PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 10 November 2016

(Extract from book 17)

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HANSARD150

1866–2016

Following a select committee investigation, Victorian Hansard was conceived when the following amended motion was passed by the Legislative Assembly on 23 June 1865:

> That in the opinion of this house, provision should be made to secure a more accurate report of the debates in Parliament, in the form of *Hansard.*

The sessional volume for the first sitting period of the Fifth Parliament, from 12 February to 10 April 1866, contains the following preface dated 11 April:

> As a preface to the first volume of "Parliamentary Debates" (new series), it is not inappropriate to state that prior to the Fifth Parliament of Victoria the newspapers of the day virtually supplied the only records of the debates of the Legislature.
>
> With the commencement of the Fifth Parliament, however, an independent report was furnished by a special staff of reporters, and issued in weekly parts.
>
> This volume contains the complete reports of the proceedings of both Houses during the past session.

In 2016 the Hansard Unit of the Department of Parliamentary Services continues the work begun 150 years ago of providing an accurate and complete report of the proceedings of both houses of the Victorian Parliament.

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

(to 9 November 2016)

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

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Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Thomas, MP

Legislative Council committees

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

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

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — Mr Bourman, #Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Leane, Mr Morris and Mr Ondarchie.

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

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

participating members

Legislative Council select committees

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

President:
The Hon. B. N. ATKINSON

Deputy President:
Mr K. EIDEH

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

Leader of the Government:
The Hon. G. JENNINGS

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

Leader of the Opposition:
The Hon. M. WOOLDRIDGE

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

Leader of The Nationals:
Mr L. B. O'SULLIVAN

Leader of the Greens:
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina [2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Brien, Mr Daniel David [1]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel	Western Metropolitan	DLP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	O'Sullivan, Luke Bartholomew [4]	Northern Victoria	Nats
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Patten, Ms Fiona	Northern Metropolitan	ASP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin [3]	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Pulford, Ms Jaala Lee	Western Victoria	ALP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Purcell, Mr James	Western Victoria	V1LJ
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Springle, Ms Nina	South Eastern Metropolitan	Greens
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Melhem, Mr Cesar	Western Metropolitan	ALP	Young, Mr Daniel	Northern Victoria	SFFP

[2] Appointed 15 April 2015
[3] Resigned 27 May 2016
[1] Resigned 25 February 2015
[4] Appointed 12 October 2016

PARTY ABBREVIATIONS

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

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THURSDAY, 10 NOVEMBER 2016

CONTENTS

Thursday, 10 November 2016

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.35 a.m. and read the prayer.

RULINGS BY THE CHAIR

Quorums

The PRESIDENT — Order! Yesterday there was a matter that Ms Wooldridge sought to refer to me in respect of a series of quorum calls in the chamber and whether or not that represented a vexatious process in terms of the calling of those quorums. I indicate that I was a little surprised in the sense that I can recall the opposition on previous occasions making a significant, frequent and indeed one might say incessant range of quorum calls. But let me say this: in terms of our standing orders there is no provision that covers the calling of quorums. There is no provision that covers what some members might consider to be vexatious activity in terms of the calling of quorums on a frequent basis, and indeed there is certainly no stipulation about the number of quorums or the duration between quorums that might be called.

The reality is that the expectation of the house and the standing orders is that all members will be present in the house at all times. The fact is that it is quite in order for any member of this chamber, on noticing that there is not a quorum, to call for the return of members to the house to ensure that the house can continue to operate.

MINISTRY

Ms PULFORD (Minister for Agriculture) — Yesterday the Governor accepted the resignation of Mr Herbert and commissioned Ms Tierney as Minister for Training and Skills and Minister for Corrections. International education now sits within the small business, innovation and trade portfolio as the responsibility of Mr Dalidakis. In this place Minister Tierney will represent the Minister for Police, the Minister for Education, the Minister for Racing and the Attorney-General.

The PRESIDENT — Order! I would like to place on the record my appreciation of Mr Herbert's cooperation with me in matters on which I have dealt with him in the context of my role as President and his role as a minister of the government. I do thank him for his service to this house, and as I said, I thank him for his support for me and the courtesy he has extended to me on a number of occasions in terms of matters that we have needed to progress.

I certainly take this opportunity to congratulate our new minister, my former deputy and now a very seasoned member of this house. She faces a pretty tough job to come up to speed on those portfolio responsibilities in a short time. I am sure she will be tested in due course by the opposition. But certainly, Ms Tierney, congratulations on achieving that ministerial role, and I am sure that you will discharge it to the best of your ability.

ABORIGINAL AFFAIRS

Victorian government report 2016

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

Laid on table.

PAPERS

Laid on table by Clerk:

Audit Act 1994 — Performance Audit of the Victorian Auditor-General and Victorian Auditor-General's Office 2016, pursuant to section 19(9) of the Act.

Australian Health Practitioner Regulation Authority — Report, 2015–16.

Greater Sunraysia Pest Free Area Industry Development Committee — Minister's report of failure to submit 2015–16 report to the Minister within the prescribed period and the Minister's report of receipt of 2015–16 report.

Health Practitioner Regulation National Law (Victoria) Act 2009 — National Health Practitioner Ombudsman and Privacy Commissioner Report, 2015–16.

Independent Broad-based Anti-corruption Commission — Special report concerning Operation Ross: An investigation into police conduct in the Ballarat Police Service Area, November 2016 *(Ordered to be published)*.

Victorian Budget Update — 2016–17 (incorporating Quarterly Financial Report No. 1).

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until 12.00 p.m. on Tuesday, 22 November 2016.

Motion agreed to.

MINISTERS STATEMENTS

Child protection

Ms MIKAKOS (Minister for Families and Children) — I rise to inform the house about the innovations the Andrews Labor government is undertaking to better care for vulnerable children in Victoria. Earlier this year the government's $168 million *Roadmap for Reform* was introduced to shift the children and family services system from crisis response to prevention and early intervention. As part of this reform I recently announced $20 million to trial nine initiatives for children in the south division of the Department of Health and Human Services. We have dedicated resources to achieve ambitious goals, including $2.8 million to reduce the need for out-of-home care, $12.6 million to improve the experience of out-of-home care and $5.8 million to support young people to transition from out-of-home care.

The nine initiatives that will be trialled include testing internationally proven models of foster care for children and young people with more complex support needs, including the evidence-based Treatment Foster Care Oregon model; designing an intensive support response that will transform residential care into a trauma-informed model for children and young people with complex needs, making residential care a short-term intervention rather than a destination; a program that provides intensive interventions, including brokerage funding, to help families prevent their children from entering out-of-home care; funding for Aboriginal and mainstream organisations to work with children and young people in kinship care who may be able to return to their families or primary carers as well as with their families; keeping Aboriginal children and young people connected to culture with a return to country program that is co-designed with Aboriginal organisations; and a mentoring, learning and support program for young people in out-of-home care, with flexible support for young people from 16 or 17 years of age to develop life skills to enable a smooth transition from the care system into independent living.

The community sector has been engaged in co-design on many of these initiatives, and we recognise the expertise and wealth of experience those operating on the ground can provide. Through this co-design process we are generating new and important insights on what works. These are just some of the measures we are undertaking to prevent children entering the out-of-home care system. I note that our targeted care packages have already seen 253 children and young people move out of residential care into home-based care options. Our government has not wasted a day in reforming our child protection and out-of-home care system, and I look forward to continuing to give the house regular updates.

MEMBERS STATEMENTS

BreastScreen Victoria

Ms WOOLDRIDGE (Eastern Metropolitan) — The unfortunate situation is that one in eight women will be diagnosed with breast cancer at some time in their life, but the good news is that we have an exceptional breast screening program through BreastScreen Victoria. Having an early breast screen is the best way to find breast cancer early and when treatment is most likely to be successful. As I said, BreastScreen Victoria do an exceptional job in the work that they do: getting the message out, educating women and providing exceptional services for breast screening. Every woman aged 50 to 74 is entitled to have it for free every two years, and they are encouraged to do so.

Recently BreastScreen Victoria highlighted the participation rates in members' electorates so that we can also advocate for women to be screened. In terms of my electorate in Eltham, the news is that over the period from 2013 to 2015, 4204 women did not screen. The electorate participation rate was 57 per cent. This is above the state participation rate of 52.3 per cent, but the BreastScreen Australia target participation rate is 70 per cent. I want to commend BreastScreen Victoria for the exceptional work that they do, but I particularly encourage women in Eltham and right across the Eastern Metropolitan Region to take the opportunity to be screened because it can save lives.

Ministry

Mr LEANE (Eastern Metropolitan) — I want to acknowledge that yesterday marked the promotion of a strong, intelligent and capable woman in Gayle Tierney, who has been appointed to the Andrews government's cabinet. This side of the chamber are all delighted to see Gayle Tierney being promoted to this position, knowing the valuable work that she has done in government and in opposition in the last 10 years. She has also dedicated her working life to further the interests of workers, so we are delighted. We are also delighted that Mary-Anne Thomas in the Legislative Assembly has been elevated to Cabinet Secretary. She is another capable and intelligent woman in cabinet, and we look forward to her further contributions. As I said, it was a good day for the Andrews cabinet that we have more capable, fantastic and intelligent women

leading our government and helping the state to move forward.

Royal Women's Hospital

Ms FITZHERBERT (Southern Metropolitan) — Last night I was genuinely delighted to attend the 160th birthday celebrations of the Royal Women's Hospital. It was born in 1856 as the Melbourne Lying-in Hospital and Infirmary for Diseases of Women and Children. It was originally set up in Albert Street, very close to where we are all standing now, and was of course a charity hospital. It was for women who had nowhere else to go and who were in dire need of care, particularly as the gold rush was creating all sorts of activity in and around Melbourne.

By the second half of the 20th century more women gave birth at the Women's than at any other hospital in the commonwealth. In the 1850s it was the first hospital in Australia to train nurses, and later it became the first hospital to teach obstetrics and gynaecology to medical students. It has continued in a range of very important firsts in relation to the care of women and research regarding birth. For example, in 1951 Dr Kate Campbell, later Dame Kate Campbell, established at the Women's the link between blindness in premature babies and oxygen levels.

Today the Women's is a very long way from its origins as a place for care for the most vulnerable women in Melbourne, who at that time had little or no choice in where they were looked after. It is an internationally recognised hospital for its care of women and for its innovation and standards. It is a place where women wish to be cared for. I want to pay tribute to the leadership of the Women's. It has always had extraordinary leaders, including Ms Dale Fisher and Dr Sue Matthews and her team. I congratulate them on their excellence and on this anniversary.

Climate change

Mr BARBER (Northern Metropolitan) — The election of President Trump represents the last gasp of the angry white guy.

Mr Finn — It's called democracy. Get used to it.

Mr BARBER — It sounds like we have a few in this chamber. They just do not understand how the world works anymore, because they are no longer the boss of the household, they are no longer the boss of the media outlets, they are not running the big institutions, they are not running the world and they just do not understand how the world works anymore. So it appears not so much that they came out for Trump but that a whole range of other groups stayed home for Hillary, and that is how this has happened.

But there is one very pressing and very serious matter, where the world is going to go significantly backwards, and that is in terms of a response to climate change, because President Trump is determined to shatter the global consensus that was achieved in terms of action on climate change. He will not be able to satisfy what his army of burst saveloys would like to see, and that is that he could by edict, like King Canute, simply order that global warming disappear. It will come on relentlessly; there is nothing he can do about it. But the next four to eight years of course are a crucial period for action, and unfortunately this is a major setback.

Women's Housing Ltd

Mr EIDEH (Western Metropolitan) — I was pleased to join my parliamentary colleagues the Minister for Consumer Affairs, Gaming and Liquor Regulation, the Honourable Marlene Kairouz, and member for Western Metropolitan Region Cesar Melhem to turn the first sod at Women's Housing Ltd's Newport site at Bradley Street on Wednesday, 2 November. This sod turning marked the start of construction of 20 apartments, which will include 9 one-bedroom units and 11 two-bedroom units for women and children fleeing family violence and women over 55 years of age, with tenants coming from the public housing waiting list. Unfortunately family violence is a reality which many women and children face, and it often leads to homelessness. These 20 new apartments will be affordable and safe so that women and children fleeing family violence will have a place to call home.

What will make a significant difference to the lives of these women is that they will have affordable, safe housing with easy access to public transport, schools, shops, healthcare services and job opportunities to ensure that they get the chance to live happy and independent lives. This project has been funded by a $5.5 million grant from the Victorian Property Fund, and it is projects like this that show that this government is working towards making a positive difference to the lives of vulnerable women. This project will help support women in my electorate to move on with their lives.

Local government elections

Mr ONDARCHIE (Northern Metropolitan) — I want to reflect on the recent council elections in Victoria. I congratulate mayor Ricky Kirkham on his re-election to Whittlesea City Council. I also

congratulate new councillor John Butler in Whittlesea. I thank outgoing councillors Christine Stow and Rex Griffin for their services to the community.

In Hume I want to congratulate Jim Overend. Albeit unsuccessful, he is a local Craigieburn resident who ran a really energetic and community-centred campaign.

In Melbourne I congratulate new councillor Philip Le Liu, and I congratulate Lord Mayor Robert Doyle on his historic re-election. I also want to thank the outgoing deputy lord mayor, Susan Riley, and councillor Beverley Pinder-Mortimer for their service to the City of Melbourne.

In Nillumbik I congratulate Peter Clarke on his election as mayor and thank outgoing councillor Meralyn Klein for her outstanding service to the community.

In Moreland I congratulate the chief executive officer of Bully Zero Australia Foundation, Oscar Yildiz, on his re-election and thank him for his service in his local community.

In Darebin I thank outgoing retiring councillor Oliver Walsh for his service to the community.

I pay particular tribute to outgoing councillor Jenny Mulholland in Banyule for the work that she has done in representing her community.

Victorians are better off for the services of these wonderful people, and I thank them for their current service and their ongoing service.

Hares & Hyenas

Ms PATTEN (Northern Metropolitan) — I would like to congratulate Melbourne's internationally renowned sexuality and gender diverse bookshop, cafe and performance venue, Hares & Hyenas, for winning Best Venue at the Melbourne Fringe Awards 2016. Beating 171 contenders, the performance space, called the Hare Hole, is celebrated for not censoring artists and providing an unparalleled venue for free expression that has hosted more than 1000 events. Proprietors and partners Rowland Thomson and Crusader Hillis — who works at Hansard here — say they were punks in the 1970s and 1980s and in 1991 channelled their life experience to set out to establish a space where every point of view can be expressed as well as taken in. Congratulations on furthering Melbourne's culture and diversity at Hares & Hyenas.

Islamic Museum of Australia

Ms PATTEN — I would also like to congratulate the Islamic Museum of Australia for its Coffee with Sherene outreach program, which allows anyone to attend and ask questions about religion, politics or issues of the day. The event was very well attended with nearly 100 people, and following the open discussion session there were tours of its fantastic art museum and culture exhibits.

Cannabis legalisation

Ms PATTEN — I would also just like to mention in regard to yesterday's election of Mr Trump that it must be noted that five more states in the US have legalised the personal use of cannabis.

United States presidential election

Mr DAVIS (Southern Metropolitan) — I too want to reflect on the American election result and note that President-elect Donald Trump will be installed in early January. I think there are some significant lessons in this. Whatever people's views are on President-elect Donald Trump or Hillary Clinton — and there has been much spoken — there is a message in it for all of us and for the community more broadly.

It is about listening to the community. It is about focusing on basics and the standards of living that are incredibly important to everyday Victorians, Australians, Americans and Europeans. The community does want a fair shake. They do want their standard of living as a primary objective. The economy and jobs are absolutely critical, and you can see the focus of many other governments around the world where they have lost touch, where they are out of touch and where the message is being delivered by the electorate.

This message that has been delivered has been construed in a whole range of different ways, but at the end of the day America is a great democracy. There was a peaceful electoral process, and the government will change in the United States. That is an opportunity for Australia, and it is an opportunity for Victoria. We must seize those opportunities. We must work properly and fairly with democratically elected governments around the world. I pay tribute to the American political system, and I think we need to take to heart the lessons that have been delivered in that election.

Tourism North East

Ms SYMES (Northern Victoria) — I want to use my members statement today to give a shout-out to Tourism North East. One of the many great things about northern Victoria is its diverse and dynamic tourism offerings for visitors, whether those visitors be from the local area, Melbourne, other parts of Victoria, interstate or even overseas — there is literally something for everyone. It is very pleasing that the Victorian government recognises this and is looking for opportunities to increase the tourism offerings in this region, with a focus on projects that have the potential to not only grow visitation rates but also create local jobs and boost the economies of our country towns.

The Regional Tourism Infrastructure Fund has provided for some exciting projects across northern Victoria, and it has given those involved in those projects the opportunity to move to the next stage of planning, to assess the economic viability of the projects and to further investigate their potential as high-impact regional tourism initiatives. Some of the awesome projects that have been enabled to go to the next step because of this fund include the Hume Aboriginal cultural trail, the north-east cycling optimisation project and the Ned Kelly Alive project.

All of these are going to be worked up by Tourism North East, which has done a fantastic job to identify these priorities for the region. Amber Gardner in particular has been a driving force, and I congratulate her and her team — it is a very small team, I have got to say — on their hard work that has paid off, and now with significant funding of $590 000 they will be able to take these projects to the next step.

Vicki Jellie and Geoff White

Mr PURCELL (Western Victoria) — It gives me great pleasure to rise today to congratulate two local heroes: Warrnambool's Vicki Jellie and Portland's Geoff White. Vicki Jellie was a finalist in the Australian of the Year Awards, in the local hero category, for driving a massive community campaign that fulfilled the dreams of her late husband, Peter. That was to have a cancer care centre based in the south-west, allowing patients to undergo radiotherapy treatment close to home. As the founder of Peter's Project, Vicki contributed hundreds of hours of work and lobbied successive governments to attract federal and state funding. She also led a campaign that raised $5 million in just nine months in the local community. That is an excellent effort.

Shire of Glenelg councillor Geoff White was the first successful candidate from a record field of 19 candidates in the recent local government elections. Geoff was returned to the chamber for his seventh term. Despite drawing 18 of 19 candidates in the ballot draw, the 81-year-old received the most first preference votes, well above his closest rival.

Ivy Steel

Mr PURCELL — Finally, I would also like to congratulate the western district community, which has rallied behind Hamilton girl Ivy Steel, who is battling cancer for the third time in her short life. A desperate plea by the Facebook group Ivy's Army to raise $400 000 for Ivy to access treatment in America has generated over $500 000 in just days. We wish Ivy and her family all the best.

Nurith Krieser

Mr BOURMAN (Eastern Victoria) — I rise today to pay tribute to Nurith Krieser. Nineteen years ago I met Nicole, my now wife, and from then my education on the Jewish community commenced. Through Nicole I met family friends of hers, the Kriesers, Nurith and Uri, and they welcomed me as one of them.

Sadly, Nurith died on 28 October this year. Nurith was born in 1942 in Palestine, and obviously that was a tumultuous period in the world. However, she did end up in Melbourne eventually, where she worked originally at a coffee roaster shop at South Melbourne Market, then for most of her life in Australia she worked at the office at Beth Rivkah private school. Nurith volunteered for many years in retirement at the Caulfield Hospital working in the canteen, as well as helping Uri, her husband, run the family business. Nurith had three children — David, Mike and Ron — and five grandchildren. Rest in peace, Nurith, and thank you for treating an outsider — me — as one of the family.

Remembrance Day

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I rise to acknowledge that the Minister for Veterans, whom I have been representing also in the capacity as Acting Minister for Tourism and Major Events, is due to return from his unintended leave due to his heart attack.

I must say that besides the fact that John Eren is a good friend of mine I have nonetheless thoroughly enjoyed the opportunity to represent the veterans community in a range of events that I have attended in that time. I

must say in fact that in my time in Parliament there are very few things I have been able to do as a minister that have afforded me a greater honour than to thank the men and women who have served this country and also to acknowledge those that sadly have lost their lives in doing so.

I do that in the shadow of Remembrance Day tomorrow, which will occur on the 11th hour of the 11th day of the 11th month in remembrance of the armistice in 1918. I wish all of those returned service men and women to have as comfortable a life as they can, as they sometimes face the challenges of serving overseas in combat and the trials and tribulations that that brings. I also recognise our current service men and women around the world, including those on peacekeeping missions.

To all of the members of Parliament that have worn poppies, including yourself, President, I acknowledge all of the respect that you also provide to our returned service men and women. Lest we forget.

The PRESIDENT — Order! Thank you, Mr Dalidakis. Again I think the house shares those sentiments, and we are also pleased to see Mr Eren has enjoyed a speedy recovery and looks to a healthy future.

CHILD WELLBEING AND SAFETY AMENDMENT (OVERSIGHT AND ENFORCEMENT OF CHILD SAFE STANDARDS) BILL 2016

Second reading

Debate resumed from 13 October; motion of Ms PULFORD (Minister for Agriculture).

Ms CROZIER (Southern Metropolitan) — I am very pleased to be able to rise this morning and speak to the Child Wellbeing and Safety Amendment (Oversight and Enforcement of Child Safe Standards) Bill 2016, as this is an important piece of legislation that the house is debating. It builds on previous legislation that has been brought into the house as a consequence of the *Betrayal of Trust* report, which I had the great honour and privilege of tabling almost three years ago — in fact it will be three years in just a couple of days — in this very chamber. At the time when I was speaking to the report and acknowledging the work that we did on the parliamentary inquiry — and we did an extensive inquiry, as members are well aware — there were findings in the report and recommendations made, and this legislation is building on the recommendations that were made and the commitment of the coalition government of the day to implement those recommendations.

I want to make a couple of comments in relation to that. I know that the current Andrews government is working through those recommendations too, and I am looking forward to seeing the other recommendations being implemented, but as I said and as members are aware, this does build on the work of the previous government. There were a number of inquiries undertaken through the coalition's term to look at the very serious issue of child abuse. The Cummins inquiry identified a number of areas, and out of that the parliamentary inquiry was established. During that time recommendation 12.1 of the report commenced under the previous coalition government, and from August to October of 2014, just before the coalition lost government, various government departments together with the Commission for Children and Young People were working with various stakeholders, running consultation processes and sessions, speaking to relevant organisations, as I said, and government bodies about the proposed child safe standards and what needed to be done.

I go back to the report and look at what some of the findings were to come to those conclusions. In chapter 12, page 267, the report gives some background as to why this recommendation was made. It was concluded that:

> A written child safe policy demonstrates an organisation's commitment to its duty to reasonably protect children from criminal child abuse while in their care. It may be long or short depending on an organisation's purpose, size or the activities it undertakes. Ideally it should contain a statement of zero tolerance of criminal child abuse —

I think we would all agree with those sentiments —

> principles to guide decisions, procedures on the employment of new personnel, a risk management approach and processes for reporting allegations of criminal child abuse.

Out of that background, as I said, there were findings that concluded that many non-government organisations had given consideration to developing policies and procedures, but they were often very fragmented. They were sometimes quite basic in their outlook. Their intentions were very well considered — there is no doubt about that — but in relation to how they were put together, they varied across a number of organisations.

Lots of organisations came before us to really understand and work with us to get that process right. I put on record again the willingness of so many

organisations that came before us to provide insight and information so that we could fully understand how policies and procedures were adhered to, or perhaps not adhered to, to the extent that they could have been. Indeed that led to some of the regulations that we made.

The recommendations that we made included that the Victorian government review its contractual and funding arrangements with education and community service organisations — those that work with children and young people — to ensure it has a minimum standard for ensuring a child safe environment, including the following principles. I want to just highlight these because I want to go to the federal royal commission in relation to the work that they are undertaking in this important area too. The principles that the committee recommended are a statement of zero tolerance of criminal child abuse; principles to guide decisions; procedures on the employment of new personnel; a risk management approach; processes for reporting and responding to allegations of criminal child abuse; and that the government consider that there is potential to extend a standard of child safe environment to other organisations or other sectors.

As I mentioned, we were talking about government organisations and those organisations that are funded by government or have regulation around them. They have an obligation obviously to families and children under their care, and it is also the government's responsibility to ensure that they are providing a safe framework and a safe place for children to be in. Obviously schools were a major consideration. But there are a whole lot of organisations that do not fall under that umbrella, and this bill looks at those organisations that potentially do not have funding or regulation around them. They are known as category 2-type organisations. They include entities like Life Saving Victoria, the scouts and other entities that do not have the funding.

I did mention that the national Royal Commission into Institutional Responses to Child Sexual Abuse is still ongoing, and members will be well aware of a number of considerations that they have made along the course of that important royal commission. They also, I think, highlighted many of the areas that were highlighted during our inquiry, so I am very pleased that the Victorian parliamentary inquiry really led the way on this. We have given some guidance perhaps to the royal commission in looking at those issues that we found, the concerns that the organisations and others put to the committee as well as the reasons we made the recommendations we did from those findings.

I think it is important to put that on record because there is so much acknowledgement of the work of the royal commission — which is ongoing — that could apply across the country, which is a very good thing. I do want to again say that a number of the recommendations that the royal commission has made, such as identifying the elements of a child safe institution, is in many parts exactly what we wrote in our report, and chapter 12 of the report actually goes to that.

The royal commission report, titled *Creating Child Safe Institutions*, says:

> We have worked to identify specific elements that institutions should adopt in order to be child safe.

That included an extensive analysis of available research and evidence that they conducted through their processes, which included child safe organisation frameworks, guidelines and standards developed in Australia and internationally. They have gone abroad and looked at some of those standards as well as evaluating child safe organisations. Looking at our various case studies, I think that is all building on this very important work.

We do not want to be overly prescriptive with some of the organisations that this piece of legislation will affect, but we do need to ensure that children are safe and that those organisations have the necessary frameworks in place to guide their organisations. There is also capacity for those institutions to look at how they can evolve and work as times change. As we are in a technological age, I would particularly like to take note of how technology can have a really huge impact in some of these areas and the fact that organisations also need to be aware of how technology can be used in a non-constructive way, in fact a very dangerous way, in some of these child safe practices.

This bill, as I said, is the second part of legislation to improve child safety with which certain entities must comply. In 2015 the government, with the support of the coalition, introduced the Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015. As I said, that bill went to the heart of category 1 organisations. That bill came into effect on 1 January 2016, and those category 1 organisations such as schools and other government-funded organisations had to comply.

As I also mentioned, the stakeholder consultation has been ongoing for quite some time, and I think there have been many organisations that have been working towards their own organisation's compliance. They

have done a huge amount of work in ensuring that to the best of their capacity they have been able to do what is expected of them by that piece of legislation. The organisations that this piece of legislation before the house will apply to are those category 2 organisations. With a start date of 1 January 2017, which is only in a few weeks time, those organisations are also expected to have the capacity to be able to comply.

To go to what the bill actually does, the purpose of the bill is to amend the Child Wellbeing and Safety Act 2005 to provide for the oversight and enforcement of compliance by relevant entities with standards in relation to child safety, to amend the review and reporting obligations under the Commission for Children and Young People Act 2012 and to amend the Children, Youth and Young Families Act 2005 to provide for the publication of certain information. As I said, I am not going to go through all of the clauses point by point, but I did want to just speak on some of the areas that have been highlighted and some of the areas on which I want some clarification.

I am sure that the minister and the government will be able to provide clarity during the committee stage on some of the questions I want to ask in relation to how the bill will actually apply in practice, given the diversity, size and breadth of some of these organisations across the state. I do not believe it is anyone's intention — neither that of the government nor of the Commission for Children and Young People — to have a lot of organisations caught up in unintended consequences of regulatory burden, but I think it is important that we have that clarity, so I will be asking a few questions of the government to clarify some of those points.

If I can just go to the clauses of the bill, clause 4 inserts a new subsection in section 1 of the principal act, which sets out the purposes of the act. The new subsection provides that the oversight and enforcement by the Commission for Children and Young People of compliance by certain entities with the standards in relation to child safety and wellbeing is one of the main purposes of the act. That is important because it gives the powers to the Commission for Children and Young People. As I said, I do want to understand how it will work in practical terms.

Clause 6 provides that the commission has the responsibility to educate and guide relevant authorities in promoting compliance by relevant entities with the child safe standards. That is to enable those entities to have some continuous improvement, as I understand it. There are some issues around how that might be applied in a practical sense, and I will certainly be wanting to understand how that could apply in relation to the many relevant entities. I know that during the course of the inquiry committee members took this particular area into consideration. How do you look at every single sporting club across the state? What is the responsibility of the peak bodies, and how are they to disseminate that information to each and every one of those sporting bodies so that they know they are complying with the legislation and that they are giving the organisations they represent the education and support that they need?

I am just wondering how the commission plans to do that because we know that there are tens of thousands of sporting groups across the state. To try to get this out is going to be quite challenging. In saying that, I think the community is well aware of the expectations of government because of the work done in the Victorian parliamentary committee inquiry and also what is happening at a national level with the royal commission.

Clause 8 speaks about the powers of the commission to investigate whether a relevant entity is complying with the child safe standards. It goes on to address various other aspects of how the commission will be able to exercise its oversight and enforcement powers and provides for how it will then consult with the relevant authorities. It also sets out that the commission may apply to the Magistrates Court for a declaration that any relevant entity has failed to comply and for an order that the relevant entity pay a pecuniary penalty. This is another area that I do want to get some clarification on. I understand that that money will go into the Consolidated Fund, but how that new section will be actually administered and how such an application will be made and on what grounds or how it will play out in reality is what I am trying to understand. That is also something on which I will get some clarity — or the minister might be able to provide some clarity in her summing up.

New sections 41D and 41E relate to relevant persons disclosing information to various entities such as the Ombudsman and the Chief Commissioner of Police. This provision is intended so that the commission can share relevant information with those authorities, and it is actually designed to improve child safety in organisations and look at facilitation of the coordination, expedition of oversight and enforcement of those various activities. Obviously if there are any allegations of child abuse, then it is an obligation that those allegations be referred straight to the police. These are criminal actions, and the police should be a

first port of call and always included in any allegations of child abuse.

Part 3 of the bill relates to the amendment of the Commission for Children and Young People Act, and it speaks about the delegation of powers or function of the commission. It authorises any person to assist the commission in performing its functions other than in issuing a notice to comply, and it requires that the commission conduct a review of the administration of the Working with Children Act 2005 every three years. This is an area, as explained to me in the briefing, that intends to not bog down organisations with that compliance, and it is identified as an efficiency move. In relation to how that will be conducted, again it is another function of the Commission for Children and Young People, which I think is going to have to extend its ability to manage a whole range of roles that it is undertaking currently with the added — not a burden — responsibility of what this bill is actually asking the commission to do. So I do want to actually get some clarity about how the commission will be able to manage what I think is a very extensive additional role that it will have to conduct.

Part 4 of the bill goes to amending the Children, Youth and Families Act. It inserts into that act a requirement that the secretary of the department publish on the department's internet site every quarter adverse events relating to children in out-of-home care and the number of adverse events relating to individuals detained in various other facilities such as youth justice facilities and residential care. We know that that has come into force since 1 January this year in relation to that quarterly data reporting. That is a good thing, because that gives an understanding and the community can understand what is happening in relation to these areas of government responsibility when the government is assisting and caring for some of the most vulnerable children or individuals — some of the most vulnerable Victorians, children — which is an incredibly important role that I think all within the chamber agree with.

There are some areas around that in relation to what I would like to speak to too, but as I said at the outset this is a continuation of the work that has been conducted by previous governments. It is ongoing. I think all governments do want to ensure that child safe standards are continuously improved and looked at and that we can maintain child safe standards and keep those most vulnerable Victorians, meaning children — it does not matter who they are — all across the state as safe as possible. We know that that cannot always be the case, but it is the responsibility of government to provide those frameworks and provide that guidance to ensure that organisations do understand their responsibility in what they should have to do in regard to this.

