amendments to the Environment Protection Act to ensure the Act operates as intended.

The Bill amends the Act to provide that the Environment Protection Authority (EPA) is not required to automatically release a financial assurance when property or a permission is no longer held, or a notice or order no longer applies to the person who provided the assurance, following a liquidator's disclaimer or other event, if environmental and financial risks still exist. This power is appropriately tempered and will protect the EPA, the State and Victorian taxpayers from bearing clean-up costs where remediation is still needed. The Bill will also amend the Act to clarify that liquidators cannot be held personally liable for site clean-up costs incurred by the EPA in relation to appointments relating to contaminated land.

The Bill will ensure that recipients of remedial notices can recover costs from polluters in all circumstances for which a notice can be issued. At present, a person issued with an environmental action notice, or site management order by the EPA cannot recover any costs from a person who caused the pollution except in the case of contaminated land. This does not support the 'polluter pays' principle specified in the Environment Protection Act.

The Bill will amend the Act to ensure the EPA can delegate its powers or functions conferred under other Acts. The Act currently does not provide for delegation of powers or functions conferred on the EPA under any Act, in contrast to the now repealed *Environment Protection Act 1970*. The need for the EPA Board to approve each time a power or function is exercised under other Acts is inefficient and inconsistent with the EPA's governance model, where the Board only oversees decision-making.

The Bill will ensure that Game Management Authority (GMA) appointed authorised officers are litter enforcement officers under the Environment Protection Act and can take action to address any littering they encounter. GMA authorised officers regularly encounter litter but cannot take action without authorisation under the Environment Protection Act as litter enforcement officers.

The Bill will ensure that Protective Services Officers, who are members of the Victoria Police and already have powers under the Environment Protection Act as litter enforcement officers, also have the power to submit reports on noisy vehicles. This will significantly bolster the reporting of noisy vehicles to the EPA by regulatory authorities, thereby reducing the adverse impact of noisy vehicles on the community.

The Bill will ensure that the EPA can issue a notice in writing requiring a person to present a vehicle for inspection at a specified time and place, which will enhance the EPA's capacity for effective regulation. The

proposed amendment will include safeguards to ensure compliance with the new requirement is not unreasonable or onerous.

The Bill will empower the EPA to charge interest for late payment of fees under the Environment Protection Act. Currently, the EPA does not have the power to charge interest for late payment of fees such as annual fees for operating licences. This results in little incentive for licence holders to pay annual fees on time. As a result, the State is financially disadvantaged where licence holders are late in paying fees.

Finally, the Bill will make minor amendments to address unintended drafting errors, including consequential amendments following the making of the *Environment Legislation Amendment Act 2022*.

**Conclusion**

The introduction of CDS Vic on 1 November marks a key milestone in the government's commitment to major transformational reform of the waste and recycling sector, built on community and industry consultation over many years.

The successful implementation of these reforms will not only support CDS Vic but also enhance the capabilities of RV as it works alongside stakeholders and the community to transition Victoria towards a circular economy.

I commend the Bill to the house.

**Evan MULHOLLAND** (Northern Metropolitan) (17:22): On behalf of my colleague Mr Davis, I move:

That debate on this matter be adjourned for one week.

**Motion agreed to and debated adjourned for one week.**

## Transport Legislation Amendment Bill 2023

*Introduction and first reading*

**The PRESIDENT** (17:22): I have a further message from the Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Bus Safety Act 2009**, the **Commercial Passenger Vehicle Industry Act 2017**, the **Marine (Domestic Commercial Vessel National Law Application) Act 2013**, the **Road Management Act 2004**, the **Road Safety Act 1986**, the **Sentencing Act 1991**, the **Transport Accident Act 1986**, the **Transport (Compliance and Miscellaneous) Act 1983**, the **Transport Integration Act 2010** and other Acts and for other purposes'.

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:23): I move:

That the bill be now read a first time.

**Motion agreed to.**

**Read first time.**

**Lizzie BLANDTHORN**: I move, by leave:

That the second reading be taken forthwith.

**Motion agreed to.**

*Statement of compatibility*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:24): I lay on the table a statement of compatibility with the 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 Transport Legislation Amendment Bill 2023 (the **Bill**).

In my opinion, the Bill, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I have this opinion for the reasons outlined in this statement.

**Overview of the Bill**

The Bill amends the *Bus Safety Act 2009* (**Bus Safety Act**), the *Commercial Passenger Vehicle Industry Act 2017* (**CPVI Act**), the *Marine (Domestic Commercial Vessel National Law Application) Act 2013*, the *Road Management Act 2004*, the *Road Safety Act 1986* (**Road Safety Act**), the *Sentencing Act 1991*, the *Transport Accident Act 1986*, the *Transport (Compliance and Miscellaneous) Act 1983* (**TCM Act**) and the *Transport Integration Act 2010* (**Transport Integration Act**).

The Bill also makes minor and technical amendments to other acts.

Relevantly to human rights, the purpose of the amendments to the Bus Safety Act is to provide for a bus driver accreditation scheme for drivers of commercial bus services that is aligned with the accreditation scheme for drivers providing commercial passenger vehicle services under the CPVI Act.

The relevant purpose of the amendments to the CPVI Act is to amend the provisions in relation to review of administrative decisions and in relation to information sharing arrangements.

The relevant purposes of the amendments to the Road Safety Act are to extend the time for which someone is subject to a zero blood or breath alcohol concentration requirement following the removal of an alcohol interlock condition, to expand the powers of police officers and protective services officers with respect to persons who are incapable of having proper control of a vehicle and to provide for requirements relating to vehicle sharing schemes.

The relevant purpose of the amendments to the TCM Act is to amend the Act in relation to use and disclosure of public transport movement information.

The relevant purpose of the amendments to the Transport Integration Act is to make changes consequential to the establishment of Safe Transport Victoria (**STV**).

**Human rights issues**

The human rights protected by the Charter that are relevant to the Bill are the right to freedom of movement in section 12, the right to privacy in section 13(a), the right to not be deprived of property other than in accordance with law in section 20, the right to a fair hearing in section 24(1), the rights in criminal proceedings in section 25, the right not to be tried or punished more than once in section 26 and the protection against retrospective criminal laws in section 27.

**Freedom of movement (s 12)**

Section 12 of the Charter relevantly provides that every person lawfully within Victoria has the right to move freely within Victoria. The right extends, generally, to movement without impediment throughout the State, and a right of access to places and services used by members of the public, subject to compliance with regulations legitimately made in the public interest. The right is directed at restrictions that fall short of physical detention (restrictions amounting to physical detention fall within the right to liberty, protected under section 21 of the Charter) and may include freedom from physical barriers and procedural impediments. The right may also extend to protection of access to, or use of, facilities necessary to enjoy freedom of movement (such as vehicles).