I do not want to say too much more in relation to this bill, apart from the fact that a couple of organisations have contacted me in relation to their understanding of how this bill will apply. I note that the scouts organisation in Victoria does a wonderful job in providing so many skills and guidance. It does a huge amount for so many children and has done so for many, many decades. Scouts Victoria and Girl Guides Victoria are fabulous organisations that have a lot of children involved under their care. They have a lot of adult volunteers who are involved in conducting the work that they do.

Scouts is, I think, a very good example of one of the organisations that is going to have a degree of difficulty in trying to do everything that this bill might require. I say that because they have got around, it is my understanding, 18 500-odd members. They have been looking at compliance and safety standards for a long time. In fact the scout movement came before the Victorian parliamentary inquiry and spoke to us in full. They made the point that they have a very strong determination that the children they have in their charge are kept safe at all times. They have understood some of the happenings of the past, which have been extremely detrimental to some of the children that have been in their care and under their watch. They have expressed to me that they understand that there has got to be a consistency of approach for organisations across the state in relation to this important legislation, and they have also noted that they have had a policy regarding what they refer to as the 'moral character of adults' since around 1938 and a requirement that criminal offences be reported to police since 1947. That is what they told the Victorian parliamentary inquiry.

We do know that there were issues within this organisation, as there were within many, many schools, religious organisations and other organisations, so I am not sounding out the scouts in particular in relation to some of the abuse that might have happened within that organisation. I am just using the scout movement as a very good example by referring to the number of children that they care for and the number of adults that are working within that organisation who have working with children checks and police checks. That is the responsibility that they take.

But they have some concerns about how the new standards will impact them and how that will flow on and have a cost to the organisation. They also want certainty about the costs that will be involved for those

volunteer leaders — the compliance costs that this might include and how that will be paid for. They do not want to be putting any more costs onto a child who wants to be involved in the scout movement. They want as many children as possible to be involved. They want many vulnerable children to be involved, because they believe this gives those vulnerable children great skills and great experience that helps them cope with adversity, and it also gives them leadership skills. We know of many instances where people have come through the scout movement and developed those leadership skills. It has been very beneficial to them in later life to have those leadership skills, and they have used them in work situations.

An organisation of this size is different from an organisation in, say, a small country town, such as an Auskick group. Obviously they have a peak body, so it will be up to the peak body how that is managed, but there are many other organisations that have small memberships, and those small membership groups will also have to comply with the legislation. It concerns them how this piece of legislation will impact the various types of organisations. That was something that we identified in the Victorian parliamentary inquiry. I will quote from page 268 for the purposes of *Hansard*:

> The committee acknowledges that policies will differ from organisation to organisation in view of the variability in their size, purpose and the activities they undertake.

That is one of the challenges with this piece of legislation. I know that it is expected to commence on 1 January, but I think the commission or whoever is responsible for giving this information to organisations is going to have to provide some certainty and allay those fears, because if all organisations are to be presented with the same standards, that could be problematic in a practical sense of how they will apply. I just wanted to get on record that the scout movement have highlighted their concerns to me. I know that they did write to the minister with their concerns as well. I am hoping the minister may be able to clarify, during the course of the committee stage or in her summing up, some of the points that the scouts have raised.

As I said, there is more work to be done. I think the Royal Commission into Institutional Responses to Child Sexual Abuse have made some recent recommendations in relation to redress, and they are making other comments and recommendations along the way. I think there is a huge expectation from many people about what will happen once the royal commission does conclude, and there was the same big expectation about the Victorian parliamentary inquiry. But I am very pleased that the government is continuing to work on the implementation of the recommendations in this very important area, which was commenced under the coalition government.

There are many, many people, including many fine Victorians, who have done significant amounts of work to ensure that this legislation is right. They want it to be right. They do want it to work, and they understand that there is a need to have those child safe standards. There is a need for organisations to comply. There is a need for the community to have a responsibility that child abuse cannot be condoned in any shape or form — that it should be, as it is, a criminal offence and that it should be dealt with through the proper processes of the law.

As I said, I am very pleased that this legislation is being developed. I do hope that those organisations are assisted so that they are able to comply with the time frames of that 1 January start date. I know that there were a number of organisations that the government did consult with. That information was provided to me, but there were a range of organisations and peak bodies that the government did consult with. They included victim survivor and advocacy support groups; community, family and children's services; education providers; early childhood services; hospital and health services; religious and faith-based organisations; sporting clubs and recreation groups; and Aboriginal and community-controlled organisations. I know a range of others were also consulted. I hope those organisations feel that they have had the consultation required and that they are clear about what the expectation is.

Can I say again that the opposition will be supporting the legislation. I await the opportunity to ask some questions of the minister in the committee stage to get some clarity on some of the points I might have, or she might be able to provide clarification in her summing up.

Ms SPRINGLE (South Eastern Metropolitan) — The Greens will be supporting this bill. The Child Wellbeing and Safety Amendment (Child Safety Standards) Act 2015 provided a set of minimum standards across the board to help drive organisational change within both professional and community organisations. I thank Ms Crozier for her contribution, given her extensive work as the chair of the committee that did the inquiry and produced the *Betrayal of Trust* report. It is very enriching to hear the detail that she can offer a debate like this because she knows the material so well. That was a groundbreaking report, and I think her contribution has continued to enrich the debate in that way. I am not going to go into too much of the

minute detail, because I think Ms Crozier has adequately summed that up.

The enforcement and oversight powers for the Commission for Children and Young People included in this bill will continue the process of bolstering those standards and facilitating much-needed organisational change as community groups develop and implement these strategies, and that is a very good thing. The bill is the fulfilment of the minister's assurances last year that suitable legislation would be introduced to establish appropriate oversight and monitoring mechanisms.

As I have said previously, I have been astonished by the extent to which the department does not collect data relating to its operations. The Cummins report in 2012 recommended that regulation and oversight of community service organisations should be improved by comprehensive annual reporting to the department and collection of data regarding incident reports and information about abuse in care, investigations and outcomes.

While this bill does have provisions for better data reporting by the Commission for Children and Young People, it requires very minimal incident reporting and shifts the data reporting requirement onto the commission rather than the department.

While the Greens support this bill, we would like to use this as an opportunity to inquire as to the lack of apparent plans to introduce the outstanding reforms which have come out of recent inquiries, and we will do so later in the committee of the whole — and those that I am referring to are in addition to the *Betrayal of Trust* report that Ms Crozier has spoken so much about.

I also have some questions that I think are probably outside the scope of this bill, so I will allude to them now. In recommendation 9 of its … *as a good parent would* … report of August 2015 the Commission for Children and Young People advocated for the introduction of child safe practices to be accompanied by measures to ensure that children understand their legal rights and to whom they can complain if they feel unsafe. Another gap that is repeatedly identified is that children do not have a direct hotline to an independent complaint body such as the children's commission, and at this stage there does not seem to be any indication that this bill will facilitate that.

The report recommended that the department's quality-of-care systems and investigations be delegated to an independent body with a separate funding source. These reforms would complement the regulatory mechanisms in this bill and create a positive system which would empower and protect children.

Lastly, Andrew Jackomos's recent *Always was, always will be Koori children* report recommended reviewing and strengthening cultural competency requirements within the Department of Health and Human Services standards.

In summing up, the Greens do support this bill. It is an important addition to the child safety standards. The oversight and enforcement powers are an important step in driving cultural change within organisations. However, if we are serious about protecting children, the current set of reforms is only a fraction of what is necessary. I will have some more questions in the committee of the whole.

Mr ELASMAR (Northern Metropolitan) — I am pleased to speak on this bill, the Child Wellbeing and Safety Amendment (Oversight and Enforcement of Child Safe Standards) Bill 2016. Stronger legislative measures that seek to protect children from abuse is a common aim that all decent Victorians share, and that is as it should be. We have come a long way from institutionalised child exploitation, but we must continue to refine and strengthen mechanisms for compliance with child safety standards.

The general community agrees that child abuse is not acceptable in any form. Arising out of the Royal Commission into Institutional Responses to Child Sexual Abuse, it became apparent that a clear monitoring system must be established in order to ensure that this hideous activity never occurs again. The bill introduces a framework which allows the Commission for Children and Young People to monitor effective compliance by a range of organisations, such as sporting clubs and religious organisations. The legislation is applicable to those organisations that are regulated by government and/or receive government funding.

The Victorian child safe standards require organisations to institute an organisational culture of child safety, including through effective leadership arrangements; a child safe policy or statement of commitment to child safety; a code of conduct that establishes clear expectations for appropriate behaviour with children; screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel; processes for responding to and reporting suspected child abuse; strategies to identify and reduce or remove risks of

child abuse; and strategies to promote the participation and empowerment of children.

While these standards sound brilliant, they are useless without a system to monitor their compliance. Never again will adults be allowed to commit atrocities on the innocent within our community. We have all heard heart-rending stories of evil deeds being committed against children in institutions. The reasoning behind the bill currently before the house is relatively simple: we are trying to in the first instance consolidate an educative approach that child safety is paramount to all other considerations, followed by rigorous standards of compliance.

The bill establishes a legitimate watching brief and, most importantly, an intervention process. These codified standards are part of the Andrews Labor government's response to the work of the Victorian parliamentary committee that investigated the handling of child abuse by religious and other organisations. The bill before us today provides practical monitoring coupled with effective enforcement provisions for compliance with the child safe standards. I am confident everyone in this Parliament shares a common concern for the safety of children. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms CROZIER (Southern Metropolitan) — As I indicated in my contribution to the second-reading debate, I want to ask a number of questions to the minister that have been raised with me in relation to some of the more practical applications of how the bill will apply. I did speak about the fact that I think these concerns have been made known to her office as well. I alluded to the number of organisations across Victoria that vary in size and structure and have a variance in their resourcing as well, both financial and personnel wise. There is an expectation, obviously, for national police record checks and working with children checks. I want to understand from the minister if consideration has been given to the cost of implementation for small, medium and large not-for-profit organisations in relation to adhering to some of those areas.

Ms MIKAKOS (Minister for Families and Children) — I apologise for the fact that I was out powdering my nose just a moment ago, as I understood that there were another four or five speakers to speak, who seem to have disappeared and gone to morning tea. I am happy with the fact that we are making speedy progress through this bill. As I would have said at the outset in my summing up if I had been in the chamber at the time, I thank members for indicating their support for this bill, because it is an important one.

In terms of the question that Ms Crozier posed, what I can say to her is that in relation to this bill the regulatory burden obviously has been an issue that has been considered by government in framing this. We are very pleased with the fact that we are moving to implement the recommendations of the Betrayal of Trust inquiry.

I acknowledge all those members, including Ms Crozier, who played a role in that inquiry. Obviously we are mindful of the very important work that is being undertaken at the moment by the Royal Commission into Institutional Responses to Child Sexual Abuse as well in framing these particular reforms.

There has obviously needed to be a balancing in the need to put in place robust mechanisms to make sure that we can minimise the risk to children in various settings in the community, whether they are attending school or whether they are participating in voluntary organisations. The assessment the government has made is that it is anticipated that this bill will only have minor costs to organisations.

There will obviously be a great deal of support offered to organisations in relation to the child safe standards, which members would be aware have been rolled out throughout the course of this year in terms of the first phase of that rollout and also for the subsequent rolling out to additional organisations from the start of next year. As part of this, the government and the Commission for Children and Young People are committed to supporting organisations to meet these child safe standards and to protect children from abuse. This support has included the release of guidance manuals, templates, telephone and email information lines and over 100 information sessions across Victoria. Capacity building to improve how organisations prevent child abuse and respond to any allegations will remain a primary focus of the child safe standards.

I make these points perhaps anticipating some further questions that might come to me in relation to these

matters, but I make the point that there is a great deal of support that is being offered to organisations to assist them in implementing these very important reforms.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister, for that response. You did say that there has been significant support offered, including the information sessions, phone lines, templates et cetera. One of the issues that has been raised, as I mentioned, by Scouts Victoria is that the new scheme does not address an inequality between the cost burden to their organisation in providing national police record checks and working with children checks. I am just wondering how an organisation such as the scouts, which have around 6000-odd volunteers working with them, are expected to pay for those police checks and working with children checks.

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Can I firstly acknowledge the fact that I too have received some correspondence from Scouts Victoria in relation to child safe standards, not specifically in relation to this particular bill but around the broader issues around child safe standards. Obviously that correspondence will be responded to very quickly to reassure them on some of the questions that they have posed. I too want to acknowledge the important work they do in the community, and I am very proud as the Minister for Youth Affairs to have provided them with funding for some of their activities.

As I indicated previously, and I am happy to go into more detail, the issue of compliance for voluntary groups like the scouts is anticipated to have only minor costs to organisations. Obviously we are ensuring that the Commission for Children and Young People will have a strong focus on capacity building and driving cultural change to embed child safety in the everyday practices of various organisations across our state. As part of that, the commission and the department have been working together to provide a great deal of support to all the organisations that will need to meet these child safe standards, and I am happy to go into it in considerable detail if the member would like. I just make the point to the member that issues around police checks and working with children checks sit with the Attorney-General under legislation that he is responsible for, but I can advise the member that there are free working with children checks for volunteers. They are in fact already free, and that is some support that the Department of Justice and Regulation provides for those voluntary organisations.

As I indicated to the member, I will be seeking to correspond with Scouts Victoria in relation to their various questions in a fairly quick turnaround in relation to their concerns, but we are certainly not anticipating a significant additional burden for our voluntary organisations through these reforms.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister. I think you are referring to the letter that I referred to in my contribution that we both received dated 27 October. Is that correct? Is that the one you will be responding to?

Ms MIKAKOS (Minister for Families and Children) — As I indicated to the member, I have recently received correspondence from Scouts Victoria and it was a letter dated 27 October, but it was received in my office about a week later.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister. As I said, I was aware that you had received this letter. Nevertheless, I still do want to ask a number of questions. I thank you for writing to the scouts to address these concerns. Yes, the working with children check is, as we know, free to organisations as the legislation requires, but in relation to the police checks that the scouts undertake — just to ensure the zero tolerance approach that they really want to be assured of and that they have got in place — would you also speak to the Attorney-General about the concerns that they raise in this letter about the cost of those police checks?

Ms MIKAKOS (Minister for Families and Children) — Thank you. The reason I was indicating to the member that I will be corresponding with the scouts very quickly in relation to their concerns is that they are broad-ranging concerns. They do relate to a number of issues in their correspondence that do in fact sit with the Attorney-General. Obviously I will be liaising with the Attorney-General's office in relation to responding to the correspondence, but they do go to matters that really are outside the direct scope of the bill that we have before us. Obviously the letter will be responded to as quickly as possible.

Ms CROZIER (Southern Metropolitan) — I do think that this particular example does highlight the extent of how the organisations want to comply. They do see this as part of it, so I do not think it is entirely outside the realms of this bill, because of the obligation that they have. As they say, they have thousands of volunteers working with thousands of young children and they want to ensure that when those individuals come in and out of their organisation nothing slips

through the loop. When the Commission for Children and Young People is providing education, frameworks et cetera I think this is important, hence the reason I requested that that be undertaken, because I do not see that it is unrelated.

Nevertheless, if I can just go on to refer to the Royal Commission into Institutional Responses to Child Sexual Abuse and many of the areas that they are finding and that they have already documented, and you also made mention, I think, that the government is speaking to them. But my question is: have representations been made by the Victorian government to ensure that organisations involved with children are not faced with duplicated costs from their findings and from the recommendations of the *Betrayal of Trust* report and this subsequent legislation?

Ms Mikakos — Can I just seek clarification from the member: representations to whom?

Ms CROZIER — To the royal commission in relation to anything that they may have found, so that you can highlight that they might be also identifying additional costs to organisations. I am just wondering if that has been undertaken or not.

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Crozier for her question. What I can advise the member is that there has been consultation between our state and the Royal Commission into Institutional Responses to Child Sexual Abuse to ensure the alignment with any potential findings and recommendations of the royal commission. This is in relation to the issue about child safe standards more broadly. As well as that, our child safe standards are in alignment with the 2005 national framework for creating child safe environments for children. Obviously the federal royal commission might well go further than what existed a decade or so ago, and I would anticipate that is likely to be the case, but as it currently stands it is certainly in alignment with that. In having those consultations with the royal commission, we have ensured that we are mindful of the directions they are moving in.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister, for that clarification. Another concern that has been raised with me, and I would like to get some clarity from you in relation to this legislation, is that there is a wide variety of approaches to meeting the standards by organisations, which is resulting in questions about cross-recognition of the standards. So for example, when a scout group might be utilising a church hall as a facility to conduct scouting activities, is it expected if there was an incident that Scouts Victoria would be liable for the failings in another application of the standards? So is it the church's responsibility or the scouts' responsibility? Could you just provide some clarity for me on that?

Ms MIKAKOS (Minister for Families and Children) — Thank you, Ms Crozier. As I indicated earlier — and I have read through the correspondence from the scouts and it does raise this issue — I intend to respond to the scouts in detail in relation to these matters, but what I can advise you is that everyone is responsible for meeting child safe standards and minimising the risk to children. But as you would understand, with the child safe standards, while they are mandatory, there is some flexibility around developing the detail of them. It is not a prescriptive framework. It is a compulsory framework that seeks to set out some clear expectations for organisations and really to embed the issues around protecting children from abuse into every organisation's thinking and practice and to drive some real cultural change in these matters.

Having said that, each organisation therefore has the scope to develop standards that meet the requirements of the child safe standards legislation, and they will meet the requirements in the detail of the standards as they relate to them. For example, if the scouts were to use a church hall, as they have set out in their correspondence, then they would have to meet the child safe standards as they relate to their organisation, not to any obligations that might sit with the owner of that particular hall. I think the correspondence perhaps does indicate some misunderstanding about what the standards are about. When we are talking about a hall, people are perhaps thinking about the physical safety issues and infrastructure safety issues. That is really not what these standards are about. They are really about people's practices — —

Ms Crozier interjected.

Ms MIKAKOS — That is completely wrong, Ms Crozier, if you are saying that we have not consulted properly, because there has been an enormous degree of consultation around these issues.

Ms Crozier interjected.

Ms MIKAKOS — Ms Crozier, the heart of what this correspondence from the scouts is about relates to the child safe standards, not this particular bill. They will be subject to this from 1 January. Obviously phase 2 is for voluntary organisations like the scouts. The scouts do receive government funding, but many of the organisations that will be subject to these new

standards from next year do not receive government funding or are not government regulated, and therefore, for them, we do acknowledge that it is, I guess, a new set of obligations that they are not accustomed to dealing with, as opposed to child welfare agencies and others who have become accustomed to dealing with departmental regulations over many years.

That is why the commission is going to be working very closely with these organisations to make sure that they do understand their obligations, that they are supported to meet their obligations and that they can be referred to a wealth of resources, templates and other material that has been developed to assist them in understanding their obligations. This bill is really about the oversight and enforcement powers of the commission rather than the matters that we dealt with last year, when the child safe standards were actually enacted and debated in this particular house.

I can assure the member that there was a considerable degree of consultation with organisations in relation to this matter, and I know the member was provided with details of that. I am happy to go into that in some considerable detail, but there certainly was a lot of discussion, as there was with the bill last year and as there has been in relation to upcoming legislation that deals with reportable conduct.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister, but I think that goes to the very point. Yes, this bill is about the commission's oversight and ability to educate and provide guidance, but there are also punitive measures that can be applied by the commission. The scouts have concerns, as many other organisations do, and I think those concerns go to this point: you say that there has been extensive consultation, yet an organisation such as the scouts, which is very well organised, which has got very good intentions, still has a lot of questions around this legislation and previous legislation. That is why it is still asking questions. The point about the consultation is that there is still some confusion out there with the scouts and other organisations, and hence the question. You might think that it is not relevant, but it is relevant because the scouts have concerns about the punitive measures that the commission can apply and how that will actually be enacted. I will be asking about that.

If I can just go to my next question, it relates to the same letter, and I do not want it to be fobbed off in relation to this bill, because these are concerns that the scouts have. The letter states:

> In relation to standard 6 many organisations appear to be adopting an approach requiring the provision of separate ablution facilities for children and adults though the standard does not mandate such an approach.

So if a scouting group is going into a camp site, how are they meant to manage the expectation of having separate ablution facilities for children and for adult volunteers? How is that actually going to apply in relation to these safe standards? These are the questions that the scouts want to have some clarity on.

Ms MIKAKOS (Minister for Families and Children) — I want to respond to some of the comments that Ms Crozier has made in relation to these matters. In terms of the consultation, I want to advise the member that between August 2014 and May 2015, the government partnered with the Commission for Children and Young People to consult with over 160 government and non-government stakeholders on the child safe standards, including on potential monitoring and enforcement mechanisms. In addition, from March to August 2016, over 220 government and non-government stakeholders were invited to consult about proposed reforms to implement recommendations of the *Betrayal of Trust* report, including about oversight and enforcement mechanisms for the child safe standards. Almost 90 stakeholders attended a consultation session or provided a written submission.

There was overwhelming support from stakeholders consulted that all organisations within the scope of the child safe standards should be subject to oversight and monitoring arrangements. Accordingly the bill provides appropriate powers for the Commission for Children and Young People to monitor and oversee compliance with the child safe standards for all organisations within the scope of their requirements. So there has been a great deal of consultation about these matters.

Ms Crozier, I have said I will be responding to the scouts' letter. The query that they have raised in relation to standard 6 and their concern around separate ablution facilities again does indicate perhaps a misunderstanding. There is no requirement under the child safe standards to have separate ablution facilities, and I will be reassuring them about that matter as well as other matters that they have raised in this correspondence, many of which go to matters outside the direct scope of this particular bill.

I have stressed to you on a number of occasions now that this is framed with a starting point of supporting organisations to meet these requirements. There is a great deal of support that is being offered to organisations to get them ready for the child safe standards. As I have said before, many were already

subject to these standards from the start of this year or became subject to these standards from the start of this year and those who are subject to the second phase, the category 2 organisations, are going to be subject to them from the start of next year.

It is because those organisations are not typically funded by government or regulated by government, like religious organisations by way of example, and therefore are not subject to any of these types of standards at the moment that it was necessary that we bring in the enforcement powers through this bill that we have got before us to make sure that these organisations can have some oversight and some proper enforcement through the commission. I am sure we will turn to those types of questions shortly around how that will transpire.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister, for your answer. I know that again you are saying that it is not directly related, but can I say that I think over time these questions have evolved in relation to understanding the powers of the commission. I mean, in the second-reading speech it talks about:

> These powers enable the Commission for Children and Young People to:
>
> …
>
> visit an organisation's premises to undertake routine monitoring and observe child safety practices and request information …

So it is actually relevant for the scouts organisation if they are on camp and they have got one block for ablutions.

Ms Mikakos — I've responded to your question.

Ms CROZIER — I know that. I am just making the point because I think it is absolutely relevant in relation to how this will apply, and that is the reason for me raising it in the committee stage even though you are going to write to the scouts specifically, because there are many other organisations that will go on camp and have the same issues. How do we manage this? There is one block for ablutions; we have got adults and children using that. Is that appropriate? Does the commission come in and see our routine or our practices? Because in the second-reading speech it says that is exactly what this bill does, so that is the reason for me raising it, and I just wanted to put that on record in relation to the concerns.

I am glad that you will be writing to the scouts, and I think there needs to be some more work probably from the commission in relation to many organisations that have these concerns. Despite that consultation these concerns have come out over time, and they are real concerns on the practicalities of how organisations such as scouts, girl guides, lifesaving groups and others will apply their roles and responsibilities.

So, Deputy President, I do not have any more specific questions relating to clause 1, but I do want to go to the role of the Commission for Children and Young People after others have spoken.

Ms MIKAKOS (Minister for Families and Children) — If I could respond to that just to make the point that the commission will engage positively with organisations to support them with the child safe standards. This may include an initial inquiry about the organisation's implementation of the child safe standards, working with an organisation to identify measures to meet the child safe standards and best practice and agreeing to review the organisation's implementation of the measures to meet the child safe standards, and if organisations do not engage with the commission or are unwilling to take necessary action to meet the child safe standards, then the commission may consider the use of compliance enforcement provisions set out in this bill, including issuing a notice to comply and seeking a declaration and civil financial penalty as appropriate.

So the point that I am making is there is a cascading of things that might happen, from inquiries from organisations, like a voluntary organisation like the scouts, to the commission in relation to these matters and getting to the point of enforcement. I have to say that the scouts have been to my recollection the only voluntary organisation to raise these issues with me to date, and I think that is a reflection of the fact that the commission is actually doing a great deal of work in outreach in terms of communicating the new standards to the community and to various organisations and working in a very constructive way with these organisations to help them to understand what their obligations are. We will certainly ensure that the scouts are adequately supported in this respect.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister, and apologies for labouring the point, but can I get some clarity? I know that you said the commission is going to be working with the scouts and others in relation to their obligations. So in that instance I described would it be satisfactory for the scouts to conduct their scouting group camping activity if there

was only one ablutions block where both adults and children have to share that facility, under this bill?

Ms MIKAKOS (Minister for Families and Children) — Ms Crozier, I think I responded to this question about 5 minutes ago, where I said that the scouts have misunderstood their obligations and that there is no requirement to provide for separate ablution facilities.

Ms CROZIER (Southern Metropolitan) — I am not asking about separate ablution facilities, but in the practicalities of a camping activity there are shared facilities and they want it made absolutely clear that if there was any allegation of any abuse — and obviously the commission would have to undertake a review, I presume, as you highlight — they would not be held responsible for that occurring. You are saying that would be the case; is that correct?

Ms MIKAKOS (Minister for Families and Children) — I did respond to Ms Crozier in relation to this specific hypothetical example. The point that I have been making to the member is that the standards are not prescriptive. They are mandatory, but they are not prescriptive. There obviously need to be risk management strategies put in place. They may decide that a way to minimise risk would be, for example, to have a family member accompany the child to the ablution facilities. But they are risk management steps that the organisation would need to develop, and they would be able to seek advice from the commission in relation to these matters to satisfy themselves that they have put in place the appropriate risk management steps in relation to their particular activities.

Ms SPRINGLE (South Eastern Metropolitan) — My first question for the minister is: given that the child safe standards sit alongside the department's standards, are there any plans to incorporate these recommendations into the child safe standards?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question. As I indicated earlier, with these child safe standards a number of these organisations, category 1 organisations, became subject to the child safe standards from 1 January this year. Many of these organisations are in fact funded and already regulated by different government agencies, and therefore some of them are already subject to different standards. For example, I assume that the member is referring to child and family welfare agencies, because if you look at the category 1 organisations, it is a very wideranging list, ranging from schools and children's services to maternal child health services and approved education training organisations. It also goes to out-of-home care services, child protection services, family violence and sexual assault services et cetera.

The point that I make to the member is that many of these organisations are already subject to standards through being government-funded organisations. It is not intended to duplicate the standards. They will remain subject to those standards. If they are government funded and regulated through their funding and contractual arrangements with the Department of Health and Human Services, for example, they would remain subject to the standards set by that department in addition to needing to comply with the child safe standards.

Ms SPRINGLE (South Eastern Metropolitan) — I thank the minister for her answer. Can you outline why there are no particular minimum requirements, such as minimum qualifications for staff who work with children or even the reporting of particular data to the department? Why is that not encompassed?

Ms MIKAKOS (Minister for Families and Children) — As I indicated, if we are talking about child family welfare agencies funded by the Department of Health and Human Services, they are required to report to the department on a range of accountability measures. I took exception to the member's claim earlier that there is a whole lot of information that the department does not get. There are a lot of requirements for community sector agencies to report to the department, and that includes incident reports and many other things as well.

In relation to the minimum qualifications, I point out to the member that — again, we are getting into specifics here — when it comes to, for example, staff working in our residential care units in fact I announced a few months ago that we would be mandating minimum qualifications for those staff and that we are providing them now with financial assistance by way of $8 million to train up and to ensure that they have those minimum qualifications by the end of next year.

So we are taking steps to address these issues. We could get into a discussion here which is really outside the scope of the bill around the qualification levels of a whole lot of different professions across a whole lot of different sectors.

Ms SPRINGLE (South Eastern Metropolitan) — I appreciate that, Minister, but in terms of having standards and benchmarks that can be measured and good practice throughout the community sector and the

child and family welfare sector, is there any indication that there may be suggested minimum requirements? Obviously at the moment they are tied to government funding, but if there is no government funding involved, there does not seem to be any kind of framework in terms of the capacity of staff and community organisations that are not necessarily tied to government funding to meet requirements.

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question. There is no proposal on a wideranging scale to require minimum qualifications as part of the standards. Obviously there are different minimum qualifications that apply to different sectors and to different professions. Obviously teachers and now early childhood professionals are required to be registered with the Victorian Institute of Teaching, and I have talked about residential care staff. I do think if Ms Springle is suggesting that all those in our volunteer organisations — our sporting clubs and other volunteering organisations — now need to have some mandated minimum qualifications, there would be a lot of community concern about that, because that would be a significant financial impost on the volunteer sector.

Ms SPRINGLE (South Eastern Metropolitan) — I was not suggesting that it be mandated. What I was alluding to was that there could be suggested minimum requirements. My final question on this particular clause is: are there any plans to further separate the service delivery and compliance actions of the department as per the recommendations of the commission's report "*… as a good parent would …*", and if so, in what time frame?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question. I make the point that the question she has posed is really outside the scope of the bill. However, I do want to assure her that, as I indicated last year, our government does in principle support the recommendations of "*… as a good parent would …*", that important report that was handed down last year. We have been making very steady progress on many of those recommendations since that time, the most significant example of which — as the member would be aware — has been the fact that we have now had 253 children and young people moved out of residential care into home-based care through targeted care packages.

In relation to the compliance functions of the department, obviously we are mindful of the need to ensure that the structures in the department as well as the other frameworks and policy settings that the department has in place do meet the needs of children and ensure that we can minimise risk to children. We will continue to actively engage with the child and family sector to co-design future institutional arrangements, taking account of the recommendations of the commission.

Clause agreed to; clauses 2 to 8 agreed to.

Clause 9

Ms CROZIER (Southern Metropolitan) — Clause 9 amends the Commission for Children and Young People Act 2012 to enable the delegation of powers and functions to the commission, which is a large part of this bill. Could the minister provide to the chamber clarification on how the government thinks the commission will do this? How big will the commission be in terms of the required personnel to undertake its functions? If I can also ask in relation to the delegation of powers, is that within the commission itself or is that to other entities within the department or agencies? I ask the minister to provide some clarity for me.

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Crozier for her question. I do point out that clause 9 that she has asked this question on is a delegation clause. It amends section 20 of the Commission for Children and Young People Act, which enables the commission to delegate a power or function of the commission under that act or any other act to the commissioner or a member of staff of the commission. It is a pretty straightforward delegation clause.

In relation to issues around staffing of the commission, what I can say to the member is that the commission has taken on additional staff to meet the requirements under legislation, the introduction of the child safe standards and also its new enforcement powers. There has also been funding from the department to the commission to enable them to provide capacity-building support to organisations to help them to understand and meet the new child safe standards. It is really not the appropriate clause on which to be having a discussion around the staffing levels of the commission, given that clause 9 does relate just to a delegation power.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister. In your response just then you said that a number of staff have been provided to the commission and also some funding. Could you please outline to the committee how many new staff have been provided to the commission and how much funding has been provided?

Ms MIKAKOS (Minister for Families and Children) — Well, the commission is an independent commission, as the member would be aware. On providing them with staff, I make the point to the member that they recruit their own staff. They have recruited additional staff in relation to these functions, and they have been engaging in — —

Ms Crozier interjected.