The Bill limits the freedom of movement by operation of several provisions which amend the Road Safety Act.

Clause 44 of the Bill provides that a person will be subject to a zero blood or breath alcohol concentration (BAC) requirement for 3 years following the removal of an alcohol interlock condition. Clause 46 of the Bill expands existing police powers which currently allow an officer to take reasonable steps to prevent an incapable person from driving a motor vehicle to incorporate not just the motor vehicle that the person was driving or about to drive, but any other vehicle (whether motorised or not). Finally, clause 47 of the Bill prohibits the use of electric scooters on freeways and provides the power for police to remove these scooters from freeways. These provisions may operate to limit a person's right to freedom of movement by imposing limitations on when and where a person may freely travel in their vehicle.

However, in my view, any such limitation will be reasonable and demonstrably justified having regard to the factors in section 7(2) of the Charter. Each of the new provisions are directed at the protection of public safety by mitigating the risk of a person operating a vehicle in a dangerous manner, including in a way that may result in serious injury and/or death. The extension of the requirement of a person to maintain a zero BAC while driving also sends a clear regulatory signal that they must continue to separate drinking from driving when their alcohol interlock condition is removed. The minor expansion of police powers to allow officers to prohibit a person from using not just the motor vehicle that the person was driving or about to drive, but any other vehicle (whether motorised or not), remains subject to the existing and appropriate safeguards in section 62 of the Road Safety Act including that the officer needs to hold the opinion on 'reasonable grounds' that the person is incapable of having proper control of the vehicle and that the detention of any keys or vehicle is not to be for any longer than is necessary having regard to the interests of the driver or the public.

Accordingly, I consider these provisions represent a reasonable and proportionate response to the legitimate purpose of regulating drivers in the interests of public safety on the roads. Further, under section 38 of the Charter, the powers in preventing an incapable person from using a vehicle or removing an electric scooter from a freeway must be exercised by police or protective service officers in a manner that is compatible with human rights. For these reasons, I consider that these provisions are compatible with the right to freedom of movement in the Charter.

**Right to privacy (s 13)**

Section 13(a) of the Charter provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with. An interference will be lawful if it is permitted by a law which is precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought.

Clause 6 of the Bill amends the Bus Safety Act to require a person to provide certain personal information as part of their application for accreditation as a driver. Clauses 21 and 22 amends the CPVI Act to expand the power of the regulator to share sensitive information, defined as information obtained in exercise of functions and that is, or is stated to be, confidential or commercially sensitive in nature, with other agencies under information sharing arrangements. Clause 75 inserts new section 115U into the Transport Integration Act to allow STV to disclose and publish information collected in the exercise of its functions where it is considered necessary for the safe operation of bus or marine transport. Clause 63 amends the TCM Act to allow public transport movement information, defined as information or data relating to the movement of an individual into, out of or within a carriage or ticketed area and which includes myki data and CCTV footage and live feeds, to be used and disclosed in particular ways. The new provision (section 221) relevantly allows for the information to be used and disclosed by a relevant entity in connection with the Act or regulations, including for a legal proceeding, for a prescribed purpose or in accordance with a direction of the Minister. The new provision also allows for disclosure to certain certified people.

While not all information required under these clauses will be of a private nature, or be information concerning a natural person, as opposed to information concerning a corporation to which the Charter does not apply, the power afforded to an entity to collect, use and share information or documents may engage the right to privacy. However, to the extent that these provisions do require disclosure of personal information, this will occur in lawful and not arbitrary circumstances.

The requirement for a prospective driver to provide certain personal information to STV under the Bus Safety Act is clearly linked to the legitimate aim of properly assessing the application to ensure a prospective driver meets the relevant legislative requirements and is a fit and proper person to be accredited as a driver. The aim is important as matters of driver suitability are critical to safeguarding the health and safety of the public. The requirements will apply to prospective drivers who are voluntarily seeking to work in a regulated industry where special duties and responsibilities attach.

Amendments to the CPVI Act which expand the power of the regulator to share sensitive information with other agencies is particularly aimed at allowing the regulator to share data with the State Revenue Office to ensure that commercial passenger vehicle owners and operators are complying with their levy obligations under the *Duties Act 2000*. This data is highly unlikely to be private information concerning natural persons to which the Charter will apply. In any event, the provisions allow for the sharing of information in the specific circumstances outlined in the sections and the expansion serves a legitimate purpose, being to facilitate the effective administration of the CPVI Act and related legislation and to assist in compliance monitoring and enforcement activities where appropriate.

Amendments to the Transport Integration Act allows information to be disclosed and published (in a de-identified form). The provisions are circumscribed in their scope and only allow for the disclosure and publication of information where STV considers it necessary to do so for the safe operation of bus and marine transport. This serves the legitimate purpose of assisting STV to effectively administer the Transport Integration Act and other related legislation and to fulfil one of its key objectives in seeking the highest possible bus and marine safety standards.

Amendments to the TCM Act allows public transport movement information, including myki data and CCTV footage and live feeds to be used and disclosed in particular ways. The provisions are circumscribed in their scope and only allow for the use and sharing of information in the specific circumstances outlined in the sections, including for the legitimate purpose of administering the TCM Act and for a legal proceeding. The power to make further regulations or directions for the use and sharing of this information is reserved for where the need to use or share this information cannot be wholly anticipated or may need to be done in urgent circumstances. In any event, these circumstances will be specified in future regulations and in directions which are required by the TCM Act to be published unless it is inappropriate to do so. As such, the

circumstances in which public transport information may be used and disclosed will be clear on the public record in all but exceptional circumstances.

I therefore consider that any interference with the right to privacy resulting from these provisions will be neither unlawful nor arbitrary.

***Right to property***

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

The Bill engages the right to property by operation of several provisions which amend the Road Safety Act. These are the same provisions identified above in relation to the right to freedom of movement being clauses 44, 46 and 47 of the Bill. These provisions engage the right to property as each imposes conditions on where and how a person may use their vehicle, which may affect elements that comprise the bundle of proprietary rights, such as the right to enjoyment of their property.

However, in my view, to the extent that these provisions constitute a deprivation of a proprietary right (such as enjoyment of property) this Bill does not act to limit the right to property as any interference with this right is done according to legislation which clearly specifies the scope and circumstances of the allowable conditions which can be imposed on the use of a person's vehicle, and does so for legitimate purposes. As outlined above, section 62 of the Road Safety Act lists the criteria for officers to exercise their powers to prevent a person from using a vehicle. Further, section 68A of the Road Safety Act, as amended by clause 47, provides a clear prohibition on the use of electric scooters on freeways without reasonable excuse and where not otherwise authorised. Clause 44 also creates an express statement that people who have been subject to an alcohol interlock condition will be subject to a further 3 year zero BAC requirement after the alcohol interlock condition is removed. The interlock condition remains in place for a specific, defined time period which I am satisfied is no longer than is necessary to ensure that the person continues to separate drinking and driving after the interlock is removed from their vehicle. For these reasons, I consider that these provisions are compatible with the right to freedom of property in the Charter.