Ms MIKAKOS — I believe it is in the vicinity of four to five additional staff members. But the commission are undertaking preparations for the new reportable conduct scheme as well, and it is very difficult to excise or separate out any additional staff that they might be recruiting at the moment or contemplating recruiting because they are now going to be taking on a whole lot of additional responsibilities, not just from this bill but in future legislation to come. Obviously we continue to work with the commission around these particular reforms to ensure that they will be adequately equipped to exercise their upcoming new responsibilities.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister. I also asked about the funding that you mentioned in your previous answer. If you would not mind providing that information to the committee, how much funding has been provided from the department?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. As I said, perhaps we should have had these questions on clause 1 rather than on clause 9, which is a delegation clause. Nevertheless, I can advise the member that as of the end of this financial year it is anticipated that the commission will have been provided with $1.88 million to provide capacity-building support to organisations to understand and meet the child safe standards.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister. I am happy to ask for leave to go back to clause 1, if you want me to, but I do want to understand the answers that you have provided. There was $10 million allocated by the previous coalition government for the implementation of these recommendations, so could you please provide to the committee information on whether that $10 million has been spent or where that $10 million is that was previously provided in the budget?

Ms MIKAKOS (Minister for Families and Children) — I can advise the member that there will be further funding provided to the commission very shortly.

Ms Crozier interjected.

Ms MIKAKOS — The funding related to a range of functions including for the reportable conduct scheme, and therefore further funding will be provided to the commission to enable them to implement the reportable conduct scheme. I do make the point that is in a bill that is yet to come before this Parliament.

Ms CROZIER (Southern Metropolitan) — I note that the minister did not answer my question about where that previously allocated money was.

Ms Mikakos — It is coming.

Ms CROZIER — It was allocated in a previous budget, so it is a long time coming, is it not?

Ms Mikakos — Perhaps that is because your government did not actually move to introduce any of these pieces of legislation.

Ms CROZIER — That is not true. In relation to the recommendations — —

Ms Mikakos interjected.

Ms CROZIER — Minister, I just wanted to know where it is. You have clarified to me that you have not spent the money. I have just been wondering where it has been for the last two years.

Ms MIKAKOS (Minister for Families and Children) — I just want to make the point to Ms Crozier that what I have just said I said last year when we debated the child safe standards, so there is no revelation here. It is budget 101: funding gets allocated, and it gets spent when there is something to spend it on. I indicated last year, and I am doing so again, that the commission will be provided with further funding to implement the reportable conduct scheme. We are working on that legislation, and that will be introduced in the Parliament soon.

Clause agreed to.

Ms SPRINGLE (South Eastern Metropolitan) — I do apologise, I just have one brief question about clause 8, division 6. My question is: are new sections 41K to 41O of this bill the government's implementation of recommendation 88 of the Cummins report? And if so, is the government able to outline its reasoning for auspicing most of the reporting through the commission as opposed to the department?

Ms MIKAKOS (Minister for Families and Children) — Thank you, Ms Springle, for your question. In the absence of having recommendation 88 of the Cummins report in front of me just at this moment, as I understand it the recommendation the member is referring to relates to a whole lot of reporting requirements. I do make the point that there are already a number of reporting requirements or matters that are reported in the department's annual report every year.

I am happy to take the member's specific question on notice and provide her with a more detailed answer, because I would need to go back and have a look at the specific recommendation of the Cummins report, which goes back a number of years now, in relation to this particular issue. There are some additional reporting obligations set out in those clauses Ms Springle referred to in this particular bill as they relate to a broader range of organisations. Obviously the Cummins report was dealing with child welfare organisations and those community sector agencies as well as the department. This bill has a far wider scope, because it relates to volunteer organisations, which we were discussing earlier. I do not imagine that there would be a complete correlation because the scope of the organisations is much wider in relation to the bill, but I am happy to have a further look at this and provide the member with further information.

Clauses 10 to 13 agreed to.

Clause 14

Ms CROZIER (Southern Metropolitan) — Clause 14 requires the secretary to publish on the department's internet site, within one month of the end of each relevant quarter of a calendar year, details disclosed by the secretary to the commission under section 60A of the Commission for Children and Young People Act 2012. Those are details disclosed to the commission regarding the number of adverse events relating to children in out-of-home care and the number of adverse events relating to individuals detained in a youth justice centre or a youth residential centre. It has been brought to my attention that the additional roles and functions of the commission mean that it now has the power to attend to and address some of these issues in relation to those various organisations and entities and to inspect those facilities, but there is no definition of 'adverse events'. In relation to this particular piece of legislation could the minister just clarify what that would mean, please?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. 'Adverse events' is not defined in the Children, Youth and Families Act 2005, so this bill aligns with that approach. The Department of Health and Human Services and the Commission for Children and Young People have entered into a memorandum of understanding about the department's existing legislative obligations to disclose information about adverse events relating to children in out-of-home care or children detained in a youth justice centre or a youth residential centre.

The department and the commission have agreed in this memorandum of understanding that adverse events mean category 1 incidents. A category 1 incident is an incident that has resulted in a serious outcome, such as a child or young person's death, physical or sexual assaults and dangerous and disruptive behaviour by children or young people that places themselves or others at risk, and other incidents, such as absent or missing persons, drug and alcohol possession or use and self-harm. Not putting a prescriptive definition of the term 'adverse event' in the bill allows for flexibility so that transparency in relation to the safety of some of our most vulnerable children can increase over time. Obviously we need to ensure that we can futureproof this so that if the term category 1 was no longer to be used and there was a change in incident reporting, the obligations would still remain. But it is obviously intended to catch the most serious types of incidents.

Ms SPRINGLE (South Eastern Metropolitan) — I just have one question, and I do apologise if you covered this in your answer just now: why does clause 14 require minimum incident reporting when numerous recommendations from *Betrayal of Trust*, the Cummins report and the Victorian Auditor-General's Office have all made repeated calls for more comprehensive data collection and collation by the department, and yet the bill goes only part of the way to addressing these concerns?

Ms MIKAKOS (Minister for Families and Children) — I am a little bit puzzled by that question from Ms Springle, because the most serious incidents are being provided to the commission. In fact there were discussions between the department and the commission around the memorandum of understanding and the types of incidents that the commission would like to be provided with on a regular basis. I believe that the commission was mindful of not being — to put it colloquially — swamped by less serious incident reports that might go, for example, to a child that might

have complained about food quality whilst in out-of-home care or something of a less serious nature.

The most serious incidents are being provided to the commission. This is the first time this has been legislated for. There is a significant degree of transparency in relation to these matters. This is essentially enshrining in legislation a practice that has been put in place since the start of this year, which has seen these incident reports on youth justice facilities being provided to the commission for the first time. The data in terms of the overall number has been published on a quarterly basis for the first time on the department's website as well.

I would dispute the assertion that the member has made in that we have seen a number of steps and a number of reforms put in place to improve the transparency of our systems in relation to this type of incident reporting.

Ms SPRINGLE (South Eastern Metropolitan) — Just so that I am clear: are you saying that there is a body of data that is collected by the department and only the most severe incidents found in that data are passed on to the commission? Am I understanding that right?

Ms MIKAKOS (Minister for Families and Children) — The current incident reporting is one that was put in place under the time of the previous government, and I have referred to this recently in the context of a youth justice debate that we had not too long ago. It classifies incidents by different categories: there are category 1 incidents and there are category 2 incidents. The commission has indicated its preference that it be provided with all category 1 incident reports, which are the most serious ones, so it has the ability to really look at systemic issues and trends and focus on specific instances that it might want to inquire into further. That does not mean that the commission cannot ask for details of other incidents if it so wishes, and we have a very cooperative approach with the commission around these matters. But as I indicated before in using that colloquial expression of 'not being swamped', the commission certainly did not want to be swamped in terms of receiving a far larger volume of reports than the commission itself thought was necessary.

Clause agreed to.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Ms Wooldridge — On a point of order, President, we still have not received any answers to the three questions, all including substantial and supplementary questions, that were asked of Mr Herbert on Tuesday. A response has not been provided. Yesterday you indicated that it would be an expectation of the house that a response would be provided in accordance with the standings orders. I wonder if we can seek some advice from the Deputy Leader of the Government as to when those answers will be provided.

Ms Pulford — On the point of order, President, the questions were directed to Mr Herbert, who as all members are well aware is no longer a minister, so I would perhaps indicate to Ms Wooldridge that Mr Herbert has, in any number of forums now, indicated that he recognises that he made a mistake. He has paid a significant price for that in providing his resignation from his ministerial responsibilities.

Ms Wooldridge — Further to the point of order, President, the questions were reasonably straightforward: the basis of the calculation for repaying the petrol and costs relating to the travel of the dogs unaccompanied and also further questions about the dogs when they were not accompanied and further trips that were taken. These are questions that could comfortably be answered by the department through VicFleet or the Department of Premier and Cabinet, which has conducted the review, so I ask that we redirect those questions in Mr Herbert's absence through the Deputy Leader of the Government so that a response can be provided.

The PRESIDENT — Order! Let me think on it.

Corrections system

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Corrections — and, Minister, congratulations on your appointment. Minister, last year you referred to the previous government's corrections policies as:

> … failed 'hang 'em high' law and order responses that became the norm under the previous government, which kept spending more money on prisons …

Do you stand by this statement?

Ms TIERNEY (Minister for Corrections) — I thank Mr O'Donohue for his question, and I also thank him for his kind words. Can I also take this opportunity to thank all of those people who have provided me with their well wishes and indicate how appreciative I am in respect of those well wishes. Can I also indicate that I do look forward to undertaking the roles which have been designated to me and to continuing the great work that Steve Herbert, the former Minister for Corrections and Minister for Training and Skills, has undertaken in

recent years. It will be my objective to make sure that we do fix the problems that were created in terms of TAFE and the overcrowding of the corrections system.

I would also like to indicate to Mr O'Donohue and the house that it was last night that I was sworn in at Government House by the Governor and that I am in the process of receiving briefings across my portfolio areas. I also wish to advise that, as has been the practice of my colleagues, until the Leader of the Government in this place is allowed back in the chamber to represent his electorate of South East Metropolitan Region I too will take questions on notice from the opposition and the Greens and I will provide answers to questions in writing within the prescribed time frames.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for her answer that she will take the question on notice, but I do note that she failed to stand by a comment she made in this place. I ask by way of a supplementary: Minister, clearly your comments were wrong after the crime tsunami that has been unleashed by your failure to recruit police and the weakening of the justice system. Given your publicly stated dislike for extra prison beds and for measures which bring a tougher approach to criminals, how will you as corrections minister ensure that dangerous offenders will not be a risk to community safety?

Ms TIERNEY (Minister for Corrections) — Mr O'Donohue, I do not accept the premise of your question. In fact, consistent with the answer I provided to you on the substantive question, I will provide you with an answer in writing within the prescribed time frame.

Hunting regulation

Mr O'SULLIVAN (Northern Victoria) — My question is to the Minister for Agriculture. Minister, in a release that you put out on 20 April this year you said:

> Ensuring that hunting in Victoria continues to be a safe and sustainable recreation for future generations will be a key focus for the Andrews Labor government.

You promised to deliver a sustainable hunting action plan earlier this year and again in June. When asked about the progress of that plan, you said it would be coming out in coming months, but five months on hunters are still waiting. Minister, is this significant delay in releasing this important work due to the opponents in your own cabinet who do not support the proposed sustainable hunting action plan?

The PRESIDENT — Order! I will allow the minister to determine whether or not she will answer that question. The Chair has some concerns about the fact that that question actually asks about cabinet deliberations, and that is something that would not normally be pursued in this manner. I will allow the minister to determine her answer.

Ms PULFORD (Minister for Agriculture) — I thank Mr O'Sullivan for his question, indeed his first question in this place, so it is a day of firsts for a few people. The government is committed to ensuring safe and sustainable hunting opportunities for the many tens of thousands of Victorians who wish to participate in hunting. The member did seek information about cabinet processes, and as is longstanding practice in this Parliament and others, I will decline Mr O'Sullivan's invitation to perhaps comment on such matters, but I can certainly assure Mr O'Sullivan that I will provide him with a written response and an update on the time line for that work.

Supplementary question

Mr O'SULLIVAN (Northern Victoria) — Thank you, Minister, for that answer. Minister, it has been five months since you said the sustainable hunting action plan would be released in coming months. Is it the case that the respected Game Management Authority chair, Roger Hallam, has since resigned because of the frustration that he has felt at your government as a result of the lack of action in releasing the sustainable hunting action plan?

Ms PULFORD (Minister for Agriculture) — I thank Mr O'Sullivan for his further question. I will provide him with a written response, but in doing so I again state before the house my appreciation of Mr Hallam's work as the inaugural chair of the Game Management Authority. He was an excellent chair, and his role in the very early days of the new entity I think was appreciated by hunters and by the Victorian government alike.

Small business sector electricity costs

Mr DAVIS (Southern Metropolitan) — I too want to congratulate the Minister for Corrections and Minister for Training and Skills on her elevation to the ministry, and I wish her well. But my question is actually not for her. My question is for the Minister for Small Business, Innovation and Trade. I refer to the closure of Hazelwood power station in March next year. What modelling, if any, does the minister or his department have on the impact of electricity price increases on small businesses?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Davis for his question. Can I also say from the outset that I join with Mr Davis and every colleague in this place in wishing Ms Tierney the very best in her promotion to the cabinet. Obviously it is something that we all aspire to do when we enter this place — well, most people — so I just wish to take this opportunity and say, 'Congratulations and good luck'.

In terms of Mr Davis's question, he has attempted on many different occasions to try and ask whether or not we are providing specific modelling in specific areas on issues that do not relate to my portfolio. So there is nothing in relation to the closure of Hazelwood power station that relates to the portfolio responsibilities of small business. What in fact that means is that Mr Davis, despite having been in this Parliament since 1996, still fails to understand what the portfolio responsibilities of small business are, and I cannot help him with that. I cannot even take the question on notice, because there is no question to take on notice.

Supplementary question

Mr DAVIS (Southern Metropolitan) — I take it that the minister is saying that he does not have any such modelling. I do believe it is a central role of a small business minister to advocate on behalf of small business, and it is pretty clear that you have failed to do so on this important matter of electricity costs. Therefore I ask: will you consult with business groups and peak bodies with respect to the input costs that affect small businesses, including increases in costs that flow from the closure of Hazelwood?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Can I thank the shadow minister again for his question. Can I provide the response that with the sad news of Engie's decision to withdraw not just from the Victorian market, I might add, but from Western Australia and globally from a number of countries in Europe as well — they are divesting themselves of a whole range of energy assets across the board — the Premier and the Minister for Energy, Environment and Climate Change made comments in relation to this area. In fact if the shadow minister is genuinely interested in modelling in relation to energy pricing, he should ask the question of the appropriate minister.

Dairy industry electricity costs

Ms LOVELL (Northern Victoria) — My question is for the Minister for Agriculture. Minister, the cost of energy for an average dairy herd of around 300 cows is about $15 000 per year. Over the past few years dairy farmers have already put significant effort into reducing costs through initiatives including energy audits and the pre-cooling of milk through pipes cooled in water. Milk must be cooled to 4 degrees Celsius within 2 hours of milking and stay at that temperature until pick-up, which could be up to 48 hours later. This is an energy-intensive industry, and any rise in energy costs may damage Victoria's ability to be internationally competitive. I ask: Minister, what advice have you sought from your department on the impact of the closure of Hazelwood and increased energy costs on the dairy industry in Victoria?

Ms PULFORD (Minister for Agriculture) — I thank Ms Lovell for her question and her interest in energy costs. I look forward to providing Ms Lovell with a written response. But I certainly indicate to Ms Lovell that through what has been a very challenging set of circumstances for our dairy farmers in recent times and in particular since the end of April this year, the government has been working closely with our dairy communities and providing significant support to them through the establishment of the Dairy Industry Taskforce and significant funding assistance for a range of programs.

Supplementary question

Ms LOVELL (Northern Victoria) — Thank you. That just about confirms that the minister has not sought that advice as yet. Minister, as I outlined in my substantive question, dairy farmers need access to a secure power supply in order to maintain milk at a constant temperature of 4 degrees for up to 48 hours. If the closure of Hazelwood leads to the need for load shedding resulting in blackouts of power, will the Andrews government guarantee load shedding will not lead to the switching off of power to dairy regions in Victoria?

Ms PULFORD (Minister for Agriculture) — Ms Lovell's supplementary question, to which I will provide a written response, goes to the question of the security of electricity supply for businesses and indeed for homes in Victoria. The government is advised that the Australian Energy Market Operator does believe that it can effectively manage electricity security and reliability following the decision of Engie to close Hazelwood. I would just urge Ms Lovell to reflect on some of the challenges facing our dairy farmers due to some decisions by companies operating in Australia but also a range of global factors. People are under significant pressure already, and the government is working closely with them and providing support. When the national regulator is confident, to be scaring

dairy farmers with the threat of blackouts is extraordinary.

Christmas Day public holiday

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, in relation to the Christmas Day public holiday, on Tuesday you said:

> Just because other states and/or territories may do something different is no reason for Victoria to follow suit …
>
> …
>
> … what I can tell you is that the existing holiday arrangements for Christmas Day will in fact remain the same … We will hold the same arrangements for 2016.

This week we heard Shop, Distributive and Allied Employees Association boss Michael Donovan say:

> … we have called on the Premier to fix it. The minister is obviously not addressing it, in fact he seems a very harsh man who is not very caring about workers.

We have seen Luke Hilikari from the Victorian Trades Hall Council call you the Christmas Grinch, and yesterday federal Labor leader Bill Shorten said, 'I believe Christmas Day should be a public holiday. Full stop'. The Victorian community have been astonished that you see grand final eve as more important than Christmas Day. Minister, specifically what has changed over the past two days to make you rethink your decision on Christmas Day?

Honourable members interjecting.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for his question. I do not think that ever in this place I have got up in question time and quoted Mr Barber, but the temptation to do so is too great for me to refuse. To reflect on Mr Ondarchie pretending to be a working man's friend and that somehow those opposite now care about working people, I find it astonishing. This from the party of WorkChoices. This from the party that has attempted each and every time to attack this government when we in fact included the Easter Sunday public holiday.

I spoke to journalists this morning. I was asked this question and I gave a very honest answer. I said that over the last number of days in fact I have had a number of people, working men and women, speak to me very directly about their experiences of having to work on Christmas Day and being apart from their families. What I said to those assembled this morning was that as a direct result of those discussions, one in particular with somebody that I respect greatly, I would reflect and consider my position. Sometimes we do get it wrong. It is not beyond me to recognise that as both a member of Parliament and a minister I do not always get things right. In fact I am sure there have been occasions I have had coffee with people on the other side that I have regretted soon after!

What I can tell you, President, is that a decision has not been made on this and that my comments that I made this morning I stand by. There is nothing I can further add by taking this on notice other than that this is an issue that I continue to consider.

Honourable members interjecting.

The PRESIDENT — Order! I might just indicate that if Mr Finn's interjections continue to be as loud and as continuous as they have been today, he will have an opportunity to perhaps go and look at some re-runs of the Trump election.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — Minister, in your February 2016 media release on the Christmas Day public holiday you announced a decision not to make Christmas Day a public holiday. I note in your comments to journalists this morning that you are going to rethink this while on your next overseas travel trip, but was your decision to rethink the Christmas Day public holiday a decision that you made on your own?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — The media release of February that the member refers to and uses as the basis for his supplementary question I think answers the very question that he has asked.

VicForests

Ms DUNN (Eastern Metropolitan) — My question is for the Minister for Agriculture. In the *VicForests Annual Report 2015–16* it states that VicForests spent $810 000 purchasing third-party logs. It is understood these are imported from New South Wales. Did VicForests import sawlogs from New South Wales to sell at a loss to Australian Sustainable Hardwoods?

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her question and her interest in the VicForests annual report, which demonstrates another very good year of strong performance by VicForests. I will provide Ms Dunn with a written response to her question, but Ms Dunn can probably reasonably expect that that will not contain expansive detail about

individual contractual arrangements relating to the companies that VicForests deals with, because that would not be appropriate.

Supplementary question

Ms DUNN (Eastern Metropolitan) — Thank you, Minister, and summary information will perfectly satisfy the question.

The *VicForests Annual Report 2015–16* states that claims were made for commercial losses against VicForests in relation to alleged non-performance under a timber sale agreement. It is understood these claims were lodged by Australian Sustainable Hardwoods. Can the Minister explain why VicForests is selling imported sawlogs to an entity which is simultaneously suing VicForests for a breach of a timber sale agreement?

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her question. Again, resisting the temptation to comment on matters that are currently subject to legal proceedings or otherwise sensitive commercial matters, I will provide Ms Dunn with a written response.

Youth justice system

Ms SPRINGLE (South Eastern Metropolitan) — My question is for the Minister for Families and Children. On 28 October the Minister for Police, Lisa Neville, was reported by Fairfax Media as saying that in some circumstances it is appropriate for children to be imprisoned in adult jails. The police minister is proposing changing the system of laws governing under-age offenders. Can you explain what legal changes to your area of responsibility will be required to effect the policy being proposed by police minister Lisa Neville?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question. I take this opportunity to also congratulate my colleague Gayle Tierney on her elevation to the ministry. I am absolutely certain that she is going to play a very important role in terms of her portfolio responsibilities going into the future. But I also want to acknowledge Steve Herbert for the important reforms that he put in place, in particular in rebuilding our TAFE system in this state.

While we have not quite managed to break the glass ceiling in the last 24 hours in relation to the US presidency, I am very proud of the fact that 60 per cent of the ministers sitting in this house are now women. That is a remarkable achievement of our government and something that I am very proud of — that we have made that progress for women in this state.

Can I just say to the member that she needs to be aware that under the current Children, Youth and Families Act 2005 it is possible, and it has been the case for a number of years, that children and young people can in fact be transferred from our youth justice facilities to our prison facilities. That is in fact the case now, and therefore the comments that Ms Neville made reflect the legal position as it currently stands. But I am happy to provide the member with a written response with further details in relation to this matter and refer her to the details and the data published in the Youth Parole Board annual report.

Supplementary question

Ms SPRINGLE (South Eastern Metropolitan) — I thank the minister for her answer. The link between youth justice and childhood trauma has been established. The link is undeniable, yet ministers from your government have said they are willing to imprison children in adult jails and the Premier has dismissed traumatic childhood experiences as sob stories. What new measures has your government introduced to help rehabilitate children in the youth justice system?

Ms MIKAKOS (Minister for Families and Children) — I thank Ms Springle for her question, and I refer her to the Youth Parole Board annual report, the most recent one having just been tabled last sitting week, which does talk about the level of disadvantage that many youth offenders face in the community. I say that not to in any way excuse their offending, but it does give a context to the background and the circumstances of many of these young offenders.

This is why we do have a whole range of programs that exist in our youth justice system. There are a number of programs, such as Parkville College providing education and training to young people who are in a custodial setting. But I will outline in my written response to the member a number of new programs initiated by our government around rehabilitation, particularly working with Aboriginal young offenders, who are, sadly, overrepresented in our system, and new funding that has been put in place while we have been in government to tackle this particular issue.

Tower Hill

Mr PURCELL (Western Victoria) — My question is for the Minister for Regional Development in her capacity as representing the Minister for Roads and Road Safety. Tower Hill is a very popular state game

reserve and tourist attraction located between Port Fairy and Warrnambool, which the minister knows very well. Tower Hill is actually the home of some of Australia's great flora and fauna, and the populations are thriving. The issue our community has with Tower Hill's wildlife is the kangaroos that are actually getting onto the roads, and the fence that has been there for decades has actually collapsed in many areas. The community consultation process that we have undertaken in recent weeks has shown that the community supports the replacement of the fence to keep the kangaroos off the road. I therefore ask the minister: will the government support our community by looking at all options, including replacing the fence, to keep the kangaroos in and the road users safe?

Ms PULFORD (Minister for Regional Development) — I thank Mr Purcell for his question and his interest in Tower Hill. There are a significant number of the issues for us to work together to resolve to help Tower Hill to fully realise its potential. It is an important cultural and nature-based asset for the south-west.

Last month I approved funding of $225 000 to the Great Ocean Road Regional Tourism body to complete an Aboriginal tourism development planning project, which will see the completion of some of the business case work that is important for realising Tower Hill's full potential, and to assess thoroughly the opportunities that exist there. I think we can all agree that they are significant, particularly around Aboriginal cultural heritage and the desire of greater numbers of overseas and domestic visitors to experience and learn about this part of our history.

The important planning work that will be undertaken as part of this project will, I am sure, also contemplate the issues of safe access for members of the community, and this too should include road safety access. I will refer this question to the Minister for Roads and Road Safety, Minister Donnellan, and seek a written response for Mr Purcell.

Supplementary question

Mr PURCELL (Western Victoria) — In the area it is a critical time of the year because the Moyne shire actually removes the kangaroos off the road and a number are taken off weekly. The December to March period is the busiest time when they need to do that, so I therefore ask the minister: will the minister actually erect some signage around the crater rim to do something about this particular issue in the short term?

Ms PULFORD (Minister for Regional Development) — I thank Mr Purcell for his supplementary question. Of course ensuring the safety of road users is something that we all take incredibly seriously. I will convey that to Minister Donnellan and seek a written response for you.

Eastern Victoria Region infrastructure

Mr BOURMAN (Eastern Victoria) — My question today is for the Minister for Regional Development, Minister Pulford. Apparently Infrastructure Victoria are releasing a 30-year plan soon regarding the expenditure of about $100 billion in capital projects. Priority is to be given to Melbourne, Geelong, Ballarat and Bendigo. I find the omission of anything in the east of the state a little surprising, given the loss of the jobs at Hazelwood and the possible loss of many jobs if the great forest national park goes ahead. This investment in infrastructure will obviously create some jobs. My question is: have you made a submission for this report regarding projects for eastern Victoria, and if not, why not?

Ms PULFORD (Minister for Regional Development) — I thank Mr Bourman for his question and his interest in the work of Infrastructure Victoria. Infrastructure Victoria is an independent body appointed by the Special Minister of State, who is not here, and I am sure the Special Minister of State would be able to give you a more detailed account of the work of Infrastructure Victoria than I can, but I am certainly aware of the interim report that they have published and of the ongoing work that is underway to develop longer term infrastructure planning for Victoria.

In terms of the consideration of Infrastructure Victoria in how they make recommendations to government about metropolitan projects versus regional projects and the mix and locations of those suggestions made to government, I would indicate to Mr Bourman that of course these are recommendations to government and government would then make decisions based on our priorities and our plans for regions based on need and a range of other considerations. But I think that if you are looking for an indication of our commitment to the Latrobe Valley following the announcement last week by Engie about the closure of Hazelwood in March of next year, the $266 million announced by the Premier last week gives you some indication of our commitment to significant infrastructure spending in that community in the coming months and years.

Supplementary question

Mr BOURMAN (Eastern Victoria) — I thank the minister for her answer. My supplementary question is going to be a little redundant, given the Special Minister of State is not here, but I want it on record. What projects for eastern Victoria have been submitted?

Ms PULFORD (Minister for Regional Development) — The question goes to the ongoing work of Infrastructure Victoria, which I indicated in my answer to the substantive question is underway. I am quite sure that Infrastructure Victoria will be cognisant of the needs of the entire state, not just metropolitan Melbourne, as they undertake their responsibilities and undertake their work with and for the Special Minister of State.

Written responses

The PRESIDENT — Order! In regard to the questions today, on Mr O'Donohue's question to Ms Tierney, both the substantive and supplementary questions, Ms Tierney has indicated that she is quite prepared to provide written responses, and I would so direct; that is one day. On Mr O'Sullivan's question to Ms Pulford, both the substantive and supplementary questions, that is one day. On Mr Davis's question to Mr Dalidakis, only the substantive question, that is one day. I believe that the supplementary question asked for an opinion rather than a matter of substance, but I certainly think that the minister is capable of responding to the substantive question.

On Ms Lovell's question to Ms Pulford, both the substantive and supplementary questions, one day; Mr Ondarchie to Mr Dalidakis, the supplementary question, one day; Ms Dunn to Ms Pulford, both the substantive and supplementary questions, one day; and Ms Springle to Ms Mikakos, the substantive and supplementary questions, one day. On Mr Purcell's question to Ms Pulford, both the substantive and supplementary questions, that is two days because it involves Minister Donnellan. For Mr Bourman it is the substantive question, and that is one day. Was it the substantive or the supplementary question that asked what submissions the minister might have made to Infrastructure Victoria?

Mr Bourman — The supplementary.

The PRESIDENT — Then it is the supplementary question that I seek a written response on.

I have considered the matter raised by Ms Wooldridge in terms of the house not having received further responses from Mr Herbert in respect of some written answers that I had requested. I have reached the view that it would not be appropriate for those questions to be redirected to the Leader of the Government or indeed another minister, because the matters that those questions went to concerned Mr Herbert's own behaviour, certainly in his capacity as a minister, but they were not matters that related to departmental activities. Therefore I do not believe that it would be appropriate to redirect those questions to another minister. Indeed in today's process if the opposition were to consider that a direction they would wish to take, then from my point of view it would need to be a redirection to another minister, so they would need to use a question to redirect it to another minister rather than to seek the transfer of the existing questions to another minister. As I said, in this instance I make that comment to guide us perhaps in future matters, should they arise.

Mr Herbert may well yet be in a position to provide those answers that are sought by the opposition. He obviously has not been in Parliament today or yesterday, and perhaps that has not afforded him the opportunity to consider whether or not further answers might be provided. But I would also point out that the Chair would be compromised in any insistence on those answers, given that Mr Herbert has actually resigned as minister, and he may well see that that concludes the matters that were before him. While that would not, I am sure, given the point of order raised earlier today by Ms Wooldridge, satisfy the opposition, as Chair I am not in a position really to make any other determination, given the minister's resignation. As I said, Mr Herbert may well yet consider the opportunity to provide an answer, but that is at his discretion at this point.

In a previous sitting week we had a question posed by Mr Morris in terms of code whites; that was on 25 October. The question was: how many code whites have been called at the Parkville and Malmsbury youth justice centres since Ms Mikakos has been minister? A written answer has been provided by Ms Mikakos. Mr Morris has indicated to me that he does not believe that the answer actually responds to his question. The response from the minister was in fact that there would need to be a significant amount of work undertaken in terms of a manual collection of data in order to provide a response to that question and that that would have significant resource implications. The minister has also spoken to me separately about the status of code whites. I have had differing views as to their status and the collection of that data from the opposition and from the government, which puts me in a difficult position of trying to be Solomon and make a determination. In the circumstances, I would seek to reinstate the original

question of 25 October — only the substantive question by Mr Morris — and the minister may consider whether or not it is possible to provide that information to Mr Morris to the satisfaction of the house.

Ms Crozier — On a point of order, President, I refer to a question that was reinstated by you yesterday. It concerned the reported 17 child protection client deaths in the latest data that has been provided by the government. However, in my supplementary question that I posed to the minister I asked about how many of the 17 child deaths were actually classified as unallocated, and in the answer that the minister has provided there is no reference to that particular question that I asked. I am just wondering if that could also be reinstated.

The PRESIDENT — Order! Can I just clarify: these are questions that were asked yesterday on the floor of the chamber; correct? It is just that you said that I had 'reinstated', and obviously I have only got an opportunity to do that once.

Ms Crozier — Yes, my apologies.

The PRESIDENT — Order! It was a question posed yesterday. I do recall the question. Ms Crozier has given me the courtesy of looking at the response, and I am of the view that the number could quite well have been provided and has not been in that response, so I would reinstate that supplementary question.

Mr O'Donohue — On a point of order, President, former minister Mr Herbert took on notice some questions during the committee stage of the Corrections Legislation Amendment Bill 2016 that passed the Parliament during the last sitting week. In good faith the minister provided some information in relation to the number of unlawful releases from prison in 2013, 2014 and 2015. Rather than report progress he undertook to provide that information on notice. I would seek an assurance from the new minister that that information is still in train to be provided.

Ms Tierney — On the point of order, President, I am more than happy to provide that information.