**Right to a fair hearing (s 24)**

Section 24(1) of the Charter relevantly provides that 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. The concept of a 'civil proceeding' is not limited to judicial decision makers, but may encompass the decision-making procedures of many types of tribunals, boards and other administrative decision-makers with the power to determine private rights and interests. While recognising the broad scope of section 24(1), the term 'proceeding' and 'party' suggest that section 24(1) was intended to apply only to decision-makers who conduct proceedings with parties. As the administrative decisions at issue here do not involve the conduct of proceedings with parties, there is a question as to whether the right to a fair hearing is engaged.

In any event, if a broad reading of section 24(1) was adopted and it was understood that the fair hearing right was engaged by this Bill, this right would nonetheless not be limited. The right to a fair hearing is concerned with the procedural fairness of a decision and the right may be limited if a person faces a procedural barrier to bringing their case before a court, or where procedural fairness is not provided. The entire decision-making process, including reviews and appeals, must be examined in order to determine whether the right is limited.

*Review rights of administrative decisions*

The new provisions inserted into the Bus Safety Act (clauses 3–11 of the Bill) which provide for a bus driver accreditation scheme for drivers of commercial bus services may engage the right to a fair hearing. Decisions made by the newly established STV in relation to disciplinary action against drivers are made pursuant to a show cause process whereby the driver is notified of the proposed disciplinary action, the grounds of this proposed action are specified and the driver is provided with the opportunity to make written submissions in response (new section 55Y). STV is required to provide reasons for any decision in relation to disciplinary action or accreditation and notify the driver or prospective driver of their review rights (pursuant to new sections 55P, 55Q, 55T, 55V and 55ZA). Except for a decision made to refuse accreditation on the grounds set out in new section 55O(2) or to cancel a driver's accreditation pursuant to new section 55ZB, these decisions are subject to internal review (new section 58A). Finally, any decision made in relation to existing accreditations or taking disciplinary action towards drivers by STV (including the two decisions mentioned above which are not subject to internal review) will be subject to external review by the Victorian Civil and Administrative Tribunal (new Division 4 of Part 6). This affords drivers a hearing before an independent and impartial tribunal and satisfies the requirements in section 24(1) of the Charter.

Clause 18 of the Bill amends the CPVI Act to remove the right of review in relation to a decision by STV or an authorised officer to direct a person to provide information, documents and related items. As outlined above, there is a significant question as to whether this power involves the conduct of proceedings, as these are powers of investigation or monitoring, rather than decisions that determine existing rights or interests. In any event, the nature of this power indicates that it is justifiable to limit review rights. These requests may be made by the regulator for compliance and investigative purposes. The requests apply to people who have chosen to assume roles in relation to the operation of commercial passenger vehicles and to which special regulatory and legal responsibilities and duties attach. Further, these are documents which are required under the CPVI Act to be kept by the person or are within their control and relate to relevant matters, and to be produced to the regulator - and are generally not, in the context of comparative regulatory regimes, subject to review. As such, the legitimate purpose of checking compliance with regulatory requirements and investigating possible breaches of the law justifies any limitation on fair hearing rights which may result from removing the right of review of this decision. Additionally, providing for review in relation to directions to produce documents would prejudice the efficient and prompt monitoring of compliance with the scheme, which ultimately serves to safeguard public safety.

As such, I conclude that the fair hearing rights in section 24(1) of the Charter are not limited by the provisions amending the Bus Safety Act or the CPVI Act.

*Certain officers are immune from liability when exercising powers under the Act*

The Bill inserts new section 115P into the Transport Integration Act, which establishes that the Chief Executive or an employee of STV are not subject to personal liability for their acts, decisions and omissions conducted in good faith under that or other Acts.

The fair hearing right is relevant to new section 115P as the right has been held to encompass a right of access to the courts to have one's civil claims submitted to a judge for determination. Similarly, insofar as a cause of action may be considered 'property' within the meaning of section 20 of the Charter, new section 115P may also engage this right. Nevertheless, the new section 115P(2) provides that where actions or omissions of the relevant person give rise to a civil claim, liability is transferred to STV. Accordingly, the exclusion from personal liability under the provision will not interfere with the right to a fair hearing or constitute a deprivation of property, because parties seeking redress are instead able to bring a claim against STV. The provision also serves a necessary purpose by ensuring that the Chief Executive and employees of STV are able to exercise their duties effectively without the threat of significant personal repercussions and overall interference that responding to court claims has. Additionally, the Chief Executive and employees will still remain personally liable for any conduct not performed in good faith. Accordingly, this provision does not limit the rights to a fair hearing or property under the Charter.

**Right to be presumed innocent (s 25(1))**

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The right is relevant where a statutory provision allows for the imposition of criminal liability without the need for the prosecution to prove fault.

The Bill inserts a number of strict liability offences in relation to driver accreditation into the Bus Safety Act (clause 6), an offence imposing an obligation to obtain authorisation to operate vehicle sharing schemes into the Road Safety Act (clause 55) and offences in relation to the unauthorised use or disclosure of public transport movement information into the TCM Act (clause 63). These offences do not require proof of fault, being that the person or entity did so 'knowingly or recklessly'.

The inclusion of these strict liability offences in the Bill is relevant to the right to be presumed innocent under s 25(1) of the Charter.

To the extent that this imposition limits the presumption of innocence, I consider that this limitation can be reasonably justified pursuant to the factors in section 7(2) of the Charter. Strict liability offences will generally be compatible with the presumption of innocence where they are reasonable, necessary and proportionate in pursuit of a legitimate objective. The strict liability offence in the TCM Act is aimed at deterring the unlawful or arbitrary interference with a person's privacy by requiring that public transport movement information, which includes myki data and CCTV footage, is only used and disclosed for specified purposes. This assists to enhance compliance with regulatory requirements and to ensure that people's privacy is only limited to the extent authorised and legitimately justified.

The strict liability offences in the Bus Safety Act and Road Safety Act are aimed at deterring actions which may endanger public safety including drivers operating vehicles without proper accreditation or in contravention of particular conditions and the operation of vehicle sharing schemes without regulatory oversight where proper safety controls may not be in place. This assists to enhance compliance with regulatory requirements and ultimately to protect the public on the roads. It is reasonable that the offences do not require

proof of fault given significant harm to property and to people that can arise regardless of whether a person or entity acted intentionally or recklessly. Further the offences are reasonable in that they do not exclude the common law defence of honest and reasonable mistake of fact, and they do not attract penalties of imprisonment.