CONSTITUENCY QUESTIONS

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My constituency question is for the Minister for Consumer Affairs, Gaming and Liquor Regulation, Ms Kairouz. On Sunday I joined the community in front of a local pokies venue in Maidstone to protest against the deceptive and rigged poker machines at this venue and other venues across Victoria that are literally draining money out of people's pockets each year. These addictive machines lead to job loss, family breakdown, crime, depression and suicide. Melbourne's western suburbs, which include the minister's own electorate of Kororoit, is one of the worst affected regions in Victoria when it comes to pokies. Can the minister explain what action she is taking to make sure that these rigged poker machines, which are deceiving Victorians out of $2.6 billion a year, are not allowed to continue in these venues?

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My question is to the Minister for Regional Development. The commodore of the Latrobe Valley Yacht Club, which has operated out of Hazelwood Pondage for many years, said:

> With the formal announcement of the closure of the Hazelwood power station and the commencement of planning for rehabilitation of the site and the mine, the status of the pondage is now unclear.

Minister, this yacht club also facilitates the Hazelwood Pondage Sailability program, which encourages participation in sailing in an inclusive, inexpensive, supportive atmosphere regardless of age or ability. The club is now concerned that the future of this important program hangs in the air. It said that the situation leaves the club and the Sailability program with an uncertain future, and that they have been sailing on the pondage for 50 years and would hope to sail for another 50. I ask the minister to provide assurances to the club in terms of its future after the Hazelwood power station closes.

Northern Metropolitan Region

Mr ELASMAR (Northern Metropolitan) — My constituency question is for the Minister for Agriculture. Recreational fishing is not just a hobby; it contributes $2.3 billion to Victoria's social and economic wellbeing. It encourages kids and families to get outdoors and learn more about our environment. Labor wants to grow recreational fishing in Victoria. That is why we went to the election with a plan to increase the number of recreational fishers to 1 million by the year 2020. The Andrews government's Target One Million policy aims to increase fish stocks, improve fishing and boating facilities, and help local clubs promote this great pastime. Can the minister provide me with information on fishing opportunities for my constituents in Melbourne's north?

Western Victoria Region

Mr PURCELL (Western Victoria) — My constituency question is for the Minister for Regional Development. Doing business in rural Victoria is tough. It is tough doing it with communications, but doing it without any form of communication makes it nearly impossible. Koroit is a small town in south-west Victoria located between Warrnambool and Port Fairy, with about 2000 residents. Those in the town were among approximately 60 000 users affected by a 2012 Telstra fire that knocked out communications for weeks. Now, despite Optus having a mobile base station in the area, the station has been down for a full week without coverage. Residents have been trying to contact Optus, but it is very difficult when your phone will not work and your internet is also out of action. I therefore ask: will the minister work with the telecommunications sector to create backup networks and systems that limit communication infrastructure outages in regional areas?

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Health, and it is regarding the still terrible Goulburn Valley Health emergency department wait times. The most recent Victorian health services performance data shows that Goulburn Valley Health's emergency department remains in the bottom five hospitals statewide for emergency patients treated within time and the bottom four for the proportion of ambulance patient transfers within 40 minutes. Further, since the last quarter there has been no improvement. There has actually been a small decrease in the proportion of patients transferred from ambulances to the care of the emergency department, with only 74.8 per cent of ambulance patient transfers taking place within 40 minutes, despite the government's own target being 90 per cent.

Patients at Goulburn Valley Health are continuing to languish on ambulance trolleys or in the emergency department waiting room, and this is not good enough. My question is: when will the government provide assistance to Goulburn Valley Health to improve treatment times in the emergency department?

Western Metropolitan Region

Mr EIDEH (Western Metropolitan) — My constituency question is for the Minister for Energy, Environment and Climate Change. Last week it was announced that the Andrews Labor government is building a new facility at the Melbourne Zoo for Himalayan snow leopards and Sumatran tigers. The Leopard Ridge facility will benefit from an investment of $9 million. The new facility will offer visitors a rare insight into the lives of the stunning predators and give the animals the safe and comfortable home they deserve. It will also become home for Tasmanian devils and coatis. This supports the national effort to protect Tasmanian devils from a deadly contagious cancer.

In 2014 Melbourne Zoo began its new Predator Prey precinct with the building of Lion Gorge. Leopard Ridge marks the final instalment of this project. Lion Gorge already displays African lions, hunting dogs, Philippine crocodiles and chameleons. Melbourne Zoo provides a vital educational resource for schools and universities, and it is a great place to learn about how to protect our natural world. It is a valued treasure in our state. I ask the minister what measures are being put in place to increase visitation at Melbourne Zoo and what benefits this will have for Victorians in my electorate.

Eastern Metropolitan Region

Ms WOOLDRIDGE (Eastern Metropolitan) — My constituency question is for the Minister for Roads and Road Safety. The question is: when will the government announce a decision on the future of the north-east truck curfew? The government decided to implement a one-year truck curfew in Montmorency, Eltham and Viewbank from August 2015. The ban was from 10.00 p.m. to 6.00 a.m. and was designed to improve local areas at night in the affected area. The Victorian Transport Association claims that the curfew has failed and has created more congestion during the day. It argues that the operators use other roads or delay their travel to the morning peak because they still have to move freight. This is having an impact from Ryans Road to Wattletree Road, from Lower Plenty Road to Main Road and from St Helena Road to Karingal Drive in Eltham. It is also impacting Bolton Street in Eltham and roads in the neighbouring electorates.

Consultations are underway, but no decision has yet been announced in relation to the curfew. My constituents are seeking an answer to the question of when a decision will be announced.

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Public Transport. I refer the minister to a previous question I asked her about the future, or indeed the lack of future, of V/Line services to Sunbury. I note that the minister's office has publicly expressed a position on this via a newspaper article, but the minister to this point has put nothing on paper. I ask the minister if her reluctance to

give an ironclad guarantee that this government will leave in place V/Line services to Sunbury is an indication that she is preparing to return to her previous policy of scrapping them.

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My question is to the Minister for Education. I note that the Ferrars Street school in South Melbourne was recently advertising for a principal. This is for the site that was purchased and planned by the previous government. I am curious about what is happening with South Melbourne Park Primary School. This is a school that was promised by the government before the last election and has had repeated delays on the site. It was promised for 2018 and is by no measure likely to be delivered for that year. We were promised that the master plan would be released in June, and we are still waiting. Tenants are still there, I understand, after two expired deadlines. My question therefore is: when will the government advertise for a principal for South Melbourne Park Primary School?

CHILD WELLBEING AND SAFETY AMENDMENT (OVERSIGHT AND ENFORCEMENT OF CHILD SAFE STANDARDS) BILL 2016

Committee

Resumed.

Clauses 15 to 19 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That this bill be now read a third time.

In doing so I indicate my appreciation to all parties who have indicated their support during the course of debate on this bill for what is a very significant reform to keep children in our state safe.

Motion agreed to.

Read third time.

Sitting suspended 1.01 p.m. until 2.04 p.m.

ALPINE RESORTS LEGISLATION AMENDMENT BILL 2016

Second reading

Debate resumed from 8 November; motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr BARBER (Northern Metropolitan) — The Greens will support this bill, which makes some minor changes to the governance of the alpine resorts structure that has existed for many years here in Victoria. It basically consists of some amalgamations and legislative tidy-ups.

We believe this bill is a major missed opportunity, and that is to set up a structure that would be willing and able to cope with the impending impacts of global warming on our alpine ecosystem. Victoria's alpine ecosystem is extraordinarily vulnerable to the major impacts of global warming. The alpine areas are small in area, they are not particularly connected to each other and they exist in a narrow ecological range. The nature of their survival depends on a delicate balance between fire regimes, the amount of water available, the amount of snow that occurs and the extent of that snow cover.

All of those historical biogeographical factors are what has led to us having these small and precious areas of alpine ecosystem here in Victoria under the past climate — that is, the climate that has existed for some thousands of years that we are all very familiar with and that until relatively recently most people thought was constant and unchanging. However, when you look at that ecosystem it provides another stark example of how Australian ecosystems in particular are extraordinarily vulnerable to the impacts of small changes in climate — and what we are dealing with right now is not a small change.

We are already getting close to a 1 degree increase in temperature, and that might seem like a small amount — if the temperature went up 1 degree in this chamber, Mr Elasmar would probably just take his coat off. But when the temperature goes up 1 degree in short order across the Australian climate — not to mention the impact that that will have on extreme weather events, with extremes of cold becoming less frequent and extremes of heat occurring rapidly more frequently, and not just in a kind of predictable and gradual warming but in fact with a rapid step change in the way the climate interacts with our native ecosystems — then the government will find itself dealing with changes

that almost appear to simply pop up before its very eyes.

Two of the well-known alpine areas, Lake Mountain and Baw Baw, are situated at quite low altitudes. They are quite small and isolated areas. For some reason they have been historically managed as alpine resorts. In our view what this legislation ought to be doing is taking those two areas out of the alpine resorts framework and rolling them back to being the responsibility of Parks Victoria, who in any case manage all of the surrounding land. It is acknowledged there is almost zero potential for development of those resorts for any further recreational activities, and in fact they will be first in the firing line as global warming hits.

This is not something that we are anticipating in the future; this is something that is happening right now. In both those areas, they have been threatened by the extreme bushfires that have licked up to their very edges. As I say, it is not going to be some gradual and predictable linear-type process. We will simply wake up one morning and find that entire ecosystems are going through a step change.

The government ought to be getting ready for that, but this government and it seems most governments around the world look at climate change as just another management issue. They think that with a bit of tinkering and a bit of steady regulatory progress they are going to somehow manage this issue. That is where global warming is throwing so many politicians around the world into a spin, because the rate of change can be rapid and unexpected, and the kind of reshuffling of the deckchairs that we are seeing in this legislation here today simply does not hack it.

The government ought to be coming up with plans to make these particular ecosystems as robust and resilient to these coming changes as it possibly can. That applies to not just the ecosystem as a whole but to individual species within it. I am talking about the mountain pygmy possum, already a very vulnerable animal with limited range and the subject of some conservation efforts. I was part of those efforts as a young university student, crawling over those scree slopes and pulling out little cage traps to see what was inside. Most of the time it would be a rat that would just about bite your finger off. If there was a Burramys parvus, a mountain pygmy possum, in there, you could quite gently coax him out of his little trap and he would just curl up in your hands and warm up a little bit before you managed to weigh him, check him out and then put him back under those boulders.

Ms Shing interjected.

Mr BARBER — Ms Shing has reminded me that also in this area there is of course the antechinus, otherwise known as the marsupial mouse. It is a small, rather unknown marsupial with an incredible sex life. Basically almost the entire population of males wipe themselves out in fairly short order as they attempt to reproduce themselves. Bush rats, antechinus and the odd mountain pygmy possum are coexisting in a tiny little pocket — one of the world's smallest and most narrowly defined habitats for a mammal — and it is our responsibility to look after it. Instead, the government is just doing a bit of minor tinkering here, as it is wont to do.

Likewise, at Mount Baw Baw there is the Baw Baw frog. As we know, the frog has become the global canary in the coalmine for ecosystem change. The frogs are incredibly vulnerable and are living within specialised habitats. The nature of their porous skin and their breeding habits means that any small change to the ecosystem can almost make them disappear overnight. In fact quite literally they have been able to disappear overnight. Unfortunately this government, the past government and the one before that have treated the Baw Baw plateau as basically a woodchip production factory. They have ring-fenced the entire Baw Baw plateau by blitzing it with woodchipping, bulldozing, logging and burning. The *Timber Release Plan* that the government put out last week basically finishes the job in relation to the Baw Baw mountain range. Right in the middle of this now blitzed ecosystem we have got a tiny little pocket of alpine vegetation — grasslands and snow gum. The Baw Baw frog did actually live in some parts of the forest down the sides of the plateau. In the past the government has had no compunction in basically going in there, bulldozing the habitat and then setting fire to what is left when the loggers have gone.

So the government just simply drifts along in this dream world. It has brought in a bill here that sort of fiddles and fidgets around the edges of the management of a couple of alpine resorts. It does not realise that almost in the blink of an eye the ecosystem could be transformed and that species that depend on it could disappear before our very eyes, certainly in our own lifetimes. I do not want to be part of watching, by neglect or action, the extinction of a mammal or frog species. Having held a little mountain pygmy possum in my hand, I do not want to be around when the last one disappears or its ecosystem is lost and it ends up as part of a captive breeding population in some sort of high-tech Noah's Ark, which is where the government will be going next.

We deserve a lot better than what we are getting from this legislation that is in front of us. We deserve a body

for the alpine resorts that has as its primary responsibility the preservation of the ecosystem and that double challenge of in fact dealing with climate change and the climate crisis that is right upon us right now.

Mr DAVIS (Southern Metropolitan) — I rise to make a short contribution to debate on the Alpine Resorts Legislation Amendment Bill 2016. This is in essence a very straightforward bill that abolishes the management boards of Lake Mountain and Mount Baw Baw alpine resorts and replaces those boards by establishing the Southern Alpine Resort Management Board, removes a reference to Mount Torbreck as a place where an alpine resort may be declared, and makes a number of other minor changes.

The coalition will not oppose this bill. There is merit in the bill. There is always a risk when you merge two boards of this nature that some loss of identity and some loss of focus will occur across the two. I put that on the record as a caution. The other point that I think is important to comment on here is that there is a background to this. The new board, the Southern Alpine Resort Management Board, will be established by new section 4(2) of the principal act. In essence new section 77 under the amendments to this act abolishes the old boards, as I said, and transfers all of their assets, liabilities and property to the new board. Members of the old boards will be eligible for positions on the new board. All of the debts and obligations will come across. It substitutes the new board as a party to any existing contracts or arrangements. References to old boards in legislation, deeds and contracts are to be read as references to the new board.

The previous government did make significant progress in securing the financial viability of our alpine resorts by focusing on an all-industry approach driving all-year-round environmentally friendly attractions. The then government's reforms saw more than $36 million invested in these alpine resorts over the four years between 2010 and 2014. But there is also no denying that Mount Baw Baw and Lake Mountain resorts have been reliant on government funding, and that is a matter of fact, as the annual reports make clear. The previous government had had Belgravia Leisure provide advice on the day-to-day management of the Baw Baw and Lake Mountain resorts, and whilst there were some criticisms of that, there were also some advantages in that.

I think it is important to see this in a broader context too, the broader context being the significant economic importance of our alpine resorts. These are major employers. They are major tourist attraction opportunities, and that tourist attraction opportunity has got to be fostered and expanded wherever it can be. We did try to do much of that work in government, and no doubt the current government will continue to do that. I should put on record our extreme wariness with respect to the changes in the event attraction arrangements that have been put in place by the new government — the abolition of some of the longstanding mechanisms and authorities for attracting events and tourists to Victoria. It will be interesting to see how the government's approach goes. The risk is that a formula that was tried and true going back to the 1990s and onwards will be lost with the current new arrangements — the changes in structure with respect to tourism management statewide.

Mr Barber made a number of points about the ecology of the alpine areas and the need to protect and preserve, and I agree with many of the points that he made. We do have very precious areas near our alpine resorts, and we do need to make sure that the impact and footprint, as it were, of our activities in the resorts are minimised so that we preserve and protect what is valuable. That can be done in a way that is consistent and compatible with the use of our resorts as major economic generators too. In that sense I think the community wants to see us look at opportunities for alpine resorts, and it is my hope that the new board will successfully do that in a merged arrangement and that any loss of identity that occurs with the two boards being merged into one will be compensated to a greater extent by the economic advantages that will flow on.

Ms SYMES (Northern Victoria) — I too seek to make just a brief contribution to the Alpine Resorts Legislation Amendment Bill 2016. Victoria's High Country and our alpine resorts are an integral part of our state's tourism offer and an essential lifeblood to the small communities nestled in the midst of the mountains themselves. The small window each year that sees these alpine resorts bustling with tourists, both local and international, highlights the need for governments to ensure the facilities, services and experiences offered are exceptional enough to prove to be an ongoing drawcard for snow lovers and outdoors lovers everywhere.

Of the six alpine resorts in Victoria the two smallest are Lake Mountain and Mount Baw Baw, and to date both have had their own management boards overseeing the operations. The bill before us today amends the Alpine Resorts (Management) Act 1997 to provide for the amalgamation of the Lake Mountain Alpine Resort Management Board and the Mount Baw Baw Alpine Resort Management board into a single board that will have the responsibility for managing both of the alpine

resorts. This is a move that is common sense and enables both a cohesive and logical way forward for the management of both of the parks. The Labor government is responding to the community's request for a clear direction on the future of these much-loved alpine resorts. The changes are required to enable the Lake Mountain and Mount Baw Baw alpine resorts to adapt to climate change and ensure the economic and social benefits that flow from the alpine resorts to the surrounding regions are maximised.

Our alpine resorts are at the coalface of climate change. Mr Barber outlined much of this. We do not want to witness any more of its effects, so we have put in some buffers to assist in alleviating it. The resorts' abilities to enjoy a season is no longer a guarantee in any given year; hence the livelihood of those communities and individuals who rely on the ski season is becoming increasingly fluid. These impacts have been felt most acutely in our two smallest resorts — the ones that we are merging — and so the response that the government wants to deliver is a comprehensive, motivated and well-researched solution and an initial step towards ensuring future sustainability.

Like all good decisions this one has been undertaken with extensive stakeholder engagement, including with lodge owners, business operators, members of the surrounding community, resort staff, visitors, regional tourism boards, local government, Regional Development Victoria and the Department of Environment, Land, Water and Planning. This legislation also addresses the concerns expressed in the Victorian Auditor-General's Office report that the boards at Lake Mountain and Mount Baw Baw have not maintained adequate oversight, internal control or legislative compliance of their financial operations. The bill also makes some minor amendments, including amending the Alpine Resorts Act 1983 to remove reference to Mount Torbreck as a place where an alpine resort may be declared and the statute law revisions relating to the definition of the central plan office.

I would just like to give my best to the merged bodies and wish them some very positive ski seasons in the future.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

SENTENCING (COMMUNITY CORRECTION ORDER) AND OTHER ACTS AMENDMENT BILL 2016

Second reading

Debate resumed from 8 November; motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this afternoon to speak on the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016. This is a bill that has been long in the coming. It is a bill that this house and indeed certainly this side of the house has expected to see for around two years. The purpose of this bill is to address a situation created by the Court of Appeal as to the application of community correction orders (CCOs) and to address an unintended — certainly from the perspective of the Parliament — consequence as to the application of CCOs arising from a decision of the Court of Appeal in December 2014 in the Boulton case. The coalition is very pleased to now see this legislation come before the house. The bill addresses that decision of the Court of Appeal, which greatly expanded the scope — unintentionally, from the Parliament's perspective — of offences for which community correction orders could be brought into play.

To provide a bit of background, community correction orders were the response of the previous coalition government at the initiative of the then Attorney-General, Robert Clark, in 2011 to widespread community concern about the way in which our courts were ostensibly imposing custodial sentences on offenders found guilty of serious crimes but in fact suspending those sentences — meaning that while the headline was that somebody received a custodial sentence, in practice they were released into the community. This was occurring with offences which were quite serious. It was clearly at the time — in 2011 — inconsistent with community expectations. It was inconsistent with the community's view that jail means jail — if a person receives a custodial sentence, if they are sent to jail, they go to jail — not that they receive a sentence of imprisonment only to be released immediately into the community.

In reforming the Sentencing Act 1991 to ensure that a custodial sentence means a custodial sentence there was also recognition that for lower level offending where a punishment of a fine by itself would be inadequate there was need for an alternative mechanism to bridge the gap between an actual custodial sentence and a fine.

For that reason, in recognition of the need to bridge that gap, community correction orders were created as that alternative sentencing mechanism available to the judiciary so they would not need to continue with the fiction which had existed to that point in time of the suspended sentence.

The CCO was seen and received as an effective mechanism, an effective tool, for the judiciary to provide and impose punishments beyond simply a fine, to require other activity or another sanction on a relatively low level offender, which extended beyond a fine but did not need to reach the level of incarceration. That framework of CCOs was in place from 2011 through to 2014 and received broad community support and community recognition that shifting from suspended sentences to a framework where jail actually meant jail was positive and that providing a mechanism to deal with low-level offending through CCOs was also effective.

In December 2014 we saw a development in the area of CCOs, with a Court of Appeal decision in relation to what I have called the Boulton case. In the Court of Appeal's decision on the Boulton case the court created its first guideline judgement. A guideline judgement is a mechanism that is available to the court under the Sentencing Act. It provides a mechanism by which the Court of Appeal, as the superior court, can lay down a judgement as a guideline which will inform other jurisdictions, the subordinate courts, as to how they should apply certain elements of the law. This is a mechanism which, although I understand it was inserted in the Sentencing Act in the early 2000s, had not been used by the court. The court had not until December 2014 sought to make a guideline judgement. However, in the Boulton case the Court of Appeal did make its first guideline judgement, and its guideline judgement was in relation to the use of community correction orders. In that guideline judgement the Court of Appeal greatly expanded the scope of offences for which CCOs could be used.

As I indicated, it was certainly the view of the previous government in bringing forward CCO legislation that the orders were to be used for low-level offending which required more than a fine but less than incarceration. The Court of Appeal, with its guideline judgement, turned that interpretation of the role of CCOs on its head. In the Boulton judgement the court stated, and I will quote paragraph 131:

> It follows from what we have said that a CCO may be suitable even in cases of relatively serious offences which might previously have attracted a medium term of imprisonment (such as, for example, aggravated burglary, intentionally causing serious injury, some forms of sexual offences involving minors, some kinds of rape and some categories of homicide). The sentencing judge may find that, in view of the objective gravity of the conduct and the personal circumstances of the offender, a properly conditioned CCO of lengthy duration is capable of satisfying the requirements of proportionality, parsimony and just punishment, while affording the best prospects for rehabilitation.

This house recognises the role of sentencing in rehabilitation and just punishment, but what we do not accept is that CCOs are an appropriate mechanism for offences such as aggravated burglary, intentionally causing serious injury, some kinds of rape and some categories of homicide as laid down in that guideline judgement.

That guideline judgement from the Court of Appeal has potentially expanded the scope of CCOs far beyond that which the Parliament intended and far beyond that which the previous coalition government, in introducing CCOs, intended. It is for that reason that we now have this bill before the Parliament this afternoon. It actually seeks to restore CCOs to their original standing in the criminal justice system by creating under the Sentencing Act 1991 new categories of offences which are generally outside the scope of CCOs.

The bill establishes new category 1 offences, which are murder, gross violence offences, rape, serious child sex offences, drug trafficking and the cultivation of large commercial quantities of drugs; and category 2 offences, which are manslaughter, child homicide, causing serious injury intentionally, kidnapping, arson causing death, drug trafficking and cultivation of commercial quantities, and providing information facilitating terrorism acts. What the bill does is now create two categories of serious offences for which CCOs will not generally be available. The bill also seeks to make it clear that where a category 1 offence occurs the court is required to impose a sentence of imprisonment.

Also in the bill, but less related to the key provisions, is a provision that reduces the maximum length of the CCO to five years rather than to the maximum term of imprisonment which may have applied for the particular offence, and it also limits the use of CCOs by reducing the maximum length of a sentence of imprisonment that may be combined with a CCO from two years to one year.

But the key provision of this bill is the creation of the category 1 and category 2 offences, with the requirement that for category 1 offences a term of imprisonment must be provided — that is, a CCO is not suitable punishment for those offences. It is interesting

to reflect on the way in which we have arrived at this situation — that decision of the Court of Appeal in Boulton in December 2014.

The coalition is critical of the government for not bringing this legislation forward earlier. This loophole has existed for almost two years since that decision was brought down in the Court of Appeal. But equally we need to reflect on the decision of the Court of Appeal: on why the Court of Appeal thought, through its guideline judgement, that the expansion of the scope of CCOs to that list of serious offences as outlined in paragraph 131 of the judgement was appropriate and on why the Court of Appeal thought that was consistent with community expectations.

One of the things with the capacity for the court to create guideline judgements is that they very much have the potential to stray into the realm of lawmaking. They have the potential to stray into usurping the Parliament's role in creating the legislative framework and having judge-made law contradict and override law as made by the Parliament. As I noted earlier, this is the first guideline judgement which has been made under the provisions of the Sentencing Act, and here we are in the Parliament, having had that first guideline judgement, needing to legislate to correct the effects of that guideline judgement.

A constant refrain in the community is the belief that the judiciary is often out of step with community expectations when it comes to sentencing in criminal matters. The Parliament recognises it is a challenge for the judiciary in undertaking sentencing in criminal matters, and the judiciary of course, by virtue of having all the facts before it, is in the best place to undertake and make decisions on criminal sentencing. But when the message flows through to the community that the sentences being handed down by the judiciary are consistently at odds with community expectations and when you then have a guideline judgement like the one that this legislation is intending to address today, which expands the scope of CCOs into so many serious offences, which was never the intention of the Parliament when it passed the legislation in 2011, it does undermine the community's confidence in the judiciary.

It is of great concern that we continue to see decisions which on the face of them are so out of step with what the community expects. There really can be no clearer indication that that is the case with this decision of the Court of Appeal in Boulton, because the government has brought legislation to the Parliament to effectively overwrite and reverse that Court of Appeal guideline judgement.

The coalition does not oppose the passage of this legislation. We believe the government should have brought these measures here earlier to address that decision in the Boulton case, or that guideline judgement arising from the Boulton case, but we are concerned that we continue to see judgements made which are so far out of step with community expectations that they undermine the community's confidence in the judiciary and undermine the community's confidence in the criminal justice system.

The fact that the Parliament is needing to legislate today to correct that Court of Appeal guideline judgement to restore the original intent of the CCO legislation from 2011 is regrettable. It is regrettable that the Parliament has had to take this action today to restore the standing of CCOs. It does seem to reinforce the message that we are not necessarily seeing decisions which are consistent with community expectations or indeed consistent with the Parliament's intention with the passage of, in this instance, the CCO legislation in 2011.

The coalition is pleased to see this legislation come to the house. We would have liked to have seen it come earlier. We hope we will not in the future need to see the Parliament intervene to correct and undo decisions of the court which are so far out of step with the expectations of the community.

Ms PENNICUIK (Southern Metropolitan) — I have to say on this particular bill, the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016, I could not disagree more with what Mr Rich-Phillips has had to say, because I am actually not sure why we are here with this bill at all. I do not see the need for this bill. I cannot see where there has been any clamour by anybody in the community or the courts for this bill or that there is any problem with the operation of the community correction orders (CCOs), as described by Mr Rich-Phillips in any case. He represents the Liberal coalition, which brought in the current CCO regime a few years ago, which the Greens at the time did support, although we made some criticisms about the regime.

Basically the Greens did not support the abolition of suspended sentences because suspended sentences do have a place in the sentencing regime for particular cases with particular circumstances. Nor did we support the abolition of home detention, which also accompanied the introduction of this CCO regime. Home detention also provides for particular sentencing options that suit particular cases and the circumstances of those cases and the offenders. I made the point at the

time that home detention was most often used at the end of a sentence rather than at the beginning of a sentence, but there were those options.

I raised the point at the time, which has some resonance now that amongst the very last people to be sentenced to home detention in Victoria was the now Senator Derryn Hinch. He had spent a lot of time as a media commentator railing against things such as suspended sentences and home detention but was sentenced to home detention, given the particular circumstances that applied to him. At the time he was not very well. He was not being sentenced for a serious violent offence or anything like that, so he was the perfect person to be sentenced to home detention. He would not necessarily have been able to fulfil the requirements of a community correction order due to his ill health and it would not have been good for him to have been in prison either due to his ill health, so he was sentenced to home detention — the very thing he had railed against for years. He was not a conscientious objector in that regard. He did not say, 'Look, I'm against home detention; please send me to prison'. He accepted the decision the court made at the time, which was about the particular circumstances that applied to him as the offender, his offence and all the relevant circumstances of the case.

That is the context in which the current community correction order regime was brought into being in the Sentencing Act 1991. The former coalition government introduced that regime in 2012, as I said, while at the same time it abolished suspended sentences and home detention. A community correction order is a non-custodial order to which are attached certain mandatory conditions that are laid down in the legislation. In addition a sentencing court can attach to a CCO a range of conditions which may be prohibitive, coercive, rehabilitative or intrusive. One of the criticisms we had at the time about that legislation was that there had to be certain conditions applying to the CCOs, whereas we thought that the conditions that should apply to a CCO should be completely at the discretion of the court.

In September 2014 the previous government also changed the Sentencing Act to encourage the use of CCOs. Those changes involved the requirement that a court must not impose a jail term unless it considered that the purpose of the sentencing could not be met by a CCO with conditions. In September 2015 research by the Sentencing Advisory Council showed that there had been an increase in the number of CCOs imposed since the abolition of suspended sentences. That was to be expected because that was the point — abolishing suspended sentences and bringing in CCOs — so we would expect to see a rise in their use. The number of CCOs handed down in the County and Supreme courts had risen from 17.5 per cent to 25 per cent. In the Magistrates Court the number had increased from 7 per cent to nearly 11 per cent.

Professor Arie Freiberg said at the time that CCOs were not a 'soft option' since more conditions such as curfews and drug and alcohol treatment orders could be imposed on offenders who are sentenced to a CCO. He was quoted as saying:

> The point is community correction orders are mostly replacing suspended sentences where there were no conditions and people do not go to jail and were never supervised …

So CCOs are more severe than what they replaced. The benefits of CCOs also include a person being required to do community work.

On 22 December 2014 the Court of Appeal, as Mr Rich-Phillips referred to, issued its first guideline judgement on the use of CCOs at the request of the Office of Public Prosecutions (OPP) in the cases of *Boulton v. The Queen*, *Clements v. The Queen* and *Fitzgerald v. The Queen*. The three sentence appeals were lodged against lengthy CCOs, where the appellants received an eight-year tenure and a five-year CCO. Submissions were made not only by the appellants' lawyers and the OPP but also by legal representatives for the Attorney-General, Victoria Legal Aid (VLA) and the Sentencing Advisory Council. The OPP welcomed the guideline judgement, as did the VLA and the Sentencing Advisory Council. The Court of Appeal accepted that in its guideline judgement when it said:

> The overarching principles which govern the CCO regime are proportionality and suitability.

I think that is a very important point, and it is probably the fundamental point that was made by the Court of Appeal in its guideline judgement. I have seen no evidence that that is not the case, and the government has presented no evidence, certainly not in the second-reading speech or in any other written matter that I have seen on this bill, that shows that this is not the case. So if it is not the case, why do we have the bill before us?

The court concluded that a CCO has punitive elements, including the mandatory conditions which I mentioned before, the fact that contravention of a CCO is an offence punishable by imprisonment and the range and nature of optional conditions which can be coercive, restrictive or prohibitive. The court emphasised the capacity of the CCO to be a punitive sanction, both

when imposed as a sentence in its own right and when imposed in combination with imprisonment.

It accepted the submission from Victoria Legal Aid that a non-parole period and a CCO should be treated as alternatives and provided matters to consider when determining the length of a CCO, including difficulties with compliance with conditions and considerations specific to young offenders. The court also stressed the need for the provision of pre-sentence reports and other expert evidence so that a sentencing court could impose a CCO that was tailored to the rehabilitative needs of offenders. The court also said that CCOs could replace a range of medium jail terms, and it called for a re-examination of imprisonment as the only appropriate punishment for serious offences.

In April of this year it was reported that the chief Crown prosecutor, Gavin Silbert, QC, said that CCOs do not work and that immediate law reform was needed. He made the comments after it was shown that the number of CCOs given to offenders in 2015 had more than doubled on the previous year — 30 000 as compared to 13 300 — following the guideline judgement by the Court of Appeal. Mr Silbert said that they needed to be dispensed with as the breaches of CCOs could swamp the courts. He said that in every plea of guilty, defence counsel stands up and cites the ruling by the Court of Appeal saying that you do not have to go to jail even in homicides — and judges are listening.

However, Professor Arie Freiberg, as I mentioned, said in March 2016 that the claims that there were 30 000 CCOs imposed in 2015 was wrong. He said that Sentencing Advisory Council statistics show that for sentences in their own right there were only about 10 500 CCOs imposed by the Magistrates Court — around 11 per cent of sentences. Fewer than 400 CCOs were imposed in the County and Supreme courts.