For these reasons, the limitation to section 25(1) of the Charter is reasonable and justifiable within the meaning of section 7(2) of the Charter.

***Right not to be tried or punished more than once***

Section 26 of the Charter provides that a person must not be tried or punished more than once for an offence in respect of which they have already been finally convicted or acquitted in accordance with law. This right reflects the principle of double jeopardy. However the principle only applies in respect of criminal offences - it will not prevent civil proceedings being brought in respect of a person's conduct which has previously been the subject of criminal proceedings, or vice versa.

Penalties and sanctions imposed by professional disciplinary bodies do not usually constitute a form of 'punishment' for the purposes of this right as they are not considered to be punitive.

The new accreditation scheme inserted into the Bus Safety Act (clauses 3–11 of the Bill) which affords STV the ability to refuse accreditation or to undertake disciplinary action against a driver does not engage this right. This is because the purpose of each of these sanctions, for example the requirement that accreditation is refused where the driver does not hold a licence or has been convicted of particular serious offences, is imposed to protect the public from potential harm.

Similarly, the extension of the requirement of a person to maintain a zero BAC while driving following the removal of an alcohol interlock condition (clause 44) which acts to send a clear regulatory signal for the person to separate drinking from driving also acts to protect the person and the public from the risk of potential harm.

As these sanctions are for protective rather than punitive purposes they do not engage the right against double punishment set out in section 26 of the Charter.

***Retrospective criminal laws***

Section 27(2) of the Charter provides that a penalty must not be imposed on any person for a criminal offence that is greater than the penalty that applied to the offence when it was committed.

Clause 57 of the Bill expressly provides that the imposition of a requirement that a person has zero BAC while driving for a period of 3 years following the removal of any alcohol interlock conditions imposed under current sections 31KA, 31KB or 50AAA of the Road Safety Act will apply where the condition was imposed on the basis of at least two offences and the latest of those offences was committed on or after the commencement of the relevant provisions. Clause 57 further provides that the imposition of a requirement that a person has zero BAC while driving for a period of 3 years applies where a person would have had an alcohol interlock condition imposed if not for an exemption granted under section 50AAAD and the condition would have been imposed on the basis of at least two offences and the latest of those offences was committed on or after the commencement of the relevant provisions. The imposition of a zero BAC condition is in effect a regulatory condition to mitigate a person's risk of driving impaired, and as such, constitutes a measure to protect the community. Accordingly, in my view it is unlikely to constitute a 'penalty' within the meaning of this right, and as such, does not engage this right.

**Conclusion**

I am therefore of the view that the Bill is compatible with the Charter.

**Hon Harriet Shing MP**
**Minister for Housing**
**Minister for Water**
**Minister for Equality**

*Second reading*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:24): I move:

That the bill be now read a second time.

## Ordered that second-reading speech be incorporated into *Hansard*:

**Overview**

The main purpose of this Bill is to continue the Government's strong commitment to road safety and the delivery of the Road Safety Strategy, through enabling the conduct of a world leading research trial into medicinal cannabis and driving. While this is a road safety challenge, it is also an issue of human rights – we currently have a situation where Victorians are forced to choose between taking prescribed medicinal cannabis to treat medical conditions and being able to drive. The safety of all road users is our highest priority however, this Government recognises that many people prescribed medicinal cannabis have a genuine driving need. This Government is committed to further research to better understand the road safety risk profile associated with those taking medicinal cannabis, to support the Government establishing an evidence-based policy position on medicinal cannabis and safe driving. This Bill will create a mechanism to declare that specified provisions of the *Road Safety Act 1986* do not apply for the purposes of the trial.

The Bill is also intended to further improve safety by protecting amenity and accessibility in public spaces in relation to e-scooter and bicycle (including e-bicycle) share schemes. Whilst e-scooters in Victoria have many benefits in terms of transport and mobility, there can be issues with shared scheme e-scooters or bicycles being left on footpaths or in other public places in a way that blocks access, introduces tripping hazards, or otherwise creates an impact on the use or amenity of public spaces. The Bill will give local government greater control over e-scooter and bicycle (including e-bicycle) share schemes within their local government areas.

The Bill will also support the implementation of other reforms in the transport portfolio by improving governance and better support the functioning of sector transport agencies by amending the Transport Integration Act 2010 to reflect Transport Restructuring Orders that establish Safe Transport Victoria as a sector transport agency and reconstitute the V/Line Corporation from a statutory corporation with a board to a single member corporation.

The Bill will also provide consistency across transport legislation by aligning bus driver accreditation under the Bus Safety Act 2009 with accreditation of drivers of commercial passenger vehicles under the Commercial Passenger Vehicle Industry Act 2017.

**Enabling research trials to provide an evidence-base for future road safety reforms**

Victoria is a leader in medical cannabis in Australia. In 2016, Victoria became the first state in Australia to approve the use of medicinal cannabis under prescription for therapeutic uses. We are now faced with a road safety and human rights challenge – where Victorians are forced to choose between taking prescription medicinal cannabis and having the freedom of being able to drive for work, education or family purposes. This is because it is not legal to drive while there is presence of tetrahydrocannabinol (THC) in the person's system, not whether they are actually impaired at the time of driving the vehicle. Given THC can remain in a person's system for a number of days, Victorians using medicinal cannabis are effectively banned from driving long after they become unimpaired from using this prescribed medication.

To address this situation, it is necessary to conduct world leading research to expand our knowledge of the impairment medicinal cannabis causes on driving, while ensuring the safety of all road users. This will be an Australian first. The reforms in this Bill will allow the Minister for Roads and Road Safety, in consultation with other relevant Ministers, to designate a road safety research trial and declare that specified provisions of the Road Safety Act 1986, or rules or regulations made under that Act, either do not apply or apply in a varied form to trial participants for the purposes of the trial.

Research trials will not be limited to the use of medicinal cannabis. This amendment will allow for the declaration of trials for a range of road safety initiatives. This provides flexibility in testing the efficiency and efficacy of a range of other technologies and approaches to further expand the evidence-base for future reforms and continue to deliver improvements in road safety outcomes.

**Greater power for local governments to manage e-scooter and bicycle share schemes**

The use of e-scooters provided under share schemes is proving to be popular in Victoria, with Melbournians, in particular, taking up the devices in high numbers. E-scooters, as well as bicycles and e-bikes, made available via share schemes are a useful and popular mode of transport for people wanting to travel short distances. They help ease congestion, they're an affordable mode of transport and provide first/last mile access to public transport.

To ensure the safety of e-scooter riders, pedestrians and other road users, the Victorian Government has enabled the use of e-scooters through trials throughout Victoria under certain conditions. E-scooter riders using these devices as part of the trial are required to follow road safety rules, including the wearing of helmets and restrictions on speed and where the e-scooters are able to be lawfully ridden.