There has been a growing use of CCOs in combination with imprisonment, and I think that is a good thing. I think that sort of flexibility in sentencing is good. Those figures are an increase on the previous year, but the increases have generally come at the expense of suspended sentences and, as I said, home detention, while imprisonment has increased.

In June 2016 a report by the Sentencing Advisory Council found that Victoria's first guideline judgement had resulted in courts imposing more imprisonment sentences combined with a CCO. Also in 2015 there was an increase in the use of a CCO as a sentence in its own right, particularly in the Magistrates Court, where an additional 2760 offenders received a CCO.

Professor Freiberg also said that the guideline judgement was not a get-out-of-jail-free card, as some have suggested. The Premier himself has suggested that CCOs are a slap on the wrist, which is completely inaccurate. In terms of comments like the one Mr Rich-Phillips made earlier about undermining public confidence in the judicial system, it is those types of comments which do that and which are not accurate about this regime of community correction orders. They are not a slap on the wrist. At the moment they can be the length of an imprisonment sentence or they can be, as I have said, part imprisonment and part CCO.

But sadly, this bill is going to reduce the length of a CCO to a maximum of five years and, in terms of a combined CCO, to a maximum of one year instead of two years. I have heard no evidence as to what this is meant to achieve in terms of the rehabilitation of prisoners. One of the principles of sentencing — that I thought was a bipartisan, tripartisan or multipartisan agreed principle — is that if there is no need for a person to be in jail they should not be in jail and if there are other alternatives such as community correction orders with conditions, and also with community service et cetera attached to them, that gives much more of a chance of rehabilitation of the offender, particularly if they are first-time offenders or young offenders. That is the path to making the community safer, not putting more and more people in prison, which will be the effect of this bill. That is not an effect we need.

Only last week Bianca Hall at the *Age* wrote an article about the changes that have happened over the last five or six years in this Parliament, with the increasing number of mandatory minimum sentences, and this bill basically is a version of that. It imposes mandatory sentencing, where the court is really the best place to decide on a sentence. I have said many times in this place that the Parliament needs to provide the courts with the widest range of sentencing options and flexibility in sentencing combinations that can be used to apply to the offenders that come before them.

In that article — and this is something I have referred to many times in the Parliament as well — it says that we are looking at a 67 per cent or almost a 70 per cent rise in the prison population in the past decade despite only a 4 per cent rise in crime. We now look like spending another $1 billion or more on prisons next year. I cannot see how this is the right path to go down. The fact that this government is going down the path set by the previous government is disappointing to me.

It is in fact quite surprising to me, because I would not have thought that going down this path of more and

more imprisonment, putting more people in prison and building more prisons really fits with what I understand to be the Labor philosophy of giving people a fair go, education et cetera. These are the things we need. We need to focus more on justice, reinvestment in communities and making sure that people have access to education, access to rehabilitation and the other assistance they need to keep them out of the justice system. That is not only going to be better for those people and for the community but it is also going to be an awful lot cheaper than the amount of money we look like spending on the prison system if we keep going in the way we have.

Of course there is also the issue of the rising number of people being held on remand. There are people who are held on remand, some of them for months, who are in fact found not to be guilty of any crime, and they have spent months in the remand centre, which we know is overcrowded. A lot of problems are being caused because of that overcrowding and because of the changes to the bail system, which as I have said before were needed to make sure serious violent offenders and people at risk of being serious violent offenders were not released on bail, but in fact they apply to all offenders. Of course there are a large number of offenders who could be released on bail who do not pose a risk to the community of a serious violent offence. This is why we have this burgeoning prison population and the number of people held on remand.

Professor Freiberg also said that:

> … the Court of Appeal has affirmed that nothing in its guideline judgement suggests that a judge should impose a CCO where such a sentence would not sufficiently reflect the seriousness of the offence and the circumstances of the offender.
>
> Occasionally, the courts get it wrong and impose a CCO when imprisonment should have been imposed. In that case, the proper course is for the Director of Public Prosecutions to bring an appeal —

to the appeal court.

We already have in place — again, as I have said many times when we have been confronted with these bills, and the last one was only a week or two ago — a system of appeals in the appeal court which can deal with a sentence that the Director of Public Prosecutions (DPP) sees to be manifestly inadequate, or the other way around, too harsh as well, so it can work in both ways.

The Attorney-General, Mr Pakula, says in his second-reading speech that the government agrees that CCOs are a valuable sentencing tool but that the former government's regime has gone too far, and he is concerned about the use of CCOs in relation to serious offending where a term of imprisonment would be a more appropriate sentence given the gravity of the offence and culpability of the offender. But I would say the courts would agree with that, and the courts already have sentencing guidelines and other appeal court guidelines to assist them with sentencing, and also they have the previous sentences for particular offences to consider when considering the sentence for a particular offender that is before them.

The Attorney-General mentions that there were three rape cases for which the offenders were sentenced to CCOs. My colleague the member for Prahran in the other place, Mr Hibbins, asked questions in committee of the whole in the lower house about details of that, because it seems to me that this is one of the reasons why we have the bill, but there are no details about those cases. The Premier has apparently told reporters:

> We've had far too many people committing heinous crimes, violent crimes, and getting a slap on the wrist, rather than a custodial sentence they so richly deserve.
>
> We're essentially mandating a jail term.

I agree that is happening, but I do not agree that it should be happening. He also said:

> The length of a jail term is still a matter for judges.

Yes, there is no minimum jail term being set for the offences that are listed in the bill, but it is still mandating that jail term. The Premier has made that claim — far too many people getting a slap on the wrist — but does not provide any evidence for that.

I thank in particular Liberty Victoria and the Law Institute of Victoria, who provide members of Parliament with feedback on these important pieces of legislation. I thank them again for doing that and for circulating that information to members of Parliament. The law institute say the amendments in the bill are necessary and will not result in a safer community for Victorians, and they are especially concerned about the effect of these proposals on young people and those with significant mental health or psychological needs. They agree that a CCO is not an appropriate sentence for some types of offending, and so do I, but there is no evidence that it is actually happening. In fact Liberty Victoria completely refute the assertion that anybody who has been charged with the most serious offences — —

Mr Rich-Phillips — Acting President, I draw your attention to the absence of a minister in the house.

The ACTING PRESIDENT (**Ms Dunn**) — Order! There is indeed a minister in the house. Ms Pennicuik to continue.

Ms PENNICUIK — Thank you, Mr Rich-Phillips, for your interruption. I could actually see the minister.

Liberty Victoria say in their submission that contrary to the implication in the press release that accompanied the announcement of this bill, offenders are not receiving CCOs for offences such as murder and rape. And no doubt if they did, the DPP would appeal and the Court of Appeal would resentence the offender. The government has failed to provide any real-world examples of CCOs being given in inappropriate cases. If we are going to bring in bills like this which are radically altering the statute books and imposing mandatory sentencing, then we need to have a compelling case for doing so, and there is no compelling case here.

If I could continue with the law institute, they do say that they agree it is not an appropriate sentence for some types of offending, but their members — that is, the lawyers — report that CCOs are not imposed for offences above a certain level of seriousness. Currently the common law and statute law in combination do not allow for the imposition of a CCO for very serious offending. This goes to the point I made before — that there is no need for this bill, because the courts already have their history, the common law, their sentencing guidelines and the sentencing practices to refer to.

The law institute also says incarceration does not adequately address the needs of rehabilitation of offenders, especially young offenders and those with mental health issues. The many offenders who are in prison do not receive necessary and appropriate support and rehabilitation and so, upon release, pose an even greater risk to community safety compared to if they had the benefit of a combined CCO-custodial order or simply a CCO, as is possible at the moment. This also allows those offenders — and remember that I am not talking about serious offenders, because both Liberty Victoria and the law institute take issue with the government's assertion that anyone is getting CCOs for these serious offences — to maintain connections with family, friends et cetera, which is also very beneficial in terms of rehabilitation.

Liberty Victoria also make the following statements, which I think I have made myself: that this further changes mandatory sentencing in Victoria and follows a worrying trend of this idea of mandatory sentencing. They list some of the bills that have been brought in in the last five years, including the Crimes Amendment (Gross Violence Offences) Bill 2012, the Sentencing Amendment (Emergency Workers) Bill 2014, the Sentencing Amendment (Coward's Punch Manslaughter and Other Matters) Bill 2014 and the Sentencing Amendment (Baseline Sentences) Bill 2014, and of course this government promised to repeal the amendments made by that act but has so far not done so, even though the Court of Appeal have said that they have signed sentences that are completely unworkable. In fact that is what I said when the bill came to the Parliament — that I could not see how the courts were going to make that workable and they would need calculators, actually, to work out the formula for sentencing rather than using sentencing guidelines in the Sentencing Act 1991. Also there was the Serious Sex Offenders (Detention and Supervision) Amendment (Community Safety) Bill 2016 and the Crimes Amendment (Carjacking and Home Invasion) Bill 2016, which we debated not that long ago. The Greens opposed all but one of those bills, which was the Serious Sex Offenders (Detention and Supervision) Amendment (Community Safety) Bill.

The coalition brought in various forms of mandatory sentencing, which unfortunately has clogged up the statute books and has really made it harder and harder every year for judicial officers to use the widest possible range of sentencing options. I think that is a very disappointing and unfortunate state of affairs that has come about in terms of the various bills that have come to Parliament.

I go back to the main points as to why the Greens will not be supporting this bill. One, no evidence has been presented as to why it is needed. In fact the contrary evidence is there if you care to look. The justifications for the bill given by the government do not appear to be correct, and the bill would take away the ability of the courts to use their discretion. In fact the regime has not been in place all that long, so it probably needs more time to work its way through. From what I can see and from what I have read, when they are looking at sentencing the courts do look at proportionality and suitability as their main principles for sentencing, and they would only impose a CCO for a serious offence where there were substantial mitigating circumstances. It would not just be a run-of-the-mill occurrence, and it is not.

With those words, I indicate that the Greens will not support this bill.

Ms PATTEN (Northern Metropolitan) — I rise to speak on the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016. Given the contributions of Ms Pennicuik and

Mr Rich-Phillips, I will not restate the purposes of this bill — they have already been canvassed in this house — but I have to wonder what the Attorney-General was thinking when he introduced this bill or what he was thinking when he dreamt up this entirely ridiculous piece of legislation. I cannot help thinking that this is something we might have seen from the previous government, and I note that the coalition will of course be supporting this bill. I do support some measures of this bill, but I strongly oppose the establishment of more mandatory sentencing. We already have a mandatory sentencing regime in Victoria that limits judicial officers' ability to combine a community correction order (CCO) with a term of imprisonment.

I think this is just another *Herald Sun* bill. I feel like I am constantly seeing *Herald Sun* bills introduced in this Parliament. There was the Sentencing Amendment (Coward's Punch Manslaughter and Other Matters) Bill 2014, the Sentencing Amendment (Baseline Sentences) Bill 2014, the Serious Sex Offenders (Detention and Supervision) Amendment (Community Safety) Bill 2016 and the Crimes Amendment (Carjacking and Home Invasion) Bill 2016. This is the fifth bill we have seen in the last few years in this Parliament to introduce mandatory sentencing. We know that there is no evidence to show that mandatory sentencing makes our community safer — absolutely no evidence anywhere. If there was, no doubt we would have heard it in the second-reading speech and no doubt we would have heard it in the debate here. I have not seen any evidence to say that this bill will make Victoria and our community a safer place.

I would like to thank, as Ms Pennicuik did, Liberty Victoria and the Law Institute of Victoria for their submissions on this bill. I am presuming that the minister did not get a chance to read those submissions, because I think they were very eloquent and substantive in their arguments against this bill. No doubt custodial sentences should be imposed for the most serious criminal offences on the Victorian statute book, and they are — they already are. The court is doing a very fine job on custodial sentences for serious crimes. We have a Director of Public Prosecutions who will appeal any inadequate sentence. We have seen this occurring already, and I will speak about that a little later. We have certainly seen the Director of Public Prosecutions going to the Court of Appeal to review the sentencing of offenders — this has happened. People are already being punished for serious crimes. We do not need this bill.

The Premier put up a press release about this: 'Tightening community correction orders to keep Victorians safe'. What was really curious was that press release disappeared from the website soon after it was put up. I am not quite sure where it went or why it disappeared, but in it the Premier described a CCO as a slap on the wrist. It is anything but, and in fact Mr Rich-Phillips and the previous government, when they introduced CCOs, knew that it was not a slap on the wrist. It is a serious way of providing a broad range of punishments to apply to a variety of crimes and of ensuring that the outcome of that is that we have a safer community, that we have less recidivism and that we ensure that a combination of CCOs and jail terms provides the appropriate punishment for certain crimes.

CCOs are not a 'slap on the wrist'. I certainly note that in the first Court of Appeal guideline on CCOs, which was the *Boulton v. The Queen* judgement, it is stated that:

> A CCO is intrinsically punitive and, depending on the length of the order and the nature and extent of the conditions imposed, it is capable of being highly punitive.

The judgement also states:

> The mandatory conditions, which are attached to each CCO by force of section 45(1), affect an offender's liberty and autonomy.

It also makes the point that:

> … the conditions which may be attached to a CCO are variously coercive, restrictive and/or prohibitive. When a condition of that kind is attached to a CCO, the offender's life will be regulated — for the duration of the order — by the obligation to comply with the condition.

CCOs can include 600 hours of community work, non-association conditions, exclusion conditions, curfew conditions, residence conditions and treatment conditions. They can almost be a quasi home detention, as it were.

I think CCOs were working. We allow our courts to make these decisions, and so we should. We should not be interfering with that process. In the Boulton case the Court of Appeal also noted that the CCO is a flexible sentencing option. It enables those punitive and rehabilitative purposes to be served simultaneously. The CCO can be fashioned to address the particular circumstances of the offender and the causes of the offending and to minimise the risk of reoffending by promoting the offender's rehabilitation.

In Victoria we are seeing a 40 per cent recidivism rate. Using these types of tools to help address recidivism should be encouraged, which is not what this bill is doing. It is actually discouraging and reducing the ability of the courts to use CCOs. The combination of

imprisonment and CCOs actually makes a lot of sense, because we are talking about rehabilitation. When we look at where we have gone with a lot of our parole restrictions, we see that we are now letting people out of jail with no community orders and no controls or restrictions. They are just coming straight out of jail. Obviously this is causing greater recidivism, and it is certainly putting our community at more risk.

Jail terms with parole periods for more serious offences are imposed by the court, but there is also a need for CCOs or for a variety of tools for the court to use to ensure community safety, which is why we are here. Further restricting the ability of the court to provide CCOs with jail terms enables a much more successful model of a punitive arrangement as well as a rehabilitation outcome.

In the Law Institute of Victoria's letter to the Attorney-General, which no doubt it shared with all of us, it observed that incarceration alone fails to adequately address the rehabilitative needs of offenders and that upon release they may pose a far greater risk to the community due to the harmful effects of incarceration compared to the benefit of a CCO. We know that people who go to jail are probably far more likely to go back to jail. If we can provide for a variety in our punishment and in our sentencing, this will help us address those causal factors that underpin reoffending.

This is not just the Law Institute of Victoria speaking. We see this time and time again. There is a multitude of studies into recidivism both here and in other jurisdictions, and we know there is strong evidence that shows a multifaceted treatment-based approach is a far more effective way of reducing recidivism than just incarcerating people. As I mentioned before, with the parole reforms and the parole changes that have occurred in recent times we are looking at offenders who serve their whole jail sentence and are then released into the community without any supervision. CCOs combined with a sentence is a very important way to ensure some supervision on release.

Liberty Victoria sent through a very substantial submission on this bill. It noted right from the start that this reform goes against all research and advice from the Sentencing Advisory Council. It goes against the Sentencing Advisory Council, so why are we doing it? Is it because the *Herald Sun* has told us to do it? This is not being hard on crime; this is being soft on crime, because it is going to create more criminals and is not going to make us safer. Liberty Victoria also talks about removing the discretion from the judicial officer to impose a sentence that is appropriate having regard to the circumstances of the particular defence. We cannot do that in this bill. We cannot look at every single circumstance. We are creating a regulation that does not allow us to be discriminatory; it does not allow the courts to be discriminatory.

Liberty Victoria also notes that it may be inconsistent with our international obligations, particularly Australia's obligations, with respect to the prohibition against arbitrary detention as contained in article 9 of the International Covenant on Civil and Political Rights (ICCPR) and the right to a fair trial and the provision that prison sentences must in effect be subject to appeal as per article 14 of the ICCPR.

It also is an expensive way to deal out punishment — $100 000 a year to keep someone incarcerated. CCOs provided a very effective way of regulating and controlling a prisoner on release. There was the likelihood of them being able to get back into the community, get back with their families, find jobs and get treatment for the underlying causes that put them in jail and into our prison system in the first place. CCOs are a great tool to reduce recidivism. By restricting them further we are going to in all likelihood increase recidivism — if that is possible, when we already have a 40 per cent recidivism rate in this community.

This bill undermines the community's confidence in our judicial system. I for one actually think that we should have that separation of powers from the courts. We should allow courts to put up appropriate punishments and make appropriate decisions. We should not be interfering with that in here.

I cannot support this bill, and I do not feel that it should even be here. We know that CCOs have been working well. We know that the Court of Appeal has been setting the guidelines for how they are addressed and how they are dealt with. We have seen that the Court of Appeal has recently provided considerable guiding precedent on when it is inappropriate for courts to sentence an offender to a CCO. We have seen this, and what this bill is doing is not helping in any way.

As I have mentioned, there is strong evidence to demonstrate that a multifaceted treatment-based approach is far more effective than traditional punitive sentencing practices, which is where we are going again. This is soft on crime; it is going to create more crime. This is not being hard on crime. This is not actually making a tough decision and being responsive to what the courts are doing. This is not saying 'look at the evidence'. The evidence is telling us that continuing down this path of incarceration and building up our prison populations is not a successful solution. The

evidence is telling us this. But we continue to go soft on crime in this manner. This is not hard on crime. If you want to be tough on crime, then respect the intelligence of our community and make a case for change. Explain what actually works instead of using these simple 'tough on crime' headlines by increasing penalties that will do nothing to improve the safety of the community in Victoria.

I have been to the jails. I have seen the people in the jails. I understand that we are setting significant penalties for people who commit significant, serious, category 1 crimes. We are doing that already. The courts are doing that already. They do not need us telling them what to do. For that reason I cannot support this bill.

Mr EIDEH (Western Metropolitan) — I rise to speak on the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016. This is an extremely important bill which ensures that those who commit the most abhorrent crimes are punished with the strongest and most appropriate sentences. There is no doubt that community correction orders (CCOs) are valid sentencing options for the judiciary for certain crimes. However, when it comes to serious crimes, such as murder, rape and persistent child abuse, the people of Victoria expect and demand that those committing such crimes receive at the very least a prison sentence. As Premier Andrews has previously indicated, people who commit the most heinous crimes do not deserve a slap on the wrist, they deserve to go to jail.

This bill will therefore restrict the option and availability of CCOs and other non-custodial orders for category 1 and category 2 offences. This ensures that courts must impose a custodial sentence for a category 1 offence. The bill does not impose prescribed minimum sentences for such offences, and these remain at the discretion of the courts. This bill is essentially about bringing Victoria's sentencing laws and practices into line with both community expectations and proper justice. Victorians do not want serious or category 1 offenders loose in the community. They rightly want these people incarcerated.

As I have previously pointed out in this place, my electorate of Western Metropolitan Region is not immune to the ravages of crime. The good citizens of my electorate deserve to know that people who commit these crimes are not walking amongst them or their children instead of appropriately serving a prison sentence.

Category 1 offences, such as murder, rape, acts of gross violence and the most serious child sex offences, can no longer be combined with a community correction order, as has been the case in previous sentencing practices. A custodial order must be imposed for all of these offences. Category 2 offences, such as manslaughter, child homicide, intentionally causing serious injury, kidnapping and arson, will also have imposed custodial orders. However, courts may be able to impose CCOs on category 2 offences only if special circumstances can be demonstrated, and even then this bill is reducing the length of CCOs from two years to one year.

A non-parole period now cannot be fixed as part of a combined order, which means that offenders must serve their full term of imprisonment before commencing their CCO. This serves to remove any confusion between CCOs and the appropriate use of the parole system as a pathway for prisoner reintegration following prison sentences.

This bill recognizes the responsibility and duty of care the Andrews Labor government has in ensuring that all Victorians can live and work in a safe and secure environment. It ensures that those who commit serious offences are appropriately punished, and it may even deter the commission of some of these offences in the future.

It is not anticipated that there will be a need to expand the capacity of our prisons. Any extra demands on the system will be accommodated within currently funded capacity. This bill removes the perceived slap-on-the wrist sentencing that many in the Victorian community are justifiably outraged by. It means criminals can no longer think they can commit a serious offence and dodge a jail sentence or simply combine a reduced prison sentence with a community correction order. CCOs will now only be used for appropriate crimes and cases, and serious offenders will be where they belong — in jail.

This bill is necessary, it is needed and it is warranted. If only one violent crime or serious offence is prevented because of this bill, then it has achieved its intention and its mandate. I commend the bill to the house.

Mr FINN (Western Metropolitan) — I rise this afternoon to speak on the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016. In doing so I indicate, as Mr Rich-Phillips has already indicated, that the opposition will not be opposing this bill. I personally welcome this legislation. I think it is a step in the right direction. It is not the be-all and end-all, but it is certainly a step in the right direction. Coming from this government, that has to be

a plus. If the government accepts that some of its policies and some of its views over a period of time have not worked, that has to be a very good thing. Indeed there is hope for the world if we can get this government to admit that it may not be perfect in some way and if we can get the Premier to admit that he is not perfect in every way.

The purpose of this bill is to limit the use of non-custodial orders by the courts, in particular to restrict the use of non-custodial orders for particular serious offences, and to limit the use of sentences of imprisonment combined with a community correction order. It is to provide for statements on the reduction of sentences for guilty pleas, clarify the application of the historical homosexual conviction expungement scheme to the Children's Court and make a range of other minor and technical amendments to accurately reflect current law and practice.

As I have said many times in this house before, I believe that the justice system in this state is in crisis. It is in crisis because the overwhelming majority of Victorians have lost faith in it. In fact they believe that it is a legal system. They do not believe it to be a justice system, because they look at it and they do not see a lot of justice involved. I speak to people frequently who express a view to me that the system is severely is broken. When you have got a so-called justice system that does not have the confidence of the community, then you have got a real problem. For justice to occur it has to meet community expectations. Community expectations are that we have a justice regime which will protect them and which will enable law enforcement agencies to do their job and get the appropriate sentences for the wrongdoers who the law enforcement agencies catch.

I have to say that on a daily basis I feel sorry for our police. So many of them work so very hard to protect us. So many of them work exceptionally hard and put themselves on the line in fact. They work long hours. As I pointed out before, I think just about everybody here would agree that when we leave home in the morning we expect there is a fair chance that we will get home in one piece that night, but when police leave home to do their shift there is no such guarantee. In fact we have lost a number of police over the years in the line of duty. They put themselves in situations which are exceedingly dangerous. They put themselves in situations where their lives are at risk, and they do that for us.

The very least we can do is to give them a judicial system that provides the sorts of sentences that one would expect for the protection of our community and the sorts of sentences that would encourage our police to think, at the very least, that the work they are doing is being appreciated. I think we have a problem in this state with our judiciary, and I think this legislation actually confirms that we have a problem with our judiciary. If we did not have a problem with our judiciary, we would not actually need this bill.

The bill rectifies a ruling that came down in the Boulton case, which was heard in the Court of Appeal, as I think Mr Rich-Phillips will confirm, in which the judgement says:

> It follows from what we have said that a CCO may be suitable even in cases of relatively serious offences which might previously have attracted a medium term of imprisonment (such as, for example, aggravated burglary, intentionally causing serious injury, some forms of sexual offences involving minors —

and that blows my mind; that is staggering —

> some kinds of rape —

I do not know what would possess any judge to say that anybody who commits some kind of rape should not go to jail —

> and some categories of homicide).

When you have judges handing down judgements such as that, you have got a real problem. I think I know where the problem comes from. The problem comes from a period between 1999 and 2010 when the Attorney-General of this state was a bloke called Rob Hulls. He attempted to remake the judicial benches of this state in his own image, and unfortunately he was exceedingly successful. Every appointment that was made in those 11 years was made by Rob Hulls, the Attorney-General of the Bracks and Brumby governments. Some of the appointments — one is even tempted to say many of the appointments — to various levels of the judiciary were absolute shockers. As a result of that we have a system where people are losing — —

Ms Symes — On a point of order, Acting President, I would encourage you to perhaps inform Mr Finn that it might be inappropriate to reflect on former members of the Parliament and also the judiciary.

Mr FINN — On the point of order, Acting President, there is no standing order which protects former members of Parliament nor is there any standing order which protects the judiciary as a whole. If I was naming individual judges, yes, she would have a point, but as things stand at the moment there is no point of order.

Ms Symes — Further on the point of order, Acting President, I would maintain that the judges the member is referring to are quite easily identifiable, so I think he is being very specific about a certain cohort of people.

The ACTING PRESIDENT (**Ms Dunn**) — Order! There is no point of order, but Mr Finn, I would ask you to exercise caution in relation to your contribution.

Mr FINN — I am happy to use caution within the standing orders. I will follow the standing orders to the letter and not differ in any way, which is exactly what I have been doing up to this point in time, and I shall continue.

I do not know why members of the Labor Party would defend Rob Hulls. I would hang my head in shame if Rob Hulls were a member of my party after what he did to Victoria as Attorney-General over 11 years. I would hang my head in shame. I would not want to have any public connection with him at all. I invite members opposite to get to their feet and to publicly disown Rob Hulls for what he did to justice in the state. Get up on your hind legs and — —

Ms Shing — On a point of order, Acting President — —

Mr FINN — And she did! Not a bad effort.

Ms Shing — On a point of order, Acting President, Mr Finn has just indicated that she should get up on her hind legs, pointing at the same time to Ms Symes, and then when I got to my feet to raise a point of order about his conduct, he said, 'And she did!'. On that basis, and having had Mr Finn refer to me in the context of me getting to my 'hind legs', I find that utterly offensive, and I would ask him to withdraw.

The ACTING PRESIDENT (Ms Dunn) — Order! Mr Finn, I ask you to withdraw without qualification and return to the bill.

Mr FINN — I am happy to withdraw, Acting President. You do not mind me laughing at the ruling, but I am happy to withdraw.

I urge members opposite to do the decent thing by Victorians and apologise for what Rob Hulls did to this state as Attorney-General for 11 years. Get up and apologise! God, they still have not apologised for what Joan Kirner and John Cain did all those years ago, so I suppose we cannot expect miracles, can we? Of course, they do not even believe in miracles, so we certainly cannot expect them.

The bottom line is that if members of the Labor Party do not get what they have done to justice in this state, the Greens and Ms Patten and the Sex Party have no idea at all and have not got a clue of what people's expectations are. What is wrong with these people? We have what I think is a very moderate piece of legislation from a government that has finally come to the view that it may be wrong. That must have taken a great deal of introspection on the part of the Premier to admit that he was in some way wrong — on anything. It is a very moderate piece of legislation that we have here, and we have the Greens and Ms Patten saying, 'It is the end of the world as we know it'.

Let me tell you that it is not. This is the expectation of people in Victoria — the great mass of people in Victoria. They expect us in this Parliament to protect them. If you want to see what happens to people who ignore the great mass of middle Victoria, Australia or the United States, look at what happened yesterday to Hillary Clinton. That is exactly what will happen in future here. The great mass of people have found their voice. Here they are expecting us as their representatives in this Parliament to do our job. The Greens and Ms Patten — and what an unholy coalition that is — have come in here and said, 'Oh, no. This is an extreme piece of legislation. We can't have a thing to do with it'.

What is wrong with locking crims up? I ask you that: what is wrong with locking crims up? You have to face the fact that there are some people who commit crimes and who should be in jail. They should be in jail for what they have done. This legislation gives a directive, I suppose, to the judiciary to ensure that that occurs. As I said earlier, the opposition does not oppose the legislation. I personally would like to see much stronger legislation, and I am very hopeful — very confident, in fact — that the Matthew Guy government will deliver just that after November 2018. Bring it on.

Mr O'SULLIVAN (Northern Victoria) — It is great to get to my feet to speak on this piece of legislation, the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016. This is a piece of legislation that, as previous speakers have said, perhaps should have come to the Parliament a little earlier than it has. Nonetheless, it has finally got here and we are very pleased that it has eventually got here.

The purpose of this piece of legislation is to introduce two new classes of serious offences for which courts must impose jail sentences except in very limited circumstances. On some of the provisions of the bill itself, clause 3 defines a category 1 offence, and it includes some very serious offences. Some of those

offences in that category 1 are things such as murder, gross violence offences, rape, serious child sexual offences, drug trafficking and cultivation of large commercial quantities of drugs. The bill also defines category 2 offences, such as manslaughter, child homicide, causing serious injuries intentionally, kidnapping, arson causing death, drug trafficking, cultivation of commercial quantities of drugs and providing information facilitating terrorist acts. Those offences are not quite as serious as category 1 offences, but they are very serious in their own right and are in their own separate category.

One of the other clauses, clause 4, contains provisions that require a court to impose a sentence of imprisonment that is not combined with a community correction order (CCO) for all category 1 offences. For category 2 offences, the same requirement applies unless the court finds a special reason. That can be that the offender has assisted law enforcement authorities or was aged between 18 and 21 at the time of the offending and can prove psychosocial immaturity or impaired mental functioning. Another clause contains provisions that reduce the maximum length of a community correction order to five years of a maximum term of imprisonment for the offence. Clause 12 contains provisions that limit the use of CCOs by reducing the maximum length of a sentence of imprisonment that may be combined with a CCO from two years to one year. As such, the coalition — and The Nationals as part of that coalition — will not be opposing the bill.

In terms of a series of offences that should have sentences of a reasonable length to go with them in relation to crimes committed, I just want to touch on some, particularly the ones in my electorate. If you look at the area of Shepparton, for instance, which is up in northern Victoria in the middle of my electorate, and some of the latest crime statistics for 2016 that have just been released by the Crimes Statistics Agency, it is unfortunate, I guess, that they show an increase in crime across many, many areas. That is a disappointing aspect of our society at the moment. We are seeing increases in crime all over the place. That is a very sad indictment of our society, and it is probably also reflective of the approach that the current Labor government has taken to a whole range of aspects in the way it goes about its operations, including policing and providing appropriate police numbers.

I think that is probably the basis of a whole range of these things. We have seen around the place that in many instances there has been a reduction in police numbers and police not being replaced as quickly as they had been previously. There have even been instances of police stations having had their hours reduced or even being closed. Up in my electorate a lot of small communities have had single-manned police stations. For a while there we thought that a lot of those one-man police stations would close. But there was really some pressure from this side of the chamber, which ensured that the government decided that it would not go down that path but would keep them open. That is something that we welcome, but it should never have been a consideration in the first place to close those local police stations, because having police around makes the people within the communities feel somewhat safe.

I think that is one of the basic things that governments need to ensure — that they provide the appropriate frameworks and the personnel so that our communities remain safe. As we have seen over the last little while, I think it has probably gotten to a point where there are actually some communities out there that do not feel as safe as they should. We have seen home invasions and we have seen carjackings becoming increasingly normal, and that is a sad thing. It should not be happening. Gang violence is up. I tell you what, when you are driving along in your car, you should feel fairly safe and not expect someone is going to bump into the back of you or force open your door and take your car.

We have seen an instance where there was an infant in the back seat when a car was taken, and the friend of the mother had to hold on to the bonnet — I think it was the bonnet — for something like 400 metres before she fell off. That is a really sad indictment of our society, when there are carjackings going on and a scenario where there are actually people and infants still in the car. That would be terrifying for the family involved. I suggest people should lock their car doors when driving along, and certainly do not stop if anyone bumps into the back of you. We saw it in Malvern, of all places. You would not think that that would be happening in a place like Malvern. So that is certainly something that we do not want to be happening.