Whist there are many positives of e-scooters provided under share schemes, they can also present challenges for local governments. As these devices are provided for hire in public spaces and are not required to be returned to any particular location, there can be issues with e-scooters or bicycles being left on footpaths or in other public places in a way that blocks access, introduces tripping hazards, or otherwise creates an impact on the use or amenity of public spaces.

The reforms in this Bill will provide local governments with control over how e-scooter and bicycle share schemes operate in their municipalities. The reforms will effectively ban the provision of e-scooters and bicycles by share scheme operators in a local government area unless the operator has an agreement in place with the relevant council.

The obligation will be on the share scheme operator to ensure that the vehicles available in their scheme are only used in areas where they have an agreement with the relevant council. It will be an offence for a share scheme operator to make an e-scooter or bicycle available for hire in a given local government area without such an agreement.

Councils will also be able to set the conditions on how such schemes operate. The agreements between share scheme operators and councils will be required to specify the types of vehicles that can be made available for hire but can include a range of other matters including the period of time the scheme may operate, minimum service standards, and insurance requirements.

This reform strikes an appropriate balance between making the use of e-scooters and other vehicles available for use while maintaining Councils' ability to ensure the amenity, use and safety of public spaces.

**Other roads and road safety reforms**

In addition to the road safety reforms above, the Bill contains other minor amendments to legislation in the Roads and Road Safety portfolio to ensure their effective operation. These amendments include:

- Ensuring that the removal of an alcohol interlock licensing condition imposed after a drink-driving offence is accompanied by the imposition of a 'Zero BAC' requirement to continue to support these drivers in their efforts to separate drinking from driving;
- Amending relevant sections in the Transport Accident Act 1986 to clarify that people who are exempted from paying the transport accident charge as part of the process of registering their vehicles are still fully covered by the protections available under the Transport Accident Act 1986 relating to traffic accidents;
- Extending the ability of police and protective services officers to prevent incapable persons from driving the motor vehicle in which they were detected, to be able to prevent incapable persons from driving any motor vehicle for a specified time;
- Repealing provisions in the Road Management Act 2004 relating to the establishment and functions of the Infrastructure Reference Panel and replacing them with a requirement to consult with relevant road authorities, utilities and public transport providers; and
- Other minor and technical amendments to the Road Safety Act 1986.

**Clarifying the governance of sector transport agencies**

Sector transport agencies are public bodies established under the *Transport Integration Act 2010* to perform specified functions in Victoria's transport network.

Part 4B of the Transport Integration Act enables the making of Transport Restructuring Orders (tros). Tros are Orders in Council that can be used to create new sector transport agencies, alter the constitution and membership of existing sector transport agencies, and modify the application of provisions in transport legislation. However, tros cannot be used to abolish an existing sector transport agency.

Tros provide a flexible mechanism for responding to changing priorities and circumstances and can be used to deliver better integrated and connected transport services for Victorians.

On 14 June 2022, a TRO made by the Governor in Council established Safe Transport Victoria (ST Vic) as a new sector transport agency, with responsibility for managing compliance, accreditation and registration for commercial passenger vehicles, buses, and the maritime sector. The TRO transferred to ST Vic all of the duties, functions and powers previously held by the Director, Transport Safety and the Commercial Passenger Vehicle Commission (CPVC).

On 29 June 2021, a TRO was used to convert the V/Line Corporation from a corporation with a board to a single member corporation. This was to bring V/Line more directly into the centre of Victoria's public transport system, aligning and integrating V/Line with transport planning, Big Build project delivery, and decision making. Aside from necessary amendments to reflect this new constitution, the V/Line Corporation was otherwise continued as the same entity.

As a flexible mechanism, a TRO is able to be made more quickly than would otherwise be possible if legislative amendments were required to achieve the same result. However, tros are not intended to remain in force indefinitely. The amendments in this Bill will give full legal effect to the objectives of the above tros, delivering transparency and certainty and eliminating any legal risk of challenges to authority on technical grounds.

These amendments will also formally abolish the CPVC and the Director, Transport Safety.

**More transparency in the sharing of data from the public transport network**

The Bill contains two reforms to improve the sharing of information arising from the operation of the public transport system.

The Bill will amend the *Transport (Compliance and Miscellaneous) Act 1983* to improve transparency around the disclosure and use of information relating to the movement of people across the public transport network, including closed circuit television (CCTV) footage and data collected from the Myki ticketing system. Presently, the sharing of such information is only permitted through ministerial directions. The reforms in this Bill will replace this ministerial direction process with standard circumstances in which such information can be divulged and a power to make regulations to allow for any additional standard circumstances in future. The ministerial direction power will be retained for any novel or urgent circumstances, but it is expected that the standard circumstances set out in the Act and regulations will cover most situations.

This Bill will also amend the *Commercial Passenger Vehicle Industry Act 2017* to make it clear that information sharing agreements under that Act explicitly enable Safe Transport Victoria to share commercially sensitive trip data with the State Revenue Office to support the SRO with its compliance and enforcement functions in relation to the commercial passenger vehicle service levy.

**Improve alignment between bus driver and commercial passenger vehicle accreditations**

In 2017, the Victorian Government introduced a series of reforms to the commercial passenger vehicle industry, including those in the Commercial Passenger Vehicle Industry Act 2017. These reforms created a separate, modernised scheme for commercial passenger vehicle (CPV) drivers but left the existing bus driver accreditation scheme unchanged.

This Bill introduces a modernised, best practice bus driver accreditation scheme to the Bus Safety Act 2009 and removes the previous scheme from the Transport (Compliance and Miscellaneous) Act 1983. As well as introducing best practice bus driver accreditation, the reform in this Bill will also result in administrative efficiencies as both bus driver and CPV driver accreditations are overseen by the same regulator, Safe Transport Victoria.

Other amendments to the Bus Safety Act 2009 will broaden Safe Transport Victoria's ability to grant exemptions from some accreditation requirements where the regulator is satisfied that the person is already complying with the requirement.

The Bill also makes a range of technical amendments to improve the operation of the TIA, the Transport (Compliance and Miscellaneous) Act, and the *Marine (Domestic Commercial Vessel National Law Application) Act 2013*.

**Conclusion**

This Bill represents another step in the Victorian Government's continued commitment to improving transport safety and improving the lives of Victorians.

We need to continue to take action to develop the evidence-base for future road safety initiatives and to ensure that road and road safety legislation represents best practice, keeping the balance right, and ensuring that Victorians are safe on our roads.

We also need to maintain clear governance arrangements across the transport portfolio and to ensure that relevant legislation is clear and fit for purpose.

I commend the Bill to the house.

**Evan MULHOLLAND** (Northern Metropolitan) (17:24): I move:

That debate on this matter be adjourned for one week.

**Motion agreed to and debate adjourned for one week.**

## *Adjournment*

**Lizzie BLANDTHORN** (Western Metropolitan – Minister for Children, Minister for Disability) (17:24): I move:

That the house do now adjourn.

### Youth justice system

**Matthew BACH** (North-Eastern Metropolitan) (17:24): (570) My adjournment matter tonight is for the Minister for Youth Justice, and the action that I seek is for him to consider banning the use of arbitrary solitary confinement here in Victoria. Every three months we get new data from the minister's department that demonstrates that upon thousands and thousands of occasions some of the most vulnerable and disadvantaged young people in the state have been locked in their rooms. I accept that sometimes – especially at the moment in Victoria – safety issues occur, really serious safety issues, that may require a short lockdown. However, we know from the fulsome data that the minister's department provides to us that on thousands of occasions every quarter young people in our youth justice system are locked down arbitrarily, not because there is any safety concern but because of staffing issues.

We know there are longstanding staffing issues. We know there have been changes to staff ratios to make those ratios more restrictive – in my view far too restrictive – over recent years. I care deeply for the staff in our youth justice system, and I commend the minister for his statement earlier today regarding the huge contribution that they make. In truth I care far more for the rehabilitation of the young people who find themselves in youth justice. I also note the minister's comments that both now and historically Victoria has had very low numbers compared with other jurisdictions of young people in youth justice. That is a great thing; that is an excellent thing. But for those young people who are unfortunate enough to find themselves in the youth justice system, in my view it is unacceptable that so often – thousands and thousands of times every quarter – that small cohort of young people are arbitrarily locked in solitary confinement.

As you know, many experts in international law define 'solitary confinement' as torture, and Mr Limbrick has been discussing torture in this place. There is a reason why we have seen so many assaults, so much violence, in our youth justice system over recent years. One element is of course that if you have a mental health problem, as almost all the young people do in our youth justice system, and if you have experienced dreadful trauma, as almost all of these young people have, if you are then locked in your room for no apparent reason for on occasions hours and hours on end, well, you would want to punch somebody in the face when you were let out of your room. Huge reforms have been made in Republican states in America, including to completely outlaw the use of solitary confinement. My view is that should be our aim, certainly regarding the use of arbitrary solitary confinement, and I would welcome the minister's views regarding his consideration of that matter.

### Southern Metropolitan youth advisory council

**John BERGER** (Southern Metropolitan) (17:27): (571) My adjournment is for the Minister for Youth in the other place Minister Suleyman, and the action I seek is for the minister to join me at the inaugural meeting of the Southern Metropolitan youth advisory council 2024. The council will be made up of young people committed to learning how government and policy-making work. They will complete a final report that will advise me and the government on a policy area of interest, and they will attend the Parliament to see us in action.

My community of Southern Metro is young, and that is why it is vital to put them at the forefront of my decision-making. Swinburne University in the north and Monash University in the south mean that my community has a large and growing student population, and in the modern-day era their needs are more diverse, unique and important than ever before. I should know: I have six children in their teens and in their 20s, including one who has just graduated from Monash University. We all want

great outcomes for young people, and having some of the youngest people in Victoria in my community only makes me work harder.

It is great to see the work the Minister for Youth is doing to coordinate the whole-of-government investment in young people through our 2022–27 youth strategy. Over the last few years our young people have been exceptionally resilient, and in the recovery it is vital to elevate young people's voices to understand how the decisions that we make here in Spring Street affect them and how we can make better decisions that work for them. That is why I am proud to be a member of a government that listens to and empowers young people.

The YMCA Victoria Youth Parliament is a great example. It provides an opportunity for young people to gain firsthand experience of the Parliament process and to develop their leadership and advocacy skills. It has shaped more than 30 Victorian laws, including the mandatory wearing of bike helmets and the new recycling scheme – and do not forget, applications for the 2024 YMCA Victorian Youth Parliament are open until 12 November.

In September more than 100 events were held that celebrated the skills and achievements of young Victorians across Victoria, thanks to the Allan Labor government. It is only through the hard work and dedication of leaders like Minister Suleyman that these initiatives happen, and I want to thank the minister and her office for their engagement with the team in the youth policy space. They bring a fantastic energy and insight to youth affairs. That is why the young students and leaders in my community would love the opportunity to speak with Minister Suleyman about the issues that matter to them.

## Middle East conflict

**Georgie PURCELL** (Northern Victoria) (17:30): (572) My adjournment matter is for the Premier, and the action I seek is for her to advocate to the Australian government for an immediate ceasefire in Gaza and the West Bank. Like many have expressed in this place and the other place, I mourn deeply for the thousands of innocent Israelis killed on 7 October. Nothing can justify the loss of civilian life, and I acknowledge the way that this is compounded by intergenerational trauma for many in the Jewish community. It is not lost on me that at the time these recent attacks began we were voting to ban the Nazi salute in this place, and I condemn the rise of antisemitism around the country and the world that has come as a result.

The safety of Jewish communities and Palestinian freedom are not opposing causes. It goes without saying that my thoughts are with the families of those taken hostage, and I hope that they will be returned safely to their loved ones. I also acknowledge that actions of the Israeli occupation forces are separate to the people of Israel and the Jewish community across the world, and I highlight the remarkable advocacy and teachings of many Jewish organisations and individuals calling for peace and safety. I also acknowledge that 7 October is not where this all began, but rather Palestinians have lived under occupation for 75 years. Violence can never justify violence, and nothing justifies the continued silence on Palestinian oppression. Weaponisation of these attacks to fuel the indiscriminate and wholesale killing of innocent Palestinians must not only be condemned but be stopped for good.

The Animal Justice Party represents animals, people and the planet. These atrocities impact all three. Our core values are kindness, equality, rationality and non-violence. What is occurring embodies none of these things. The distressing images of Palestinians rescuing animals from rubble, feeding dogs and cats in the street and treating the wounds of equines have reminded us that even for victims and in an impossible crisis, there is humanity and there is good. Even with nothing, people are continuing to extend their compassion. One of these people was Loay, a dedicated volunteer from Sulala Animal Rescue. He was killed on 8 October at just 19 years of age. While I acknowledge that as members in this place we have little bearing on conflict in the Middle East, we must use our platforms to do what is right and advocate for peace and for freedom, and I hope that our Premier can do so on behalf of not only the Victorian Parliament but all of the people that we represent, because the plight of Palestinians is a cause for liberation to all.