Just going back to northern Victoria, my part of the world, let us look at Shepparton, one of the key areas in my electorate. They have had some dramatic increases in the crime of homicide, which has gone up by 150 per cent in just one year. They might be small numbers, but still they are going up, and that is not a good thing. Crimes against the person have increased by 19 per cent. In one year they have gone up by 19 per cent. Also there has been a rise of nearly 43 per cent in sexual offences in one year. There has been a 135 per cent increase in abduction and related offences, a 26 per cent increase in robberies and a 39 per cent increase in stalking, harassment and other threatening behaviours.

This is in Shepparton. You would see those sorts of numbers in the US in some of the ghettos, but you would not expect it in regional Victoria. Certainly I would not, anyway.

If you look at some of the other areas, you see that arson is up by 6 per cent in Shepparton. That was a real surprise to see when I was looking at some of these numbers. Drug dealing and drug trafficking is up by 26 per cent in one year just in Shepparton alone, and we see these figures replicated right around the state. My colleague Mr O'Donohue has been speaking about this very regularly and the need to have more police out on the beat protecting our communities. When he comes in as the next minister for police he will certainly do a great job in that space, but he has got a lot of work in front of him in terms of fixing up some of these problems.

If you look at the population of Shepparton, there are something like 66 000 people, and this number is meant to grow up to 83 000 people by 2036. I am fearful as to what the crime rate is going to be like then unless the coalition can get in and start to enforce some tough penalties and tough sentencing on some of these areas that are experiencing high rates.

Regarding some of the other areas in my electorate and some of the key towns — I will not go to the smaller towns, although they certainly have had increases themselves — Mildura, up in the far north-west of my electorate, since 2015 has seen an increase of 22.4 per cent in crimes against the person, a 16 per cent increase in drug offences and a 41 per cent increase in arson. This is just in one year. In Bendigo we have seen a 79.9 per cent increase in crimes against the person. That is nearly double Mildura's rate. There has been a 12 per cent increase in drug offences, a 27 per cent increase in arson and a 57 per cent increase in burglaries and break-ins. So the numbers are also frightening for Bendigo. Swan Hill, which is on the river, is a smaller community compared to some of these other ones, but it has seen crimes against the person going up. Drug offences are up by 11.5 per cent, and there has been a 55 per cent increase in arson. So there has been a 55 per cent increase in Swan Hill and a 41 per cent increase in Mildura in arson.

Look at a place like Echuca. Just in the last 12 months there has been a 53 per cent increase in crimes against the person. There has been a 250 per cent increase in offences in relation to arson. Wangaratta has seen a 16 per cent increase in crimes against the person and a 24 per cent increase in theft. I could go on. These numbers are not just isolated; they are across the board in just about every facet. In Wodonga there has been an increase in drug offences of 29 per cent, burglaries have gone up by 19 per cent and there has been a 17 per cent increase in theft. That is just in one year, so I find it fascinating that those crime rates have increased as much as they have.

I guess you could start to ask the question as to why these crime rates have gone up so much. There are a lot of people who have a lot of different views on that, but I actually tend to think that society has become a bit soft on crime. People actually think that they can undertake these offences against the person and that they are not going to get caught, or even if they do get caught, they suspect that they will only get a slap on the wrist. I think that sometimes these expectations are outside of what the community standards are, because if you are a victim of any of these crimes, it has a dramatic effect on you and your family.

We need to have tough sentences to make sure that the deterrents are there to stop people committing further crimes, and I do not think we have quite got the balance right at the moment. I do agree that you need to have a balance between rehabilitation, training and providing skills to people who have gone to prison, but you have also got to balance that against the punishment that some of these people deserve. If you have had your house invaded, if you have had your car jacked while you were in it, if you have had something stolen out of your car, if someone has broken into your home and stolen something, if you have been assaulted down the street or if you have had one of these gangs harass you or cause you problems, or whatever it is, it shakes you up. It really does.

You have had your personal space invaded if you have had a theft or if someone has broken into your house. Your house is meant to be sacrosanct in terms of providing safety for your family and your children. I just do not think we have got the deterrents in place to stop that at the moment. When that sort of thing happens we need to have the appropriate sentences that give the community confidence that the system is actually look after them.

At times people wonder whether the sentences we as legislators and governments have set are tough enough. I believe we need to really have a look at that. We do a bit of tinkering around the edges from time to time, but we need to ensure that we have got sentencing that is in line with community expectations. We need to look at the broader community in terms of what their expectations are, not just smaller groups who have a particular view one way or the other. We cannot pander to minority groups. We need to set sentencing that reflects the views of the whole community, and that is

something that I will certainly be looking to do in my time in this place. That is my contribution.

Ms TIERNEY (Minister for Training and Skills) — I rise to make a very short contribution in relation to this bill, given that the description of what this bill intends to do has been covered extensively by previous speakers. The main purpose of the bill is to restrict the use of community correction orders (CCOs) for serious offences. That is the key to what is before us today. What we are doing here today is a result of the government deciding to actually put a line in the sand when it comes to serious offences. This was triggered by the fact that there were three rape cases that did not attract a custodial sentence. We believe that that simply is not good enough. We believe that that does not meet community expectations — that it is entirely inconsistent with community expectations. I do agree that the purpose of this bill is to restore the original intent of what the community correction orders were all about. I also agree that it is regrettable that we have seen a need to restore the true essence of what CCOs are all about.

Having said that, can I also say that, contrary to the contributions by Ms Pennicuik and Ms Patten, there are some significantly innovative ways that CCOs can be utilised, and indeed CCOs do address many issues in terms of crime prevention and mitigating against the repetition of crime. We see that in terms of mental health treatment, drug and alcohol treatment and a whole range of other aspects.

It is very important when we talk about corrections that we continue to have a conversation about how we can ensure that there are mechanisms in our system that do not require people to necessarily go to jail. But I seriously believe, after speaking to a range of people in the community, that there has been a situation that is unacceptable. I do not believe that anyone in the community would accept that the crime of rape should not attract a custodial sentence. That is where the polarisation lies between the views of the government and the views of the Greens and the Sex Party. There is no way through that — it is just different views. I believe that Ms Pennicuik accepts that, the government accepts that and the opposition accepts that.

As I said before, I believe that this is an important piece of legislation that does send a very clear message to people that if you rape, it is highly likely that you will be in jail. In today's climate that is a very, very important and salient condition that we need to put out there in the community. I do not believe that the vast majority of the community believes that it is okay to rape and not serve time. With those few words, I commend this bill to the house.

House divided on motion:

Ayes, 31

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

Noes, 6

Barber, Mr	Patten, Ms (*Teller*)
Dunn, Ms (*Teller*)	Pennicuik, Ms
Hartland, Ms	Springle, Ms

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr O'DONOHUE (Eastern Victoria) — I just have a couple of questions of the minister around the modelling that Corrections Victoria presumably has done on the extra prison bed impacts that this legislation may have on the prison system. Is the minister able to advise the committee how many extra prison beds will be required as a result of this legislation by year, and 2017, 2018 and 2019 in particular?

Ms TIERNEY (Minister for Training and Skills) — I thank the member for his question. It is anticipated that about 80 more offenders will be sentenced to a term of imprisonment rather than a community correction order (CCO) in the first year of sentencing decisions. In the long term the bill may also result in prisoners staying in the prison and parole systems longer. That is what I am advised.

The government believes that the 80 additional offenders going to prison will not increase at the same rate each year. The government estimates that in the fourth year of the bill's operation about 150 additional

offenders will receive a term of imprisonment rather than a CCO.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for that answer. Just to clarify, the minister refers to 80 extra offenders that modelling shows are likely to be sentenced in year one, and 150 in year four. That information is of use, but what I am more particularly interested in is the bed impact. For example, those 80 offenders might be forecast on a six-month term, which obviously would mean less than 80 beds per year. The 150 may generate 200 to 300 prison beds. I would just like some clarity about that.

Ms TIERNEY (Minister for Training and Skills) — I thank the member for his question. I am advised that there are a number of assumptions in the modelling because obviously there are some difficulties in predicting what people will be imprisoned for and for how long. But I am advised that this is the most likely general outcome of the legislation.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister, and I appreciate that assumptions are in the modelling. Corrections Victoria can forecast with a high degree of accuracy — at least a three-year period out — the bed impact of policy changes, which is what we are legislating today. Again I seek some further clarification from you, Minister, about the 150 offenders you referred to in year four and the 80 offenders you referred to in year one. Are you using the terms 'offender' and 'prison bed' interchangeably? Because they are two separate issues.

Ms TIERNEY (Minister for Training and Skills) — I am advised that the government is not using 'beds' and 'offenders' interchangeably. It is the case for offenders. If you are wishing for further detail on that, I am happy to take that on notice and to provide you with greater detail.

Mr O'DONOHUE (Eastern Victoria) — Thank you, Minister, for that offer, and I would appreciate it if you could take on notice the cumulative bed demand impact of this legislation, particularly in the years 2017, 2018, 2019 and 2020.

Ms TIERNEY (Minister for Training and Skills) — I am advised that that will be available.

Mr O'DONOHUE (Eastern Victoria) — I just have a couple of further questions. Minister. The front-end pressure on the remand system is well known following the reduced capacity at the Metropolitan Remand Centre. What role have the front-end maximum security and remand system capacity issues played in the delay in bringing this legislation to this place?

Ms TIERNEY (Minister for Training and Skills) — I walked all the way to the advisers box to have the answer confirmed, and the answer is none. If there was an issue about the delays, it was because the government wanted to get this right. It was not in terms of the capacity issue.

Mr O'DONOHUE (Eastern Victoria) — I appreciate that answer. Surely there must be other reasons why it has taken virtually two years since the Court of Appeal's decision to bring these changes before the house?

Ms TIERNEY (Minister for Training and Skills) — I will seek advice on that; as you know, Deputy President, I have been in this position for less than 24 hours.

The previous government's sentencing changes in 2014, which loosened the controls on the sentences of imprisonment and were combined with CCOs, reforms to the parole system and the Court of Appeals guideline judgement in Boulton, which was raised in a number of contributions, all contributed to significant changes in sentencing practice. These changes became obvious during 2015 when the numbers of CCOs and in particular the number of CCOs with a prison sentence increased significantly. It would have been irresponsible to introduce further reforms immediately after Boulton without first observing the impact of all these changes and considering the appropriate response. This legislation is not simple, and the government has taken the time to consider its options and develop the best response to this complex situation.

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for her answer. One final point arises from the minister's response, and that is the significant growth in the number of offenders on a community correction order. I make this more as a statement because I appreciate this is your first day as minister, but a number of police and Department of Justice and Regulation employees have made the point to me that they fear that community safety is put at risk because of the enormous growth in the number of offenders on community correction orders and the ability of the system to properly supervise those offenders and bring them back before the court in a timely way when there are breaches of those orders. I appreciate this is day one, so I just make that comment by way of a statement, as something you may wish to give consideration to in the future.

Ms TIERNEY (Minister for Training and Skills) — As the member knows, we are dealing with this growth in demand, and indeed there was enormous growth during the previous government. But the point of difference is that it is this government that is investing a further $233 million this year, on top of $89 million in 2015, to expand the community corrections system. This is the biggest expansion of the CCO system ever to improve community safety by enhancing supervision and management of the highest risk CCOs.

Mr O'DONOHUE (Eastern Victoria) — I have a final question in response to the minister. Minister, I appreciate that response and I note the investment you cite, but I just draw upon feedback that I have received from police and employees of the Department of Justice and Regulation, who have told me that the number of offenders per community corrections officer is too high to effectively manage those offenders and that some believe that community safety could be at risk as a result. While the government has put extra resources into community corrections officers, the simple fact is that since the Boulton decision the number of offenders on a CCO has exploded, and in my opinion that has been far and away the most significant reason for the growth in offenders on a CCO.

Ms TIERNEY (Minister for Training and Skills) — Mr O'Donohue, it is not new that there is exponential growth in this area. We have seen fit to ensure that there has been historic allocations of funds to deal with the challenges that we face. I simply put to you that there was growth during your government that you did not acknowledge, and you certainly did not acknowledge it in terms of extra financial allocations.

Mr O'DONOHUE (Eastern Victoria) — I find it incongruous that members of the government now criticise the opposition for not investing enough in the corrections system during our term in government. I am sure, Minister, you will not be saying that when you visit the Ravenhall prison that is currently under construction.

Perhaps in light of your answer, Minister, could you provide to the committee an analysis of the number of offenders per community corrections officer on average for the years 2013, 2014, 2015 and 2016?

Ms TIERNEY (Minister for Training and Skills) — Clearly I do not have that level of detail with me, but what I can say is that we are more than happy to take that on notice and provide you with details in relation to current figures and forecast figures and anything else.

Mr O'DONOHUE (Eastern Victoria) — Historical figures, Minister — at least for 2015?

Ms TIERNEY (Minister for Training and Skills) — We will check to see what the data system throws up for that material. If it is there, obviously we do not have a problem sharing it, but I do not have that information at hand at the moment.

Mr O'DONOHUE (Eastern Victoria) — No further questions. Thank you, Minister, for taking that on notice, and if in due course the figures for 2013, 2014, 2015 and 2016 could be provided, that would be much appreciated.

Ms PENNICUIK (Southern Metropolitan) — Just to give context to my question, Mr O'Donohue mentioned an exponential rise in CCOs and an explosion in the number of CCOs, but from my figures the number of CCOs handed down in the Supreme and County courts has risen from 17.5 per cent to 25 per cent and in the Magistrates Court from 7 per cent to 11 per cent, so by 4 per cent. I do not call that an explosion or an exponential rise; I would actually call that exactly what you would expect when you bring in a system designed to put more people on CCOs than in prison.

My question, Minister, is about your answer to the first question from Mr O'Donohue when he asked how many more offenders would go to prison, and I think you answered 80 in the first year and 150 in the fourth year. I wonder what the second and third years would be. My other question is: how many of those offenders does corrections model would not be sentenced in the Magistrates Court and not be sentenced to a CCO in the superior courts — the County Court and the Supreme Court?

Ms TIERNEY (Minister for Training and Skills) — The information I have at hand is, as I said, there would be about 80 additional offenders going to prison in the first year. It will not, obviously, increase at the same rate, but we do not know. But the projections and the model indicate 150 in the fourth year. In respect of the Magistrates Court and the Supreme Court I will seek advice.

I am advised that all of the offences are indictable offences. Therefore they would be heard in the County or Supreme court.

Ms PENNICUIK (Southern Metropolitan) — The modelling is that the decrease in the number of CCOs and the increase in the number of people that will be incarcerated will all come from the County and

Supreme courts and none from the Magistrates Court. Is that correct?

Ms TIERNEY (Minister for Training and Skills) — That is correct.

Ms PENNICUIK (Southern Metropolitan) — That is interesting because the majority of the CCOs that people receive are actually sentenced in the Magistrates Court and not in the Supreme or County courts, so in fact it will make virtually no difference to the number of people receiving CCOs in the Magistrates Court.

Ms TIERNEY (Minister for Training and Skills) — Ms Pennicuik, of course what we are dealing with is targeting of the most serious offences.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Firstly, I congratulate the minister on her new appointment today. I am sure she did not expect, when we started sitting on Tuesday, to be taking this bill through committee on Thursday afternoon.

Minister, I would like to take you to a related issue and to the number of people that the government or justice or corrections has modelled will be incarcerated as a consequence of this legislation — you referred to 80 in the first year, increasing over the period — to get an understanding of the government's expectations on the issue of people being held on remand, rather than being granted bail. One of the issues that has been raised as a consequence of the guideline judgement is that because the guideline judgement referred to some circumstances in which CCOs would be applicable to serious offences, such as those that were named — aggravated burglary, intentionally causing serious injury, some forms of sexual offences involving minors, some kinds of rape, some kinds of homicide et cetera — the suggestion was that because those types of offences were included under the guideline judgement as potentially being suitable for a CCO, cases were being made in court that therefore, because an offender may get a CCO, it was also appropriate for them to receive bail in the early part of proceedings.

Has the government modelled or estimated the number of offenders who will now be unlikely to receive bail and be held on remand as a consequence of the changes being brought about by this legislation, which is closing the loophole on where CCOs are available on serious offences?

Ms TIERNEY (Minister for Training and Skills) — The advice I have received, Mr Rich-Phillips, is that there is no evidence that people were actually getting bail based on the argument that they would ultimately be sentenced to a CCO, so that was not included in the modelling. However, the government will monitor the effects of this legislation to see whether there are any impacts on remand.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. I take from that that on that basis the government currently does not expect there to be an impact.

Ms TIERNEY (Minister for Training and Skills) — That is our general assessment at the moment.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Ms PATTEN (Northern Metropolitan) — I am seeking some clarification on the definition of 'impaired mental functioning' in clause 4.

Ms TIERNEY (Minister for Training and Skills) — Ms Patten, what I have in front of me is actually a page out of the Sentencing Act 1991. If you go to 10A, you will see it specifies the definition.

Ms PATTEN (Northern Metropolitan) — The minister might be able to find another page then for me. I was also seeking some clarification on new subsection (2H)(e) of section 5 of the act and the term 'substantial and compelling circumstances'. I can see that you had to bear in mind category 2 offences, but I am just seeking a bit more clarification on what other areas would be substantially compelling circumstances that would justify not making an order.

Ms TIERNEY (Minister for Training and Skills) — I am advised that new subsection (2I) of section 5 of the Sentencing Act sets out matters that the court must have regard to when determining whether there are substantial and compelling circumstances under new subsection (2H)(e) that would justify imposing a non-custodial order for a category 2 offence. New subsection (2I) provides that a court must have regard to:

> (a) the Parliament's intention that in sentencing an offender for a category 2 offence only an order under Division 2 of Part 3 (that is not a sentence of imprisonment imposed in addition to making a community correction order in accordance with section 44) should ordinarily be made; and
>
> (b) whether the cumulative impact of the circumstances of the case would justify a departure from such a sentence.

Ms PATTEN (Northern Metropolitan) — The minister is saying that in the existing Sentencing Act there is greater clarification of this. I am just wondering if she could give me some examples of circumstances

that would be substantial and compelling that would apply under this provision.

Ms TIERNEY (Minister for Training and Skills) — Ordinarily, of course, Ms Patten, Parliament intends that a custodial order should be made, but ultimately it would be a matter for the court to determine, and it could be a combination of factors, including youth, no prior history, good rehabilitation prospects or remorse — the normal combination.

Clause agreed to; clauses 5 to 26 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

STATE TAXATION ACTS FURTHER AMENDMENT BILL 2016

Second reading

Debate resumed from 8 November; motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased this afternoon to rise to speak on the State Taxation Acts Further Amendment Bill 2016. This is one of a number of state tax amendment bills which come before the house generally seeking to tidy up unintended consequences or technical errors in taxation legislation. Typically the Parliament deals with these bills two or three times on an annual basis, usually following the passage of the budget. In May or June of each year there is often a taxation amendment bill which seeks to introduce new or amended taxation provisions to give effect to policy announcements articulated in the budget and in the Treasurer's second-reading speech. From time to time there may be, as in the case of this bill, other amendments to the taxation legislation to correct anomalies, to correct unintended consequences, to fix errors et cetera. That is largely the purpose of this bill that the house is dealing with this afternoon.

This bill is an omnibus bill. It seeks to make amendments to the Land Tax Act 2005, to the Payroll Tax Act 2007, to the Planning and Environment Act 1987 and to the Valuation of Land Act 1960. I will outline the main provisions of this bill with respect to each of those principal acts. With respect to the Land Tax Act 2005 the purpose of the bill is to amend that act to align the date for the determination of the taxable value of non-rateable non-leviable land with the date that applies to other land and to correct an error in one of the surcharge rates of the land tax for absentee trusts, which is to change that rate, which is in clause 5 of the bill, from a rate of 2.075 per cent to what should have been 2.0575 per cent. This is an example of the minor technical corrections that a bill of this nature seeks to make.

The next principal act the bill deals with is the Payroll Tax Act. With respect to the Payroll Tax Act the bill seeks to amend that act to change the determination of the exempt rate for the purpose of calculating the exempt component of motor vehicle allowances in accordance with commonwealth changes, and that will have retrospective application to 1 July this year. The other change of limited consequence and concern is in relation to the Valuation of Land Act 1960. The amendments the bill seeks to make to that act are to make further provision in relation to the definition of general valuation, to permit the valuer-general to accept a late nomination from a collection agency to be the valuation authority for the purpose of valuing non-rateable leviable land and to require notices of valuation to show the Australian valuation property classification code — AVPCC — which is the valuation classification for land which indicates the nature of the land use.

The amendments with respect to the Land Tax Act, with respect to the Payroll Tax Act and with respect to the Valuation of Land Act are all minor and technical in nature and not opposed by the Liberal-National parties. We see those as relatively minor technical changes, though we do note that the change to the Land Tax Act is to fix an error that was introduced with the last state taxation acts amendment bill following the budget. The fact that error was in the bill — that it was not picked up by the Treasurer's office as that bill was dealt with and brought into the Parliament — suggests a certain element of sloppiness on the part of the Treasurer's office in the handling of that bill and the preparation of those budget-related bills and documents, but this bill corrects that, and the coalition parties certainly do not oppose that.

The other provision, however, that this bill seeks to enact — the fourth element of the omnibus bill — relates to the Planning and Environment Act 1987 and the framework for the growth areas infrastructure contribution, or GAIC, within that piece of legislation. As members of the house may recall, in 2009 the Parliament enacted the growth areas infrastructure

contribution, which was a scheme to recognise firstly that in growth areas around Melbourne there is a high demand for new infrastructure. As land is subdivided, particularly as farmland is subdivided, new estates are developed and broadscale development takes place. There is a need for substantial investment in public infrastructure, and the GAIC framework structure was introduced in 2009 to provide a source of revenue to provide that public infrastructure associated with the development of those growth areas.

This is something which has particular application in the south-east of Melbourne, where over the last decade or 15 years we have seen enormous growth take place through the City of Casey, currently through the Shire of Cardinia through areas such as Pakenham, which is now undergoing enormous growth, down to Bunyip, which is growing, and down through the areas of Berwick, Berwick South, Cranbourne and Narre Warren South, all of which have seen collectively over that period of time hundreds of thousands of new dwellings created across certainly those two municipalities, with the attendant pressure on public infrastructure.

Of course when you are having residential subdivisions which may be in the thousands of housing units coming on line in a very short period of time — it may be over 12 or 18 months that those lots are developed and come onto the market, and then consequently you see dwellings constructed in a relatively short period of time beyond that, 6 or 12 months after the sale of those lots — the pressure that very quickly places on local infrastructure is enormous and the need to provide local public infrastructure is very substantial, and it is frankly something which governments have not kept up with and, even since the introduction of the GAIC framework in 2009, are still not keeping up with, certainly down through the south-east growth corridor.

In 2009 this Parliament passed legislation to create the growth areas infrastructure contribution. It was based on the premise that there were growth areas around Melbourne — an identified boundary around Melbourne — which outlined what are regarded as the growth areas. If land fell within those growth areas and certain trigger events took place, the infrastructure contribution was payable. Those trigger events could be things as simple as the sale of the land — not necessarily the direct immediate development of the land, but the transfer of land within the GAIC area — as well as actual development activities, such as the issuing of schemes of subdivision, precinct structure plans and the actual sale of lots. Depending on how a particular development was structured, the trigger point for the payment of GAIC could be different.

At the time it was introduced it was a somewhat controversial measure because the trigger for paying the charge was not necessarily the development of the land. The transfer of land ostensibly for agricultural purposes, if it was within the growth area, could trigger the GAIC. It was legislation which was heavily resisted by many landowners in the growth areas, not because they were seeking to avoid making a contribution to developments but because they were looking to transfer their land for existing use. Of course down through the sand belt in the south-east there are substantial agricultural land uses which continue to this day, and there is transfer of that land between agricultural providers, which were at risk of having to pay the infrastructure contribution even when they were not seeking to develop the land. So the introduction of GAIC was at the time very controversial, and this Parliament spent a considerable period of time working through the eventual framework which was put in place for that infrastructure contribution seven years ago.

What we have in the house in this bill this afternoon is a proposal from the government to change the way in which some of the exemptions under that growth area infrastructure contribution currently apply. These are contained in part 4 of the bill, and they are amendments that the government seeks to make to the Planning and Environment Act. I will run through the detail of those provisions.

Part 4 of the bill makes further provisions for the imposition, apportionment and payment of the growth areas infrastructure contribution in certain circumstances. The bill ensures that the GAIC is payable in relation to a plan of subdivision which provides public purpose land (PPL). Public purpose land covers things such as utility easements, utility infrastructure and transport infrastructure, such as roads, rail et cetera. It clarifies the scope of certain excluded subdivisions. It provides for the GAIC to be apportioned on the issue of a compliance statement arising from a plan of subdivision for PPL. It enables the State Revenue Office (SRO) to issue a certificate for partial release where the GAIC has been paid in respect of PPL and to remove the GAIC exemption in respect of land compulsorily required by a public authority or a municipal council, which is one of the existing exemptions from GAIC in the current Planning and Environment Act.

Under the existing provisions certain actions outline a GAIC event which triggers the imposition of the GAIC. Some types of subdivisions are excluded from the GAIC. The effect of clause 9 of the bill would be to no longer exclude subdivisions solely to create a lot for a utility installation, transport infrastructure or for any

other public purpose. This means that such a subdivision would now trigger the GAIC. I will come back to the basis of that shortly.

Clause 10 of the bill has the effect that where a subdivision has taken place for PPL reasons the non-PPL portion will not have the GAIC triggered immediately but will continue to have it deferred until the next trigger event.

Clause 11 has the effect that where a subdivision occurs and a statement of compliance is issued the GAIC liability must be apportioned across all the lots so that the GAIC attaching to the subdivision — which is the child lots, the part being carved off — must be in the same proportion as the GAIC which attaches to the balance of the land, the parent land, the remaining portion.

Clause 16 has the effect that where PPL land is subdivided the proportional GAIC must be paid within three months of the issue of the statement of compliance of the plan of subdivision. Clause 23 of the bill has the effect of removing the exemption from paying the GAIC that previously applied in respect of compulsory acquisition of land, which I referred to before, which was one of the two key existing exemptions from the GAIC.

The government is presenting this bill as a status quo continuation of the 2009 GAIC framework. The government's argument is that the provisions contained in this bill do not represent a policy change from that agreed by the Parliament in 2009. It is the government's contention that these provisions are merely a response to a decision of the Supreme Court in the matter of Frontlink Proprietary Limited and the SRO. Frontlink Proprietary Limited is, incidentally, a development company in my electorate in the south-east which has developed a substantial amount of land in the Berwick, Berwick south and Clyde areas. Following the SRO's decision to interpret the application of the GAIC where PPL land was involved, Frontlink sought relief at the Victorian Civil and Administrative Tribunal (VCAT) and, as I understand it, was unsuccessful with VCAT but was successful on appeal to the Supreme Court.

The SRO then sought to have that decision reviewed by the Court of Appeal in the Supreme Court, and the decision in Frontlink's favour and against the SRO was upheld by the Supreme Court, which found that the GAIC provisions should be read effectively in accordance with black-letter law and that where PPL-related subdivisions took place, such as for the provision of public infrastructure or public roads, GAIC was not triggered by that subdivision for the PPL purpose. As a consequence of that decision against the SRO the government is now introducing this legislation, which has the effect of reversing that Supreme Court decision and providing that the GAIC would be payable certainly in the circumstances that confronted the SRO in the Frontlink case where a PPL subdivision was associated with a broader subdivision.

It is the coalition's view that what the government is seeking to do with this legislation which overturns the Supreme Court decision is inconsistent with the 2009 legislation. We do not believe that the Frontlink decision by the Supreme Court was an unintended consequence of the 2009 framework. We believe that the court decision was consistent with the intention of the 2009 framework. For that reason the coalition will not support the provisions related to the GAIC — the provisions which seek in part 4 of the bill to amend the GAIC framework to overturn that Supreme Court decision. To give effect to this we will be seeking in the committee stage of this bill to omit a number of clauses which relate to the provision of the GAIC. We will seek to omit clauses 8, 9 and 10, preserve clause 11 and omit clauses 12, 13 and 15 through to 24, which are the key provisions which give effect to this government approach.

The coalition parties have received a number of representations in relation to the government's proposal in this legislation. It is very much the view of the housing and development industry in this state that what is proposed in this legislation goes beyond the original intent of the GAIC legislation. Indeed representations received by the opposition from the Urban Development Institute of Australia, for example, indicate that the government will:

> … add further costs to providing housing to Melbourne's population thereby impacting housing prices and the attainability of housing.

The Property Council of Australia Victorian division has stated the bill:

> … will lead to a significant increase in housing costs and rent in growth area communities already struggling to secure affordable housing.

The property industry has been very strong in its advocacy on this matter and strong in its belief that the changes that are proposed by the government do not simply reverse an unintended consequence of a court decision but in fact expand the scope of the GAIC impost and will have a negative impact on housing affordability.

The coalition shares the view that has been expressed that these provisions expand the scope of the GAIC. They are not simply to preserve the 2009 framework; they seek to go beyond the 2009 framework. For that reason we will move our amendments in the committee stage of this bill to exclude the clauses that I outlined earlier. If those amendments are not successful, we will seek to move on the third reading of the bill a reasoned amendment seeking the government to withdraw this bill and go back and undertake further consultation on the GAIC provisions while preserving the balance of the bill. We do not believe that this bill in its current form should be supported, and subject to consideration of this bill in the committee stage and consideration of the amendments, the coalition will be reserving its position until the third reading.

Mr SOMYUREK (South Eastern Metropolitan) — I rise to make a brief contribution to the debate on the State Taxation Acts Further Amendment Bill 2016. This bill implements important measures which aim to improve the operation of various taxation and other laws administered by the State Revenue Office. It is representative of the Victorian government's commitment to maintain strong financial management by ensuring all Victorians comply with their taxation obligations and to provide fair and equitable outcomes for all Victorians affected by the state's taxation regime.

Here we have a bill that will amend four pieces of government legislation: the Land Tax Act 2005, the Payroll Tax Act 2007, the Planning and Environment Act 1987 and the Valuation of Land Act 1960. The bill implements a package of reforms that will address inconsistencies in Victoria's current land valuation system. In particular the bill's overall objective is to improve the valuation process we currently have and ensure that the State Revenue Office, councils and the valuer-general are well supported and well positioned to meet the needs of government and indeed the Victorian community going forward.

The impetus for this legislation arose from concerns which called for the alignment of land valuation and land tax laws with significant growth in development and infrastructure across the state. The first step to addressing these concerns is the bill's amendment of the Land Tax Act 2005. The bill aligns the relevant date for all valuations, irrespective of whether the valuation is provided by the valuer-general or by a council as part of the general evaluation process. I believe that this is a good, common-sense approach, which will promote a more equitable and consistent treatment of all land for land tax purposes. It is also more cost effective for government and the State Revenue Office.

The most important component of this bill is the amendments it makes to the Planning and Environment Act 1987. The bill proposes an amendment to provide that the growth areas infrastructure contribution (GAIC) is payable immediately in respect of public purpose land which arises from a subdivision and to enable the apportionment of a GAIC liability following a subdivision of land. Introduced in 2010, the GAIC is a one-off charge payable on certain events which are usually associated with urban property development, and it is designed to contribute to the funding of essential state infrastructure in Melbourne's growth areas.