**The PRESIDENT**: Ms Purcell, the adjournment matter, I understand, is to the Premier, but it can only be an action that is under her remit, and obviously foreign affairs is not under the state government's remit. If you change the action for her to advocate to the federal government to do the action –

**Georgie PURCELL**: Yes, President. I based it on the advice you gave Mr Puglielli last night.

**The PRESIDENT**: That shows me I should listen right from the start, then.

**Georgie PURCELL**: It is exactly the same words.

**The PRESIDENT**: You were right and I was right, and it is a good way to end the week.

## Black Forest Drive

**Wendy LOVELL** (Northern Victoria) (17:33): (573) My adjournment matter is for the Minister for Roads and Road Safety, and it concerns the government's announcement of its plan to reduce the number of lanes on Black Forest Drive between Woodend and Macedon from two lanes to one lane in each direction. The action that I seek is for the minister to immediately abandon the current plans and to go back and conduct genuine and honest consultation on safety improvements to this section of road.

Changes to Black Forest Drive have been going on for around 15 years. Around 2010 the then Labor government decided to reduce the lanes on this road from two lanes to one lane in each direction, and bike lanes were installed on the road. Successful advocacy from the local community resulted in the Baillieu government returning the road to a two-lane-each-way configuration without bike lanes. In 2018 these debates began again, and consultation was undertaken in 2021. A summary of that consultation published in 2022 clearly sets out the community's objection to any reduction in lanes on this section of road. The summary noted that 80 per cent of respondents to the consultation highlighted concern about reducing the number of lanes. Concerns included that this would slow evacuation down in the event of bushfires or other emergencies, reduce the ability of vehicles to manoeuvre to avoid hazards such as wildlife and black ice and cause frustration and tailgating behind slower vehicles.

In the summary the department noted that they had listened to the community's concerns and developed draft road designs for a two-lane road in each direction without dedicated bike lanes, apart from a short distance of road and as a part of intersection upgrades. These draft designs were put out for public consultation in November 2022. The website inviting comment on the designs expressly ruled out reducing the traffic lanes, stating:

> The current lane configuration will not be changed from two lanes to one lane in each direction (a reduction of lanes will be required for safety reasons between Island Farm Road and Brick Kiln Road and for a short distance at intersections to provide for turning lanes and other improvements).

Having read that clearly articulated statement on the Engage Victoria website that invited comments on designs that did not include bike lanes may have led many people who were satisfied with the draft designs and retention of two lanes each way not to contribute commentary any further, but unfortunately, when the final design was released in early October 2023, the government design was for a road with one vehicle lane in each direction with a dedicated bike lane. I have been contacted by numerous constituents in the Macedon Ranges community who are outraged at the government's plans, which do not reflect the community's expectations, given the strength of opposition to a reduction in lanes and the government's commitment on Engage Victoria's website that expressly ruled out any reduction in lanes.

## Corrections system

**Katherine COPSEY** (Southern Metropolitan) (17:37): (574) My adjournment this evening is to the Minister for Corrections. The Commission for Children and Young People's annual report 2022–23, released yesterday, was full of information, some encouraging, some concerning and some

absolutely appalling. In January 2023 prison officers used a spit hood on a child that was being held in an adult prison in Victoria. In a 24-hour period following the use of the spit hood that child was deprived of water for 22 of those hours. The only reason we know about these abuses is that the child had the resilience to report it and that there was a subsequent investigation by the commission. The inquiry found that the spit hood was applied despite the youth not having been involved in spitting incidents. The same child was also kept in effective solitary confinement for 24 weeks – for six months – during an eight-month period. The report goes on to state:

> … he had little contact with other prisoners, was confined to his cell for 22 or 23 hours per day, and had no access to education and limited access to programs.

Victoria's commissioner for children and young people Liana Buchanan is on the record saying:

> I was appalled and, to be honest, I almost didn't believe it …
>
> …
>
> We like to think in Victoria that we avoid the very worst abuses of children in custody, that sometimes unfortunately we see in other parts of the country. This case unfortunately showed me that is not true.

South Australia become the first state to enact an absolute legislative ban on spit hoods in 2021. They did so because Wayne 'Fella' Morrison, an Indigenous man, died in custody after a spit hood was used on him. Australian Federal Police also stopped using the devices in 2023 after finding:

> … the risk of using spit hoods 'outweighed the benefits of their use …

The use of spit hoods and restraint chairs was described as inhumane by a Queensland royal commission back in 2017. The national Ban Spit Hoods Coalition, which is made up of legal, Indigenous and human rights organisations, says:

> We continue to call upon Victoria, and indeed all Australian states and territories, to legislate the ban on spit hoods once and for all.

Such barbaric practices have no place in any corrections system. My adjournment to the minister is to enact a legislative ban on the use of spit hoods on all persons – children and adults – in all Victorian prisons and to ask for Victoria to advocate for a national ban.

## Financial Counselling Victoria

**Melina BATH** (Eastern Victoria) (17:39): (575) My adjournment matter this evening is for the Premier, and it relates to a letter that she received from Financial Counselling Victoria Incorporated. I will put the action that I would like at the end of this conversation. We had two people from Financial Counselling Victoria in to speak to the Nationals on Monday, and it was very illuminating. There was one from Melbourne, Zyl, and Carly from the western side of Victoria, and we thank them for sharing the very important role that they play in supporting people in financial distress. They painted quite a picture of struggle for many Victorian families and singles, and they reiterated the fact that over the past six months there has been a 47 per cent increase in Victoria in calls to the debt helpline. Families and individuals are struggling to pay their household bills and keep a roof over their head. This compares to a 23 per cent increase nationally. So Victoria unfortunately is winning in the debt helpline stakes.

What they know is that there are 310 financial counsellors across the whole of the state, and their average wait time is around two months. As Carly very aptly put it, by the time somebody is that desperate that they need to go and pick up the phone, it is a very dire situation for her to say, 'We've got to put you on the books. We can't get to you yet. You've got to wait for up to two months' – and sometimes even more. Some of the things they do and they talk about of course include that they listen to that client's story to get a clear picture of what the income availability is and what their expenses are. They advocate. They know that interest rates have gone up, that bill shock is real and that power costs have increased over the last few years, and indeed we have seen the Essential Services Commission talk about a 25 per cent increase in the base offer for electricity. We have seen these buy

now, pay later schemes, and they are using more of those. Petrol is going up, and renting is just so challenging for many people. So by the time they get to them they are very desperate.

They listen, they are unbiased and they care. This organisation has written the Premier a letter, and they have three asks in that letter: to increase workforce numbers, to provide a pathway for counselling students into the system and to provide general support in the system. I ask the Premier to read that letter and respond to them in the next 30 days absolutely.

## Western suburbs buses

**David ETTERSHANK** (Western Metropolitan) (17:43): (576) My adjournment matter is for the Treasurer, and it relates to public transport in Melbourne's west. As of June 2023, the growth areas infrastructure contribution scheme had close to half a billion dollars in unallocated funds. No funds have been expended from the scheme over the last two state budgets. May I suggest that we could use some of those funds to start to address the abysmal state of public transport in Melbourne's west.