The GAIC is particularly important in my electorate in the south-eastern suburbs of Melbourne, which contain some of the largest urban growth areas in the entire country. Developments and infrastructure projects in Casey and Cardinia are examples of where the GAIC is designed to offset the substantial cost of providing infrastructure and services in large growth areas. Whilst this is an important source of revenue for the state, more recently the Supreme Court has raised concerns around the State Revenue Office's ability to collect payments that it is owed under the GAIC. This is because under the current legislation not all GAIC events will result in an immediate liability, with certain subdivisions being treated as excluded subdivisions. The bill's amendments enable GAIC liabilities on public purpose land to be realised much earlier, which will allow for a timely urban development of land. Importantly it will also ensure landholders and developers cannot stage subdivisions to reduce their GAIC liability, so it covers that loophole.

This demonstrates the Victorian government's commitment to implementing well-balanced and effective taxation laws that ensure the GAIC is payable on a broad hectare basis as intended. According to the Department of Environment, Land, Water and Planning, all private property was revalued by councils as of 1 January 2014. This covered a total of 2.813 million residential, industrial, commercial and rural properties and showed that Victoria's private property market was valued at $1.54 trillion as of 1 January 2014. With this in mind, the property industry has been lobbying for changes to the GAIC legislation to increase clarity around the application of the provisions. These amendments promote a fairer contribution to be made on infrastructure development and aim to ensure landowners can contribute to the provision of critical state infrastructure for new communities in growth areas.

In summary, these reforms will ensure that landowners make the appropriate contribution to funding vital state

infrastructure in growth areas by ensuring that the GAIC is payable on a broad hectare basis as intended. I would also like to highlight the extensive consultation with Valuer-General Victoria and the Department of Environment, Land, Water and Planning and point out that a broad outline of the payroll tax measures was provided — confidentially, mind you — to other state and territory revenue offices on request.

I believe that this is an area of law that the government will have to be vigilant about in order to ensure the legislation is able to reflect significant changes to site value and enhance the transparency of land valuations. This bill implements changes that are reasonable and necessary to assist in the administration of our taxation laws. The new requirement will apply from 1 July 2018, which will provide councils with adequate time to implement the new arrangements that are contained in this bill. With that, I commend the bill to the house.

Mr BARBER (Northern Metropolitan) — As noted, the bill makes a number of small and technical changes to a number of acts, but the bit that has got the Liberal Party excited is the changes to the growth areas infrastructure charge, which is are currently contained within the Planning and Environment Act 1987 and proposed to be amended by this bill.

Back in 2010 both the Labor and Liberal parties were contemplating massive expansion of Melbourne at its urban fringe — a deliberate, calculated policy of urban sprawl — because at the time they believed that the solution to rising housing prices was going to be to create more urban sprawl at the fringes of our cities. Things have changed somewhat since then, and now there is a broad recognition that federal taxation settings as they relate to housing are what have been driving up housing prices. When you consider how much faster housing prices have grown than incomes and extend those two graphs over a period of 20 years or more, which is what has been happening, no wonder it is a simple mathematical calculation that housing becomes unaffordable to those who do not currently have a foot on the escalator — that is, own some housing themselves. It should not be any shock that housing has suddenly got to the point where it is out of reach for new entrants on ordinary incomes. By simply looking back a few years you can see how those two things, income versus the asset of housing, have been growing.

There has been some belated recognition from the Labor Party and a decision that maybe they want to start working on some of those federal tax settings — only after the Greens stuck their head above the parapet and proposed changes in the run-up to the federal election. That then caused the Labor Party to move with some more modest proposals of their own. Suddenly I was reading every day that Labor have proposals for changes to negative gearing, with the row having been well and truly hoed for them by the Greens party.

Recently the federal Treasurer, Scott Morrison, has weighed into the debate. He has decided that he has got the solution to housing affordability. Surprise, surprise! His solution is to tell the states to do their job better. Thank you for that incredible act of insight and bravery, Treasurer Morrison. You will do absolutely bugger-all yourself, but you will lecture other jurisdictions about what they ought to do. What is it that they ought to do? 'Release more land', he says.

Let us get down to the heart of the issue or the matter as it relates now to state taxation. We have taxation on housing and other land-based assets in Victoria. We have land tax on certain numbers of them, we have stamp duty on the transfer of houses and we have this modest collection of money from the growth areas infrastructure charge that in no way goes to covering the cost of developing that infrastructure out on greenfield sites, which is enormously expensive. Housing might be cheap out there relative to other areas — a hundred grand for the land and a hundred and something grand for the house — but add to that the cost of that public infrastructure and, depending on what you might count as part of that, it is a hundred grand or another hundred grand on top of that of public subsidy to develop that particular model of housing, which is the urban sprawl model. Tony Abbott in another context might have talked about subsidising certain people's lifestyle choices. The small, modest growth areas infrastructure charge goes nowhere near covering the full cost of an urban sprawl model of housing.

What that means in practice is that anybody purchasing housing and paying stamp duty on the transfer of that housing is in fact cross-subsidising outer fringe housing. That is what is going on here. If a certain amount of tax revenue is to be collected from the property-based taxes in Victoria, then less growth areas infrastructure contribution (GAIC) collected simply puts the burden onto stamp duty payers, other housing entrants and other forms of state taxation.

So not surprisingly a property investor decided it was cheaper to get some lawyers and go to court and challenge the tax bill than to pay the tax bill — and they were successful. Hence the changes that are proposed here today. The Property Council of Australia have never liked the growth areas infrastructure charge. They have always opposed it. However, as it is simply another form of property or housing taxation, you

would think the property council would be campaigning to move those taxes off housing or at least off housing transactions. But really they have minor gripes with stamp duty. They have a major gripe, apparently, with the growth areas infrastructure charge.

By the way, that tax was introduced in 2010, and then we had a new government come in sometime afterwards. Then the money just sort of started piling up. It kept piling up into the designated funds into which it was put. Half the money goes into a transport fund that is to be spent in growth areas, and half the money goes into a community facilities fund, also designated to be spent only in those growth areas. Very little money has actually ever been spent out of those funds. The money that came out of the transport fund was spent on roads, and the money that came out of the community facilities fund was spent on roads. But mostly it has just been piling up because the Liberal government were in charge of it and, as we all famously know, they really could not get their act together with a program of works. So they just piled it up and presumably rolled around in it like Scrooge McDuck and enjoyed how much they had added to the surplus of the state. In the meantime there are communities on the urban fringe just crying out for infrastructure, while the money is piling up in this fund.

By the way, one of the things that the fund can be used for is the operating costs of new public transport for the first three years after that public transport is first implemented, which means you could in fact use money out of the GAIC funds to run new bus services and pay the operating costs of those bus services for the first three years. There are communities out there that are just absolutely crying out for a bus to get them from their home to their shopping centre, or maybe even to the nearest railway station down the road so that they can then commute further inwards for a job.

There has been very little action from the Liberal Party on that, and we might try to find out in the committee stage if there is an update on the current balances of those two funds, because we only get to read about it once a year when it is published in a departmental annual report, and I do not believe that particular report has been published just yet. There are no surprises whatsoever that the property council is opposing changes to the GAIC. There are no surprises whatsoever that the Liberals are running along behind them.

There is a bit of a semantic dispute going on here in terms of the changes that are being made. If I understood Mr Rich-Phillips's argument, he says that the bill does not close a loophole but in fact targets what were two previous — I could call them GAIC-able — GAIC-trigger excluded events. No doubt we will get some information from the minister on this during the committee stage. One of those is under section 201RF, where the purpose of the subdivision is solely to create a lot for a utility installation. The bill, as I understand it, deletes that excluded event. The other one is where the purpose of the subdivision is solely to provide land for transport infrastructure or any other public purpose. This is also to be removed as an excluded event, meaning that event will trigger GAIC.

There are a number of steps along the journey when GAIC liability might be triggered. It is not just right at the end when the houses are finally built and handed over; there are a number of steps in the process. When we first introduced the GAIC there was quite a bit of argument around when it should be triggered. The Labor government was very worried actually about it being triggered towards the end, because they thought that that somehow meant it would feed directly into the price of a house. They were arguing for a much earlier triggering, often during the subdivision stage, or even earlier at the sale or resale of land when it was still in its bulk stage, but I think we have well and truly moved on from that argument.

The other bits that are being changed — and I am not sure if there is a particular objection to this — are paragraphs (e), (f) and (g), where the current exclusion is going to be changed just slightly to say that it is only when the subdivision is solely to realign the common boundary, rather than, as it says now, the subdivision is to realign the common boundary, and so on through paragraphs (e), (f) and (g). I am not particularly sure whether it is that bit that Mr Rich-Phillips is concerned about.

The point is that when you step back and take a helicopter view of this, the state is going to collect a certain amount of tax to meet its needs. The state already extensively collects taxes from property through land tax, through stamp duty on the sale of land and in a very modest way from growth area activities. In my view we should weight the tax mix more towards taxing the bads, that is the urban sprawl, and less towards the goods, that is the transfer of property. There is a huge deadweight loss occurring to the economy as a result of our heavy stamp duties. Not only are the state taxes that still exist incredibly distorting and in many cases quite inequitable, but Victoria is said to have the worst mix of any state. What I see here, at least from the Liberal Party today, is absolutely no appetite to change that mix at all. They would rather we collect less GAIC and inevitably then end up collecting more stamp duty and other sorts of taxes.

If we are doing anything here today, we ought to be shifting more of the burden of the cost of infrastructure for urban sprawl onto the process of urban sprawl, if that means that somewhere else we acquire less tax or have more revenue available for other pressing infrastructure needs. For that reason I am not inclined to support the Liberals' amendments. I think they have a technical argument that they are presenting. What they are not presenting is an overall argument of equity or efficiency.

Despite the number and complexity of different events that trigger GAIC, the fact is the money is being collected through this taxation system with a fair degree of efficiency. In fact it is the efficiency with which it is being collected that has caused someone to start bucking and go off to court. They found it more worthwhile to try to avoid the tax through a court proceeding than to pay the tax.

It is not like this is the first time this has ever happened. In fact it is happening every day out there in taxation land, state and federal. There is a constant attempt by people to use interpretations of the act to avoid tax. There is an entire industry associated with avoiding tax by going to court. I have never seen any of that action myself, but I do not know about other members in this place. My point is that there are no surprises there. There are people out there who would rather spend money on lawyers than spend money paying their tax bill, and it is run of the mill that a Parliament would receive a bill that attempts to close some of those loopholes, and for that reason the Greens will be supporting the bill.

Mr DAVIS (Southern Metropolitan) — I am pleased to make a contribution to the State Taxation and Other Acts Amendment Bill 2016. This is another bill that adds more layers of taxation. Mr Rich-Phillips has outlined the details of the bill eloquently. The bulk of the bill — the sections that do not deal with the growth areas infrastructure contribution (GAIC) — are uncontroversial, and I do not propose to comment on those other than to say that. I am concerned as shadow Minister for Planning that this adds a new and rich further layer of taxation. The sections in relation to this particular bill need to be seen in a broader context, some of which has been outlined by people speaking to the house in the last little while. This goes back to 2009 and 2010, as Mr Barber has alluded to. The opposition at the time was concerned about the way the GAIC would operate, as was the industry.

Mr Barber — I think you made a few changes of your own when you were in government.

Mr DAVIS — I am just trying to give a fair description of the history. I do not think you are even disagreeing with me to this point, Mr Barber. The point that Mr Barber and others have made is that there is a mountain of GAIC revenue that has built up in the Treasury coffers. It is a truckload of money that the government ought to be spending. I know that as Minister for Health I had a reasonable degree of success in for the first time prising some money out of the GAIC pool held by the Rottweilers over at Treasury to get some additional resources for certain health projects — Cardinia, for example.

Mr Mulino interjected.

Mr DAVIS — Which your community might well be a beneficiary of, Mr Mulino. At Melton a community health facility was in part funded out of GAIC resources. As has been outlined by other people, I think there is a role for the GAIC and there are legitimate additions that can be made to the infrastructure in growth areas.

The reforms made by Matthew Guy that enabled development contributions of a different nature to be made, in part in kind, are another significant reform that applied in our period of government. The point I want to make here is that this needs to be seen in a broader context, and I will come to the specifics of the State Revenue Office (SRO) and their approach. The government promised before the election, while in opposition, that it would not increase taxes, fees, levies or charges beyond indexation. That was the solemn promise that Daniel Andrews made down at the Frankston forum and that he made many other times — 'We won't increase taxes, charges, levies, fees or anything beyond indexation'. Let me just say that in the last two years state tax take has gone up by 20.7 per cent off a base of a CPI of roughly 1 per cent-odd.

Mr Mulino — You know that's misleading.

Mr DAVIS — No, that is actually true, and the land tax take this year will go up by 28 per cent.

Mr Mulino interjected.

Mr DAVIS — No, the actual take will go up 28 per cent. The amount of money that the state government, that the Treasurer, scoops out of land tax collections will actually go up by 28 per cent this financial year. That is in your own figures.

Mr Barber — Do you want to apply CPI to yourself?

Mr DAVIS — Which CPI figure would you prefer to use?

Mr Barber — I'm just saying: rate capping for state governments.

Mr DAVIS — Well, they made up a figure. Treasury — —

The ACTING PRESIDENT (**Mr Melhem**) — Order! Mr Davis! All comment should be made through the Chair. Let us not have a debate amongst each other. I ask other members to allow Mr Davis to continue without interruption, assistance or temptation. Do not even tempt him.

Mr DAVIS — Acting President, they of course invented that 2.5 per cent figure, which they have now stepped back from. Again it bears no relation to the actual CPI. The election promise on rate capping was to cap rates at the CPI, so they did not achieve that — they are two and half times the CPI. Leaving that aside, that is an additional point.

The infrastructure levies have recently been increased massively. We have seen development contributions go up. We have seen the planning fees and charges go up massively by 100 per cent, and even up to 1000 per cent in some particular charges, so these are huge increases and they are additional costs and imposts which go to developers or individuals doing property development — it could be their own — and ultimately of course all of these costs feed through into housing affordability.

We have seen the overseas taxes go on — two layers of that with land tax and stamp duty, the first in one year and then an increase in the second year. So that is four tax increases — new taxes, new charges. They may well be justified, but they add all of these to costs and charges. We saw the community facilities charge go up the other day, lifting from $900 to $1150 — a massive 28 per cent increase on that. There are all of these additional charges and then this GAIC matter that we come to today.

Obviously this comes in part from the recent High Court case, and Mr Rich-Phillips and others have referred to that in the chamber today. They found that the government, or the SRO, was not seeking to apply this in accordance with the law. Let us be quite clear: the Supreme Court interpreted the law and made a decision; it was not something that the SRO and the government liked or it did not go their way. So, all right, the government claims there is a loophole, a problem; we had better — —

Mr Mulino interjected.

Mr DAVIS — No, I think what I am saying is actually a fair description. The government says we have got to close that, but in doing this they have created a series of problems and unintended effects. The triggering of GAIC at times is different from what was intended, particularly the triggering of GAIC where public authorities, including councils, may wish to acquire for legitimate purposes a chunk of infrastructure, may wish to build a chunk of infrastructure or may wish to grab some land to legitimately build on for public purposes. It might be for a road, it might be for drainage, it might be for a new piece of open space or it might be for other purposes, and that is accepted. The question is whether that should be the event that triggers the GAIC in that circumstance where it is not related to the progress of the actual development on which it is levied.

There are some absurd and curious examples that are being brought forward. We will ask about some of those in the committee stage, but I think some of these were not what was intended by the government. Certainly at the briefing that Mr O'Brien in the Legislative Assembly and I had, and I thank the minister for the briefing, it seemed to me that the SRO officials and others were not on top of the impact of these particular impositions that were being put in place.

The property council, the Urban Development Institute of Australia (UDIA) and a number of individual developers have certainly had contact with the opposition and, I know, other parties in the Parliament to put their particular points of view. It is worth putting on record some of their views. The UDIA makes the point that the Frontlink case, which we have referred to with the SRO, handed down in February this year confirmed that if a developer is required to divest land for a public purpose, then it is possible to do so without triggering growth areas infrastructure contributions. That does seem a reasonable position. If the developer is not in control or driving the agenda on their particular property, it does seem a problem to have a public authority come in and, entirely without consultation, actually trigger that GAIC liability.

The Treasurer's second-reading speech for the bill states that the current GAIC provisions operate in an unintended way in that the GAIC may never be paid on certain lots or parcels in an excluded subdivision. We accept that if the SRO believes there has to be some reasonable closing of issues, that is a reasonable way to go forward. But the policy statement of the UDIA says:

> This assumes that the relevant provisions did not intend to exempt state infrastructure subdivisions from ever being liable to pay GAIC. This assumption is contrary to the explanatory memorandum of the Planning and Environment Amendment (Growth Areas Infrastructure Contribution) Bill 2009.

The explanatory memorandum says:

> Excluded events provide for some specific scenarios when, what would otherwise be, on the face of it, a 'GAIC event', is not a GAIC event and therefore there is no liability to pay GAIC.
>
> An excluded event is defined in paragraph (a) —

this is the 2009 memorandum —

> to mean the issue of a statement of compliance for 'excluded subdivisions of land' … This ensures that the GAIC applies only to subdivision proposals that will lead to significant new urban development and consequent demands on infrastructure and does not capture minor activity.

The UDIA goes on:

> Based on the above explanation of exemptions, there has been no justification provided that describes how implementation of the current provisions had the unintended consequence of excluding subdivisions that create a significant demand on urban infrastructure.

The UDIA goes on, but the point is essentially the government has not got this right — whether it intends to scoop in more, whether it intends to trigger events the wrong way. Let us be generous for a moment and say they do not, in which case they should go away and actually fix the thing and do what they intend to do, not the additional things. I mean, there may be some split here between the State Revenue Office — who are always after additional revenue — and the government, and it might be that the SRO has kind of led the government along here because they see something and they want to act on it. That might be one explanation.

The other explanation is that the government in a slightly underhand way thinks that it can make this change off the back of a court case and actually implement an outcome, which is apparently — the claim is — revenue neutral, but it is not really; it will actually generate additional GAIC, or will bring forward GAIC. I think this is a trick that this government likes to use — to bring forward revenue because it has a vociferous demand for additional funding.

The Property Council of Australia has also had a great deal to say on this. I quote from its media release of 26 October, in which it:

> … expressed alarm at government plans to increase housing costs by up to $500 million in Victoria's growth areas during the middle of an affordability crisis.

That affordability issue is an absolutely critical point. It is absolutely something that has got to be focused on. I disagree with Mr Barber that land release is not a factor. Of course it is not the only factor — it is only one factor — but land release is part of it, and it is important that there is support for more infrastructure in our growth areas.

The government has a very big pool, as I have outlined, of additional revenue from a whole range of different sources. Some of this is now going to councils. The charges on planning fees and so forth will additionally support councils, but some of it, including the current GAIC, the infrastructure contributions and the new community facilities contribution increase — all of those — will support a lot of activity in our growth areas.

It does have to be remembered that while each of these charges might be reasonable in and of themselves and they might be part of a reasonable package, this has been layer upon layer of additional costs and charges, and that is fed straight back into housing costs, straight back into affordability and straight back into a hit on everyday families that are wanting to buy houses and actually have their own property. It is a straight hit, it is a straight tax, it is a straight clobber, and it makes it harder for young families to actually get the outcome that they want.

Balance is a big part of this. Of course there is a legitimate argument for contribution to infrastructure on the edge of the city, but it does not have to be structured in a way that puts on more and more layers, and it does not have to be structured in a way that actually clobbers developers at a hard point in the cycle when their development is not at the point to trigger an outcome, but the outcome, the GAIC-able event, is triggered purely by the action of a public authority.

I think that is an unfair way to go. The opposition will seek to move some amendments in committee, and if they are unsuccessful, on the third reading we will actually seek to send this for further consideration or get the government to go and do some proper and detailed consultation, because this came out of the blue.

The ACTING PRESIDENT (**Mr Melhem**) — Order! Does Mr Davis want to circulate his amendments?

Mr DAVIS — I am happy to do that.

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

Mr MULINO (Eastern Victoria) — I have set myself the task in this speech to describe the key elements of this bill using less outrageous hyperbole than Mr Davis, and I think that is going to be one of the easiest tasks that I have this week. I have to say that his contribution was full of some of the most clichéd tropes that one could imagine when it comes to describing taxation measures. Indeed Mr Davis described the government as being 'vociferous' when it comes to taxation. I looked up 'vociferous' just to confirm my suspicions and in fact vociferous means plain-spoken, candid and earnest. I will cop that one because I think that does describe the government's approach on not only this measure but also measures of this sort more broadly. There are any number of long words he could have used because there was obviously a lot of work done with the thesaurus last night, but I think some of them were not transcribed accurately.

I will not speak at length on this bill because I think we will work through some of the measures in the committee stage. As earlier speakers have noted, this bill amends four acts. One is the Land Tax Act 2005. It will amend that act to align the relevant date for valuations of all types of land and correct the land tax table for an absentee trust. It will also amend the Payroll Tax Act 2007 to update the payroll tax exemption for motor vehicle allowances to align it with the commonwealth income tax legislation. Both of these are very sensible measures that everybody in this place would agree with.

The bill will also amend the Valuation of Land Act 1960 to require the inclusion of an Australian valuation property classification code, or AVPCC, in a notice of valuation to enable the valuer-general to accept a late nomination to undertake land valuations for non-rateable, leviable lands on behalf of the council and to clarify the definition of 'general valuation'. I think it is fair to say that those aspects of the bill are not controversial.

It is the fourth element which is a matter of some controversy. I want to speak briefly to that measure. That relates to the growth areas infrastructure contribution (GAIC), as other speakers have mentioned. The GAIC is somewhat complex because it was amended both upon its initial introduction and also during the course of the previous government. These amendments were, in part, to reflect negotiations with the industry to make the workings of the GAIC smoother in practice. It was made crystal clear from day one that the GAIC applies to all land that was rezoned as a broad-based uplift tax. This is made clear in section 201S of the Planning and Environment Act 1987, which applies the GAIC to all land above 0.41 hectares — that is, land rezoned in 2005 and 2009. All rezoned land has this obligation and that fact is registered on the title by the State Revenue Office (SRO).

I might say in passing that in addition to Mr Davis's speech being full of hyperbole I think it was also one that really pushed the boundaries, or in fact pushed beyond the boundaries, of verballing and impugning public servants. It is something that Mr Davis might reflect upon after this week has finished. I think that would be something that could benefit all of us when it comes to future behaviour in this place.

The SRO registers that obligation on the title, and I think the key point to make is that the amendments will introduce mechanisms for the GAIC liability to be deferred but not to be excluded. If one goes back to the minister's second-reading speech in 2010, one can see any number of references to deferrals, but it is absolutely crystal clear from that debate, from how the act was structured, that it was to apply to all land other than that one exception that I just referred to — land above 0.41 hectares. There were occasions where the GAIC could be deferred, but the loophole that has been created by this court case is that through somewhat contrived arrangements it has been shown to be possible to in effect defer permanently some of the GAIC. That is something which is not fair, that is something which is not equitable and that is something which is ultimately not sustainable for these growing suburbs.

It is appropriate that the people who have received significant windfall gains contribute towards at least some of the costs of providing state infrastructure in those areas. As previous speakers have mentioned, the contribution that the GAIC arrangements provide for is only 15 per cent of the total cost, so it is not onerous. We are seeing developers left, right and centre still charging into providing developments right around our urban fringe, which is a good thing, and it is a good thing in my communities in the outer suburbs of Melbourne in Eastern Victoria Region. We see that there is a very healthy appetite for appropriately and reasonably priced housing estates relative to what one would find in other jurisdictions, but the fact that all of this is occurring indicates that the balance is a reasonable one.

The industry has a term for this underlying obligation, declaring land to be GAIC-pregnant, which means that

the land carries with it a permanent GAIC obligation which must be paid at some stage in the future. There are no exemptions. For example, even with land on which private schools are exempted from paying GAIC under one of the 2012 amendments, it remains GAIC-pregnant in the event that it is subsequently sold for another purpose. This is a permanent attachment to the land and a permanent obligation. I think that is a really important point to make and one which I think some of the commentary around this bill has misrepresented.

The payment becomes due when there is a GAIC event, which is the sale of the land or an approval of a subdivision that triggers payment of the amount of the pregnant GAIC. This legislation refers to excluded events, which means that in those circumstances a sale or other action which would ordinarily trigger payment of the GAIC does not, and the payment is deferred until the next GAIC event. The use of the word 'excluded' does not mean that the obligation to pay the GAIC is removed. It is not an exemption for payment of the GAIC; it is simply a deferral.

To provide a simple example of how the GAIC operates, let us consider the example of a land sale in Black Forest Road, west of Werribee. As the *Age* reported on 25 October, a Melbourne couple sold that land for $95 million after Frasers Property purchased their 115-hectare farm. The purchase generated what can only be described as a very significant windfall. As I said earlier, I do not think anybody in this place would say that it would be unreasonable for the recipients of a windfall to make a contribution to what will down the track be a very significant community of people that will require significant social infrastructure.

This sale has been described by some in the media as the equivalent of winning more than Australia's largest lottery. The point is it is a windfall gain, and it is only appropriate that a modest share of that goes towards the community. Savills Australia's real estate agent Clinton Baxter, who negotiated the deal, was quoted as saying:

> With the encroachment of suburbia, they've hit the jackpot.

Further, the article quotes the buyers describing the sale as:

> … one of the largest … acquisitions in Melbourne in recent years.

Of the $95 million windfall, approximately $11 million will be the GAIC charge — a very modest part of that overall total and, as we indicated, an amount that will go some way, but certainly nowhere near the major amount needed, towards contributing to schools and other community facilities. It is reported that Frasers are proposing to:

> … construct a $440 million housing estate on the 115-hectare block that will have room for 1400 homes and include about 20 000 square metres of shopping and retail outlets.

So let us put that GAIC contribution into a broader context: a $440 million housing estate and significant commercial operations. Not only that, of course, for those 1400 homes there will be a significant requirement for schools, health facilities and so on and so forth. The point is it is critical that we do not allow for contrived arrangements to undermine what is a reasonable contribution towards what are going to be significant costs down the track.

We have to make it absolutely clear that the GAIC is deferred under certain circumstances, but we cannot allow situations to arise where the GAIC can be permanently deferred — in other words, avoided. That is essentially the issue that we are facing. We are facing significant social infrastructure needs in our very, very rapidly growing communities. It is entirely appropriate that those people benefiting from the value uplift in land that is being dedicated to further community expansion make a contribution towards social infrastructure that is built down the track.

The Frontlink case has exposed a gap in the wording of the current legislation. It has exposed a loophole, and that loophole is inconsistent with any reasonable reading of the rationale for why the bill was originally included. If one goes back to that second-reading speech, it is absolutely clear that there is a flat fee applied across the total hectarage. It is crystal clear that the GAIC is permanently attached to all of that land, and it is crystal clear that while it might be deferred in some situations, it is not to be excluded. For all those reasons it is absolutely important that this amendment to the current act go through so that we can preserve the revenue base that is so important to the outer suburbs.

I want to explicitly rebut the notion that this is some kind of tax grab. It is absolutely not. This is about preserving an existing 15 per cent contribution from landholdings that are held by people who have experienced a significant capital gain. For that reason there are three bills that are being amended in a way that is uncontroversial. The fourth amendment has been attacked in a way that I believe completely misrepresents what those amendments will achieve. They will not increase the revenue base; they will not increase taxes. They will correct the wording of the Planning and Environment Act so that it can achieve what was its clear intent when it was introduced — indeed an intent that I think it is fair to

say has been shared across all of the parties in this place since it was introduced in 2010. I commend this bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

The DEPUTY PRESIDENT — Order! There is one set of suggested amendments for the house to consider. Under the Constitution Act 1975 the Council does not have the authority to make amendments to taxation bills where amendments are proposed to such bills. They can only be put to the Assembly as a suggested amendment. Standing orders 14 and 15 set out the procedure for dealing with suggested amendments. Copies of the standing orders and background material are available in the chamber. Mr Davis has a series of suggested amendments that are linked to the imposition and payment of the growth areas infrastructure contribution (GAIC).

Clause 1

Mr DAVIS (Southern Metropolitan) — My amendments have been previously circulated and, as you have indicated, under the Constitution Act the Council can only make suggested amendments on these matters. I seek to put a number of these amendments. It could be argued that they are a test, but I think it is important in fact to put each of these. I move:

1. **Suggested amendment to the Legislative Assembly** —

   Clause 1, page 2, line 9, omit "imposition, payment and".

The first amendment amends the purposes clause at page 2, line 9. It seeks to omit 'imposition, payment and'. That is the suggested amendment. This goes back, as I said in the second-reading debate, to our desire to make sure that this is fairer, to make sure that there are not additional impositions and to make sure that this can be seen in the broader context of the tax changes that the government has made in a number of areas. It can be seen more specifically in the light of the 2009 matters and also importantly the possibility that the government is likely to claw additional takings from the developers on the edge of the city, whether it intends it in this way or not. That is the effect of this. This is, we think, a fair and reasonable step.

We have got a number of amendments, and we will persist with those. If that is unsuccessful, we will seek to move a reasoned amendment on the third reading.

Ms PULFORD (Minister for Agriculture) — Just in response to Mr Davis's suggested amendment, the government will be opposing this suggested amendment because it is directly counter to the purpose of the bill. It would have the effect of negating what it is that the bill is seeking to do.

Mr BARBER (Northern Metropolitan) — The Greens will not support this amendment. The government has argued that the intent of the original legislation was clear, and therefore all the bill really does is close a loophole. In fact the intent was not clear, as we now know, because if you read the court case that related to these particular sections, there was a great deal of confusion and contestation about the meaning of the sections as they appear right now, including words such as 'purpose' or 'solely'. In some ways it is almost impossible to discern the purpose of a subdivision when the subdivision creates land that is to be used for a road but also creates land that is to be then used for housing. It appears from some of the arguments that were made during the court case that the order in which certain subdivision steps were done might change the way the GAIC was actually created, so the original intended mechanics were not clear.

The question for us today is: what intent do we want to have now? I think we should move in the direction that the government's bill proposes. Mr Davis as much as said that he did not want to collect any more money from outer suburban housing development, whereas I do. I do want to collect more money from outer suburban housing development processes if it means that somewhere else in the taxation mix — for example, the purchase of a first home — the state has less need for funds. We should be collecting more tax from things that we are attempting to discourage — that is, suburban sprawl — and collecting less tax from things we are trying to encourage, such as the normal economic activity of land transfers and housing purchases and sales.

I think it is in the broader context that we need to consider what we are doing here. Forget all this argument about loopholes versus tax grabs versus different things that might have been going on in developers' minds when they developed the purpose for which they subdivide the land. Forget about what State Revenue Office Victoria (SROV) tried to argue in the court case, which was that you had to look at the whole plan of subdivision of the whole suburb in order to understand what the purpose of a particular subdivision

was. Forget all that. Let us just make the law clear now. For that reason the Greens will be opposing the suggested amendments put forward by the Libs, which aim to basically gut the original purposes of this section of the bill.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, I would like to confine my remarks to part 4 of the bill, which is the Planning and Environment Act 1987 changes. Can I firstly ask you: with respect to those changes of part 4 of the bill, what is the government's estimate of the revenue impact?

Ms PULFORD (Minister for Agriculture) — This will be revenue neutral.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. So will it be revenue neutral because the government has not been missing out on revenue?

Ms PULFORD (Minister for Agriculture) — It will be revenue neutral because this is the way the GAIC was always intended to apply.

Mr Davis — But it's not current law, then. It's different.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. I take Mr Davis's point; by virtue of the Supreme Court decision, it is not the way the law currently applies. If I go back a step, other than the Frontlink case, have there been other analogous circumstances where the SRO has applied the Frontlink interpretation of the law — prior to the court deciding against the SRO — and has collected revenue in respect of other developments on the basis of its view as articulated in the Frontlink case?