I have spoken before about the transformational benefits that an updated bus network would bring to communities in the west, particularly in those under-serviced newer areas, such as, for example, the Kororoit and Werribee regions. I have also mentioned in a previous adjournment that CDC Victoria run most of the west's bus routes and that their routes could be transformed into a fast, direct and connected network linking new suburbs to the rest of the city without significantly altering existing contracts. This would provide decent bus access to more than a million people in the west who do not currently enjoy that.

Here is where some funding from the growth areas infrastructure contribution scheme would come in handy. Money from the scheme could be used to fund a pilot in reforming CDC's bus network in the west to a simple grid network, with buses running every 10 minutes all day every day. It is all laid out in Melbourne University's *Better Buses for Melbourne's West* research paper. So my question is: will the Treasurer consider allocating funding from the growth areas infrastructure contribution scheme towards a pilot for reform of CDC Victoria's bus routes in the west?

## Government procurement policy

**Bev McARTHUR** (Western Victoria) (17:44): (577) My adjournment matter this evening is for the Minister for Environment and concerns a rather confusing set of answers that the different levels of Parks Victoria bureaucracy and officialdom have provided to me and to a constituent of mine. In quick summary, the Victorian Auditor-General's Office (VAGO) report entitled *Managing Conflicts of Interest in Procurement* was highly critical of Parks Victoria's procurement, noting Parks repeatedly broke its own procurement rules in employing, without due tendering process, a single expert. Contracts were deliberately split. A consultant with a strong personal relationship to Parks Victoria staff was chosen, exemptions sought after the consultant had begun work and the claim made that no other expert was qualified to make the assessments.

When I questioned Parks CEO Matthew Jackson at the Public Accounts and Estimates Committee he relied upon the fact that VAGO did not show any 'self-interest' in the contract award. That is irrelevant. The question was not about financial corruption, it was about the conclusions reached and the groupthink which dominates Parks' approach to rock climbers in the Grampians. Mr Jackson also stated the report required no peer review because it:

> … has none of the findings or recommendations … to do with prior or future decisions other than identifying tangible assets within the Grampians …

He confirmed this in writing, saying that all reports:

> … did not make any recommendations for management purposes.

So although much about the contract awards and resulting work could still be questioned, at least that point seems very clear indeed. Oddly, however, when my constituent FOIed the tenders, the paid

commission was revealed. It was to identify threats, impacts and management recommendations for each place. So if this did not happen, was the contract properly fulfilled? Was the contractor paid for works which were not fulfilled? The mystery was elevated to the chair of the board of Parks, who to give him credit duly investigated the matter and was clear and timely in his conclusions. The chair wrote on 21 March this year that:

> Mr Jackson's statement to Public Accounts and Estimates Committee was correct in fact, and … he did not mislead either the Parliament or the community.

Confusingly, however, that was not the end of the matter. In May a director from the Department of Energy, Environment and Climate Action denied the contractor had failed to fulfil the contract and wrote:

> The investigator determined that management recommendations were provided to Parks Victoria.

This is pretty categorical. My question for the minister is: what on earth is going on? It is a simple question. Did the commissioned reports contain management records or did they not? Someone is wrong here. Who is it?

## Police resources

**Gaelle BROAD** (Northern Victoria) (17:47): (578) My adjournment matter is to the Minister for Police. The Labor government's neglect of Victoria Police is putting the safety of northern Victorian communities at risk, with dwindling police numbers and rising crime rates. There has been an alarming increase in crime rates across northern Victorian, particularly in youth crime and farm crime. It is becoming increasingly difficult to prevent crime, with fewer officers on duty. In parts of northern Victoria criminal incident rates have jumped by 13 per cent in just one year. It has come to light that one out of every five police officers is set to depart from their role in the upcoming year, resulting in a loss of 3500 dedicated officers from active duty.

A study by Swinburne University has revealed that a staggering 67 per cent of officers feel burnt out. Workload pressure is growing, and stress levels have reached unprecedented levels. Labor promised to recruit up to 2000 new officers. Instead there has been an annual exodus of 500 officers from the force, with an additional 700 police officers off duty on WorkCover. Police whistleblowers have raised the alarm, stating that major crimes, including sexual assault, are taking three years to be investigated. Intervention orders are not being served on time, police vehicles remain idle and stations are closing without notice. Our local police do a great job under significant pressure, but they are clearly stretched. The action I seek is for the state government to take action to ensure country police stations are adequately staffed and resourced to deter crime in regional areas.

## School violence

**Trung LUU** (Western Metropolitan) (17:49): (579) My adjournment matter is for the Minister for Education. It seems clear that the government's current approach and policy are not stopping the increase in youth violence in our schools. According to the annual report of the Commission for Children and Young People, tabled in Parliament yesterday, violence in schools is going up. In the year 2021 there were 197 reportable allegations of violence in schools. In the year 2022 this went up to 261, and in the year 2023 the figure jumped to 325. The action I seek is for the minister to consult with principals and develop a strategy to tackle violence in schools.

In August this year video footage of a physical confrontation between students and teachers went viral in social media. This happened inside a school in my constituency. This is not an isolated incident. It is part of a growing trend of bad behaviour and physical violence in schools. A recent report revealed over 100 fight club videos have been posted on social media alone in the past six months. Teachers, parents and students want a solution to this problem. Every child has the right to feel safe at school. Every teacher has the right to feel safe at their workplace. This is not the problem of a particular school or individual behaviour but a matter of government policy that dictates how schools respond to bad

behaviour. Victorian teachers are dedicated and hardworking, but many feel they have to leave because working conditions are getting so bad. They need more help to deal with difficult students. Government policy must support principals to implement prevention strategies and to take appropriate action towards bad behaviour when it happens so that teachers and students can feel safe, so I call on the minister to take school violence seriously and develop a new strategy to help schools prevent violence and create a safe environment for everyone.

## Responses

**Enver ERDOGAN** (Northern Metropolitan – Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (17:51): There were 10 matters raised today. Two of them were directed to me, from Dr Bach and Ms Copsey, and I will respond to those in the usual way in writing. In addition there were: Ms Purcell to the Premier about the Israel–Palestine conflict, Ms Lovell to the Minister for Roads and Road Safety, Ms Bath to the Premier, Mr Ettershank to the Minister for Public and Active Transport, Mrs McArthur to the Minister for Environment, Mrs Broad to the Minister for Police and Mr Luu to the Minister for Education. I will make sure all of those are passed on and appropriate responses given.

**David Ettershank**: On a point of order, President, my question was to the Treasurer, not the minister for public transport.

**The PRESIDENT**: The member will amend that. The house stands adjourned.

**House adjourned 5:52 pm.**