Ms PULFORD (Minister for Agriculture) — This legislation is seeking to restore the arrangements that were in place prior to the Frontlink case. A small amount of revenue was lost in that court case, but to the best of the government's knowledge, there are no other cases, no similar cases, on foot.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — So there was some revenue forgone as a consequence of the Frontlink decision, but my question was: had there been similar circumstances prior to Frontlink where the SRO had collected revenue in analogous circumstances, where these existing exemptions applied, where the SRO had levied GAIC using its erroneous interpretation of these provisions rather than what turned out to be the Supreme Court's interpretation?

Ms PULFORD (Minister for Agriculture) — Mr Rich-Phillips, I think you are inviting me to speculate on hypothetical, would-be similar disputes or court cases. The circumstances of each one is unique, and so GAIC was operating as it had been intended. There was then this decision in the Supreme Court in relation to Frontlink that changed the circumstances, and this legislation is about making crystal clear the arrangements going forward.

Mr BARBER (Northern Metropolitan) — I do not think that is right. There have been excluded subdivisions where no money was collected as a result of a claim against section 201RF paragraphs (a) and (b). The subdivisions occurred but the subdivider went to the SRO and said, 'No, these subdivisions were for the purposes of 201RF(a) and (b), and therefore I do not owe you any money'. What Mr Rich-Phillips may be driving at was, how many times did that happen before someone got wise and appealed it to the court?

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am actually asking the inverse of Mr Barber's question, but either answer would be helpful.

Mr BARBER (Northern Metropolitan) — It is easy to answer because there were subdivisions, and they actually happened. Those subdivisions were deemed by the SRO to be excluded GAIC events because they were a subdivision of the type to be found in section 201RF(a) and (b), and the question we are all trying to find the answer to is, how many times did that happen prior to the court case and after 2010 when the provision was first brought into the act?

Ms PULFORD (Minister for Agriculture) — I can advise that since July 2010 there have been 61 applications made regarding public purpose land subdivisions and 8 applications regarding subdivisions to provide land for a school. Now, without knowing the particulars of each of those cases — applications that may or may not have been successfully concluded, the nature of the subdivision activity on each of those particular pieces of land — it is not really possible to say how many of those would have been so similar in character to Frontlink that the impact of the Frontlink judgement would have applied to them.

Mr BARBER (Northern Metropolitan) — But it is the case that after this bill passes, which I believe it may, there will not be any more of those applications; those applications will never be made, so they will all fail in the future.

Ms PULFORD (Minister for Agriculture) — Following the passage of this legislation people will be able to apply for subdivisions and seek to engage in their development activity but not to take advantage of the loophole that has arisen as a result of the Frontlink decision.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. Yes, I think the committee appreciates that, but I guess going to Mr Barber's point, you referred to 61 public purpose land applications which included 8 school applications. Presumably before bringing this legislation to the house the SRO would have undertaken an assessment of those previous applications where section 201RF was engaged and would therefore have an understanding of what revenue had been forgone in respect of those previous applications?

Ms PULFORD (Minister for Agriculture) — I can advise Mr Rich-Phillips that up to 20 per cent of future GAIC revenue could be impacted by this decision, so while it is not additional revenue — far from it — our estimate is that over 30 years this could be in the order of $500 million. I think it is important, for the benefit of members in the house, to make the observation that this charge, the GAIC, is hypothecated for important infrastructure in outer suburban growth areas. If I could just add to that: if the loophole is not closed, that would be the impact.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for that information. Minister, does that imply that since 2010, with those 61 applications, the government has been short 20 per cent of GAIC revenue?

Ms PULFORD (Minister for Agriculture) — The GAIC is intended to operate on the basis that a collection occurs on a flat rate across all hectares, a 15 per cent contribution. So if that loophole is not closed, then than would be the potential impact. Of course that is modelling over a long period of time, but that is our estimate of the potential revenue — well, potential funding — that would need to be identified from other sources to meet the infrastructure needs of growing outer suburban communities.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for her answer. I guess, Minister, what I am seeking to get an understanding of is: you have indicated that if this loophole, as you have described it — which the coalition does not agree with — is not changed, 20 per cent of revenue will be foregone. Given there have been 61 applications in the past where this element or these exemptions have been relied upon, does that imply that 20 per cent of budgeted GAIC revenue has previously been foregone up to this point, where the government is now seeking to change this provision?

Ms PULFORD (Minister for Agriculture) — It is not possible to retrofit the Frontlink decision on these previous sets of circumstances, all of which have unique characteristics, but it is available to those who have paid GAIC in the past to seek reimbursement. Anyone doing so will have their particular circumstances assessed on their merits by the SRO.

Mr DAVIS (Southern Metropolitan) — Can I summarise what we have heard in these recent discussions? Essentially what we now know and we did not know at the briefing — and the information, I just want to put on record, was not provided by the government prior to this point — is that roughly, and I accept there is a matter of estimate in this, 20 per cent of the GAIC that has been collected in the past with the new Frontlink decision may have been collected incorrectly to the extent of the current law and actually what the Supreme Court has held is the current law? That actually opens up a series of concerns and issues.

Conversely, at the briefing we sought information about SRO and government estimates about properties and GAIC-able land in the future around the edge of the city and which of those would be scooped in by these matters in the Frontlink decision. If you are suggesting to the chamber, Minister, that 20 per cent in estimate of GAIC, as the government sees it, ought to be collected, you are actually talking about an imposition different from the current law. I accept that the government might have intended it differently, but you are actually talking about in effect an increase in the future of 20 per cent in the collections if your estimates are accurate and there is no change.

Ms PULFORD (Minister for Agriculture) — Mr Davis is making some big leaps of logic to come to that conclusion. I am being invited by the opposition to hazard a guess about how each of these different sets of circumstances might be seen through the prism of the Frontlink judgement, but what is unchanged is the flat rate collection across all hectares — the 15 per cent contribution. It is not proposed that that would change. This legislation seeks to close the loophole that this judgement has opened and to prevent developers from being able to defer GAIC payments indefinitely.

Mr DAVIS (Southern Metropolitan) — I will put on record that I am not persuaded by the minister's argument. I think we have got an estimate of the figure. That is more than we had before at the briefing or subsequent to the briefing until this point. It defies

credulity to think that the government has not estimated into the future what would occur.

Ms Pulford — But we have.

Mr DAVIS — Well, therein lies the point. It is actually an imposition beyond the current law — not the law as you may have intended but the actual law.

Ms PULFORD (Minister for Agriculture) — It is no additional imposition above the 15 per cent. The law as it operated in 2010, the law as it operated the entire time that Mr Davis was a minister in the former government and the way that the law has operated until this judgement is the same. Mr Davis might not like to learn that the government has made an assessment of the potential revenue impacts of this loophole not being closed, but if he was so interested perhaps he could have asked the question in the briefing that Mr Rich-Phillips has asked this afternoon in the chamber.

Mr BARBER (Northern Metropolitan) — I have a somewhat related question that I flagged during my second-reading debate speech: the money collected from the growth areas infrastructure contribution goes into a special fund. It is two funds, actually. Can the minister tell us what the current balance of those two funds is, and also less any moneys that have been committed to projects but not yet handed over to those projects? So how much is in the fund, and then how much of that is available for future grants from the fund that have not already been committed to?

Ms PULFORD (Minister for Agriculture) — I thank Mr Barber for his question. The balance of the fund was, at 30 June 2016, $180 million, and it was reported in the Department of Environment, Land, Water and Planning annual report. I can add to that that $9 million was allocated from this fund by the former government, but there was no process as such to govern and guide the arrangements for the allocation of this fund. I am advised that there is now a process in place, and the government expects there will be a significant flow of funding for infrastructure projects now that the process has been established and that that will occur over the next 12 months.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I would like to move to another matter with respect to part 4, and that is just to get an understanding of what consultation the government undertook with particularly the property industry before coming forward with these amendments to the Planning and Environment Act 1987.

Ms PULFORD (Minister for Agriculture) — There was at the time that the growth areas infrastructure contribution was first introduced extensive consultation and indeed a memorandum of understanding, which was signed by the Property Council of Australia, the Urban Development Institute of Australia (UDIA) and the former Minister for Planning, the Honourable Justin Madden, on behalf of the government at the time. There were many conversations following the judgement, and there have been discussions with the Property Council and the UDIA since the introduction of the bill. They have been conducted by representatives of the Treasurer's office and the planning minister.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Just to be clear, in the period following the judgement and before this legislation was introduced there were no consultations with the property industry by the government before the bill came into the house and after that judgement — that is, no consultations on the preparation of this bill?

Ms PULFORD (Minister for Agriculture) — There were discussions around the issue, but the discussions on the bill have occurred since the bill has been introduced into the Parliament.

Mr DAVIS (Southern Metropolitan) — In fact a number of the industry associations have made it very clear that they were not consulted, and the framing of this bill has been tardy and shambolic. It is clear that the government did not refine it with the industry.

Committee divided on suggested amendment:

Ayes, 15

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

Noes, 20

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

Pairs

Atkinson, Mr	Dalidakis, Mr
Ondarchie, Mr	Jennings, Mr

Suggested amendment negatived.

Clauses 2 to 7

The DEPUTY PRESIDENT — Order! In accordance with standing order 14.15(2), as there are no forms of amendment or proposals to omit the clauses, no question will be put.

Clauses 8 to 10

The DEPUTY PRESIDENT — Order! Mr Davis's suggested amendment 2 invites the committee to omit clauses 8 to 10 and has been tested by his suggested amendment 1. Are there any further speakers?

Mr DAVIS (Southern Metropolitan) — No, the points have been made. We propose to test these clauses and understand they can be tested as a group.

The DEPUTY PRESIDENT — Order! The question is that clauses 8 to 10 stand part of the bill.

Committee divided on clauses:

Ayes, 20

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

Noes, 15

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

Pairs

Dalidakis, Mr	Atkinson, Mr
Jennings, Mr	Ondarchie, Mr

Clauses agreed to.

Clause 11

The DEPUTY PRESIDENT — Order! In accordance with standing order 14.15(2), as there is no form of amendment or proposal to omit the clause, no question will be put.

Clauses 12 and 13

The DEPUTY PRESIDENT — Order! Mr Davis's suggested amendment 3 invites the committee to omit clauses 12 and 13 and has been tested by his suggested amendment 1. In accordance with standing order 14.15(4), if a member proposes to omit a clause or other provision, the question will be put that the clause or other provision be agreed to.

Clauses agreed to.

Clause 14

The DEPUTY PRESIDENT — Order! In accordance with standing order 14.15(2), as there is no form of amendment or proposal to omit the clause, no question will be put.

Clauses 15 to 24

The DEPUTY PRESIDENT — Order! Mr Davis's suggested amendment 4 invites the committee to omit clauses 15 to 24 and has been tested by his suggested amendment 1. In accordance with standing order 14.15(4), if a member proposes to omit a clause or other provision, the question will be put that the clause or other provision be agreed to.

Clauses agreed to.

Clauses 25 to 29

The DEPUTY PRESIDENT — Order! In accordance with standing order 14.15(2), as there are no forms of amendment or proposals to omit the clauses, no question will be put.

Reported to house without amendment.

Report adopted.

Third reading

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a third time.

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

That all the words after 'That' be omitted with the view of inserting in their place the words —

'this bill be withdrawn and redrafted to —

(1) take into account further consultation about the proposed amendments to the Planning and Environment Act 1987 in relation to the growth areas infrastructure contribution; and

(2) retain the remaining provisions of the bill.'.

The reason for this reasoned amendment is in reflection of the minister's comments earlier, in the committee stage, that the government has not undertaken consultation with respect to the growth areas infrastructure contribution (GAIC) changes which are proposed by this bill. The coalition is concerned that, as was articulated in the second-reading speech, the changes to the Planning and Environment Act 1987 expand the scope of the GAIC framework and will trigger what we believe are unintended consequences versus the 2009 GAIC framework in terms of revenue impacts and consequential impacts on the cost of housing in the growth areas.

We believe that the government has got this bill wrong, that it should be withdrawn and that on these provisions relating to the levying of the GAIC appropriate consultation should be undertaken with stakeholders in the development sector in growth areas to ensure that the government's stated intention of merely preserving the original policy is preserved. We do not want to see an expansion of the policy as we believe will occur with this legislation.

The purpose of the reasoned amendment is to preserve the balance of the bill, the other three matters which are uncontentious, and require the government to undertake appropriate consultation and come back with a new framework to achieve its stated objective of preserving the original 2009 GAIC intentions.

Ms PULFORD (Minister for Agriculture) — The government will be opposing Mr Rich-Phillips's attempts to discharge and defer consideration of this matter. The legislation will not expand the scope of the growth areas infrastructure contribution (GAIC), as the opposition has asserted. This is a measure that is required as the result of a loophole being opened by a judgement of the Supreme Court, and it is a necessary measure to protect revenue that is so important for infrastructure in Melbourne's outer suburbs and growth areas.

On the question of consultation, I would just add that it is normal practice with revenue-protection bills such as this to not consult until the bill is introduced to avoid people taking advantage of tax loopholes, and this was certainly the practice of the former government. The government has met with the development industry since the introduction of the bill, as I indicated during the committee stage. We believe that it is important to preserve this revenue, to close this loophole and to enable the GAIC to operate as it was intended when it commenced in 2010 under the former government. For that reason, we will be opposing Mr Rich-Phillips's motion.

Mr BARBER (Northern Metropolitan) — While Mr Rich-Phillips's amendment on the face of it seems to have some bravado about it, it is fundamentally a meaningless set of words because, if it were to pass, there would be an instruction from the house to the government to go and do some consultation over an unspecified time line with some unspecified people and then come back here with a bill that reflects the result of that consultation.

Mr Davis — Do you want to put a time line on it?

Mr BARBER — Well, that is my whole point. If we supported this amendment right now, then the government would simply go away and in the intervening week before the next sitting week they would consult some people and they would come back here and say, 'We've consulted some people, as the house instructed us to, and in light of that consultation we have redrafted it', which could be no change at all, in fact, or it could be the changing of one apostrophe. Then we would be putting the bill to a vote at the third reading all over again. So while the amendment may have had some merit if it had been moved at the second-reading stage — although it would have had the exact same effect at the second-reading stage — the fact is that the house has just resolved to retain the changes, and this would be a sort of a pause and a deep breath before the third reading inevitably passed in two weeks time.

Mr DAVIS (Southern Metropolitan) — It is very clear that this is a bill that the government did not consult on. It is very clear that this is a bill that does expand the scope of the growth areas infrastructure contribution (GAIC).

Mr Barber interjected.

Mr DAVIS — I know you do, but at least you are honest about it, and that is the point. You are at least honest about wanting to raise the GAIC; the government is actually raising it, but is not being honest about it. That is the big difference.

The consultation with the industry was deficient, and there is a series of unintended consequences. These could be fixed through a sharp process of consultation with the sector, and you could achieve your revenue protection objectives without expanding the scope of

the GAIC, as the government is seeking to do. That is why Mr Rich-Phillips has brought this approach. It is to provide the government with an opportunity to go and do that.

As has been pointed out, the opposition has no quibble with the other aspects of the bill; it is only these GAIC aspects. We now know that 20 per cent is roughly the number in terms of the additional collection, and that is a significant hit on housing affordability. Young families living on the edge of the city will be hammered by the government's proposals.

House divided on amendment:

Ayes, 15

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

Noes, 20

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

Pairs

Atkinson, Mr	Dalidakis, Mr
Ondarchie, Mr	Jennings, Mr

Amendment negatived.

The DEPUTY PRESIDENT — Order! The question is:

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

House divided on question:

Ayes, 20

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

Noes, 15

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

Pairs

Dalidakis, Mr	Atkinson, Mr
Jennings, Mr	Ondarchie, Mr

Question agreed to.

Read third time.

COMPENSATION LEGISLATION AMENDMENT BILL 2016

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms PULFORD (Minister for Agriculture).

Ms PULFORD (Minister for Agriculture) — By leave, I move:

That the second reading be taken forthwith.

In doing so, I advise the house of house amendments. They will make minor changes to the Compensation Legislation Amendment Bill 2016 for the following purposes. The amendments will ensure that people with experience working with a workers compensation scheme can be considered when appointing directors to the Accident Compensation Conciliation Service (ACCS) board. They will further strengthen the provision that gives independence to conciliation officers in their decision-making powers to ensure there are no unintended consequences arising from the transfer of powers of the senior conciliation officer or a conciliation officer to the ACCS board.

The amendment will make it clear that the board's management of conciliation officers' performance and the minister's ability to issue guidelines do not have the ability to impact conciliation officers' ability to issue decisions on the outcome of conciliations; remove a provision that allowed the ACCS to engage contractors, consultants or agents to act as conciliation officers to ensure the bill's intent that conciliation officers are engaged as employees of the ACCS; and to remove proposed changes to two matters that must be included in employers' register of workplace injuries to enable

more fulsome consideration and stakeholder consultation.

Motion agreed to.

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the charter), I make this statement of compatibility with respect to the Compensation Legislation Amendment Bill 2016 (bill).

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

Overview

The bill makes a number of amendments to the Accident Compensation Act 1985 (AC act), the Limitation of Actions Act 1958, the Transport Accident Act 1986 (TA act) and the Workplace Injury Rehabilitation and Compensation Act 2013 (WIRC act) to improve the benefits under Victoria's transport and workplace accident compensation schemes, make minor necessary amendments, and address drafting errors and omissions to further improve the operation of those acts. These include aligning WorkSafe and Transport Accident Commission (TAC) schemes with the changes to the commonwealth qualifying age for age pension to ensure entitled injured workers and motorists will continue to receive weekly benefits until they are eligible to access the age pension; providing further guidance in spinal impairment assessment, improving the governance arrangement of the Accident Compensation Conciliation Service (ACCS) and providing additional TAC benefits for immediate family members to attend funeral services.

Human rights issues

Right to equality and different treatment of persons based on age

Section 8 of the charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. Discrimination is defined by direct reference to the definition of discrimination and the associated list of protected attributes, including age, contained in the Equal Opportunity Act 2010.

The bill makes a number of amendments to replace references to the current retirement age of '65 years' with the phrase 'pension age within the meaning of the Social Security Act 1991 of the Commonwealth'. Clause 7 amends section 53(1)(b) of the TA act, which provides that loss of earnings payments cease after an earner who is injured as a result of a transport accident attains retirement age. Clause 4 amends section 93CE(1)(c) of the AC act, and clause 12 amends 168(1)(c) of the WIRC act, both of which provide that an injured worker not having attained the retirement age is a precondition for compensation payments in form of superannuation. Clause 10 also replaces the general definition of 'retirement age' in section 3 of the WIRC act, which has relevance to the provisions in the WIRC act that provide for payments after retirement age.

These amendments do not create new limits based on age but make minor adjustments to the formulation used to refer to the retirement age, in light of the changes to the Social Security Act 1991 (cwth) that will operate to gradually extend the retirement age in Australia from 65 to 67. Under that commonwealth act, the first increase is set to occur from July 2017.

The provisions that are the subject of these amendments treat persons differently depending on whether they have reached the retirement age. They could therefore be considered to treat older persons unfavourably because of their age. However, to the extent that these provisions limit the right to equality, I consider that the limit is justifiable for the reasons set out below.

Although these provisions provide that a person is not eligible for the specific types of payments if he or she has attained retirement age, in some circumstances, alternative payments under the respective compensation schemes are available for persons who have reached retirement age. For example, under the TA act, where an earner has not permanently retired from employment at the time of the transport accident and has previously attained or is within 12 months of attaining retirement age, they will be eligible for loss of earnings payments for a period of 12 months. Similarly, the WIRC act makes separate provision for payments where a worker is injured, or becomes incapacitated, after attaining retirement age.

Otherwise, the retirement age set in these provisions reflect the age that eligible persons are able to access other forms of income support, such as the commonwealth age pension and superannuation. The financial viability of the schemes is dependent on loss of income and superannuation compensation being paid to those who are injured and unable to work, at an age where they would be expected to work. The provisions go no further than is necessary to protect the viability of the scheme — they recognise that there is an age at which most people will cease working — but also ensure that compensation is payable to those who continue to work beyond the normal retiring age and are then injured. Additionally, the prescribed retirement age only applies in respect of loss of income and superannuation payments. The earner or worker may still have an entitlement to medical and other services, non-pecuniary compensation for permanent impairment or access to common-law damages. As such, I consider that the limits imposed on some forms of compensation for individuals who have reached retirement age are reasonable and demonstrably justified.

Taking part in public life

Clause 14 of the bill confirms the establishment of the ACCS and provides that the ACCS must have a board of directors appointed by the minister. The new s 524(4) of the WIRC act provides that the minister must not appoint a director to the board of ACCS unless the minister is satisfied that the person has one of the specified qualifications.

Section 18(2)(b) of the charter provides that a person has the right, and is to have the opportunity, to have access to appointment to the Victorian public service and public office without discrimination. 'Discrimination' means

discrimination (within the meaning of the Equal Opportunity Act 2010 (EO act)) on the basis of an attribute set out in s 6 of the EO act.

It is my view that the new section 524(4) of the WIRC act does not amount to a limit to the right to take part in public life as a person's qualifications (or not having a qualification) is not a protected attribute under s 6 of the EO act.

Even if clause 14 of the bill was to be considered to amount to a limit on the right to take part in public life, this limit is demonstrably justifiable. The purpose of the limit is to ensure that the board of the ACCS is comprised of individuals with appropriate skills, experience and knowledge who will be able to authoritatively make policy decisions and manage the affairs of the authority. This will ensure that the ACCS is able to effectively and efficiently carry out its specific functions which include providing independent conciliation services and other dispute resolution services in WorkCover matters.

Jaala Pulford, MLC
Deputy Leader of the Government in the Legislative Council

Second reading

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

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Andrews Labor government is committed to workplace and road safety. These are key priorities, because every Victorian deserves to return home safely to their loved ones.

For those unfortunately injured at work, receiving timely and fair compensation and ready access to rehabilitation and return-to-work services is critical. These services are administered by WorkSafe Victoria and associated agencies.

Victoria has a world-class transport accident prevention and compensation scheme administered by the Transport Accident Commission (TAC).

The Andrews Labor government is continuing to look at ways to strengthen the performance of WorkSafe and the TAC and to improve services to those unfortunately injured at work or in a transport accident, including members of their immediate family.

This bill includes a number of measures to improve the benefits available to WorkSafe and TAC clients, and to strengthen the dispute resolution governance arrangements of the Accident Compensation Conciliation Service.

The bill will improve the benefits payable under TAC and WorkSafe schemes.

Retirement age

Firstly, this bill amends the definition of retirement age under Victoria's workers compensation and transport accident compensation legislation to align it with commonwealth legislated changes to the age pension qualifying age.

Currently, under the TAC and WorkSafe schemes, weekly benefits paid to injured motorist or workers normally cease when they reach retirement age, which is defined to mean 65. Similarly an injured worker's entitlement to superannuation contributions when receiving weekly benefits also ceases when they turn 65. This aligns with the current qualifying age for the age pension under the commonwealth Social Security Act 1991.

However, from 2017 until 2023 the commonwealth Social Security Act 1991 will progressively raise the age pension qualifying age from 65 to 67. These increases will mean that older WorkSafe or TAC benefit recipients will find themselves at age 65 without any income support from either the WorkSafe, TAC or age pension schemes.

This government is committed to removing this inequitable situation. The amendments to the definition of retirement age for WorkSafe and TAC clients in this bill ensures that when the commonwealth's legislated changes to the age pension qualifying age take effect, no gap will open up between the age at which those older clients are no longer entitled to benefits, and the age at which they qualify for the age pension.

The amendment proposed in this bill ensures older WorkSafe and TAC clients are appropriately supported by preserving their benefits until they become entitled to the commonwealth age pension.

These amendments will take effect from 1 July 2017 and apply to all WorkSafe and TAC clients who have an entitlement to compensation on or after that date.

TAC travel and accommodation expenses

Currently, the TAC can reimburse the reasonable travel and accommodation expenses incurred by immediate family members to visit a TAC client in hospital. The TAC can also pay for the reasonable funeral costs of a TAC client. However, the TAC cannot pay for the reasonable travel and accommodation expenses incurred by immediate family members to attend the funeral of a TAC client.

This bill will provide an additional capped amount of $5000 per claim (indexed annually) to cover travel and accommodation expenses for immediate family members incurred within Australia to attend the funeral service of a TAC client. To be eligible, they must reside more than 100 kilometres from the location of the funeral service.

This is an important measure to support grieving families, and to ease the financial burden of laying a loved one to rest.

The Accident Compensation Conciliation Service

Thirdly, this bill will ensure that the Accident Compensation Conciliation Service is structured in line with best governance practice by amending the Workplace Injury Rehabilitation and Compensation Act 2013. This bill will establish the ACCS as a statutory authority, with a ministerially appointed, skills-based board that will have the responsibility to provide dispute resolution services for the WorkSafe scheme.

The Accident Compensation Conciliation Service provides a fair, economical, informal and quick process to resolve

disputes that arise in the workplace injury compensation scheme. However, the existing ACCS governance arrangements are not consistent with current best practice for public entities outlined in the Victorian Public Sector Commission's guidelines on *Legal Form and Governance Arrangements for public entities*.

Under the proposed changes, the new board will have the power to directly engage the senior conciliation officer and conciliation officers, who will no longer be Governor in Council appointees.

The board and senior conciliation officer will have normal powers of an employer to direct the conciliation officers in relation to their employment and performance.

Conciliation officers' independence will be strengthened, with the bill clarifying the senior conciliation officer, board or minister cannot direct conciliation officers as to the outcome of a specific conciliation or conciliations.

The new arrangement will provide clearer accountability for the new authority's performance, give the conciliation officers greater flexibility to negotiate their terms and conditions of engagement and enhance the independence of the new authority.

The bill also corrects a number of anomalies, omissions or inconsistencies and provides clarifications to ensure the legislation is operating as intended and strengthens workplace health and safety standards.

Spinal impairment guides modification document

The bill also provides for reform of the method of assessing impairment compensation to those who suffer a spinal injury in a transport accident. There was an anomaly in the assessment of spinal injuries and inequities in compensation arising from a provision in the American Medical Association guides for the evaluation of permanent impairment, which under the Transport Accident Act is used to determine a person's impairment and consequent compensation. That anomaly was upheld in the Supreme Court decision of *TAC v. Serwylo*. As a consequence of the anomaly, some spinal fractures which resulted in relatively low level of disability have been compensated at a higher level than other more debilitating injuries. A panel of spinal injury medical experts, commissioned by the TAC, has developed the *Spinal Impairment Guides modification document* (GMD) to give clearer guidance to accredited medical practitioners on the assessment of spinal injuries in assessing impairment from spinal injury and to address the anomalous consequences that was highlighted by the Serwylo decision.

The bill will enable the GMD to modify the operation of chapter 3.3 of the AMA guides, for spinal impairment assessments in respect of the TAC scheme. Where there is any inconsistency between the AMA guides and the text in the GMD, the GMD text will prevail.

The Serwylo court decision also impacts on the WorkSafe scheme, but not significantly compared to the TAC scheme. This is mainly due to differences in the types of spinal injuries more commonly sustained in transport accidents compared with work accidents and the different legislated approaches to assessing lump sum compensation for spinal injuries. Changes to WorkSafe legislation to address the court decision are not required at this time. WorkSafe will monitor the situation and, if required, legislative changes may be considered in the future.

No entitlement to compensation where conviction for certain serious road traffic offences

Further, this bill amends the Workplace Injury Rehabilitation and Compensation Act 2013 so that a conviction for an equivalent offence under the law of another state or territory will render an injured worker ineligible for compensation. This amendment will ensure consistency with the Transport Accident Act 1986 which was amended in 2013 to allow for the same outcome.

Currently under the workers compensation legislation, a worker is not entitled to compensation where they are convicted of culpable driving causing death or dangerous driving causing death or serious injury under the Crimes Act 1958 and that offence contributed to their own injury. However, this section will not apply if the injury results in death, or a severe injury, or if the worker is able to satisfy the authority or self-insurer that the offence did not contribute in any way to the injury.

The Andrews Labor government is committed to transport accident prevention and this is an important measure to ensure a consistent approach to serious road traffic offences.

Amendment to the Limitations of Actions Act

Finally, this bill also addresses an unintended drafting consequence following the introduction of the Workplace Injury Rehabilitation and Compensation Act in 2013 which meant that the three-year, rather than six-year limitation period applied to common-law claims under that act. This amendment will apply retrospectively and be taken to have come into operation on 1 July 2014 when that act commenced.

The Limitations of Actions Act 1958 provides a limitation period for a claim for damages (common-law claims) arising from a workplace injury. That act confirms that claims under the Accident Compensation Act 1985 have a limitation period of six years, rather than three years that applies for other types of personal injuries. This will correct the period.

It is important to note that no worker has been adversely affected by this as less than three years have passed since the Workplace Injury Rehabilitation and Compensation Act 2013 commenced on 1 July 2014.

In conclusion, this bill will strengthen the operation of the TAC and WorkSafe schemes to deliver timely, fair and affordable benefits to those unfortunately injured at work or in a transport accident, including members of their immediate family.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 17 November.

HOUSING AMENDMENT (VICTORIAN HOUSING REGISTER AND OTHER MATTERS) BILL 2016

Introduction and first reading

Received from Assembly.

Read first time for Ms MIKAKOS (Minister for Families and Children) on motion of Ms Pulford; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms MIKAKOS (Minister for Families and Children), Ms Pulford tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter), I make this statement of compatibility with respect to the Housing Amendment (Victorian Housing Register and Other Matters) Bill 2016.

In my opinion, the Housing Amendment (Victorian Housing Register and Other Matters) Bill 2016, 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 will amend the Housing Act 1983 (the act) to implement measures to improve access to social housing in Victoria by streamlining and better coordinating the processes by which persons apply for and are allocated social housing by a range social housing providers. The amendments will support more sustainable tenancies for Victorians in greatest need, including people who are homeless or at risk of homelessness and people experiencing family violence.

The objectives of the bill are to provide statutory authority for the director of housing (the director) to establish, administer and operate the Victorian Housing Register (the register). The register will consolidate into a single register the public housing list and numerous lists of applicants for social housing managed by registered housing agencies (registered under part VIII of the act).

The bill will also empower the director to establish and apply eligibility criteria to include persons on the register, and make determinations including in relation to priority categories and criteria to identify the relative needs of eligible applicants, and matters which the director and registered agencies will take into account when performing functions or exercising powers in relation to the register. With the implementation of the register, it is important to establish consistent and enforceable eligibility criteria and needs-based categories across the social housing sector. This will ensure that allocations of housing prioritise people in greatest need, including people who are homeless or at risk of homelessness, people who are leaving situations of family violence and people who have a disability and as a consequence have specific housing needs, or are in unsafe or unsuitable housing. The bill also provides for registered housing agencies and homelessness and other relevant support providers ('designated service providers') to apply and be authorised to participate in the operation of the register (by the director issuing a declaration).

The bill enables information sharing to lawfully occur between the director, registered housing agencies, and designated service providers for the purposes of the register, and to better inform the allocations of social housing to persons on the register based on relative housing need.

The amendments introduced by the bill will also support information-sharing requirements that will facilitate sustainable tenancies for people living in or entering social housing and accessing other housing options.

Human rights issues

The human rights protected by the charter that are relevant to the bill are the right to privacy under section 13 and the right to equality before the law under section 8.

Privacy — section 13

Section 13 of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and the right not to have his or her reputation unlawfully attacked.

The right in section 13 of the charter is relevant to a number of provisions in the bill that provide for the establishment of the register, and for the sharing of information in the operation of the register.

New section 142A requires the director to establish and administer the register, with the purpose of facilitating the appropriate allocation of social housing, having regard to:

the relative housing needs of eligible applicants;

the health, safety and support needs of eligible applicants; and

the availability of social housing.

The register may be kept in any form (including a database) that the director considers appropriate. New section 142C lists the information that may be kept on the register, including: the personal details of an applicant; the priority category determined to apply to an eligible applicant; the personal details of a household member of an applicant; the full name and contact details of any person nominated by an applicant; any other information that is relevant to an application for a tenancy in social housing; and any other information that the director considers appropriate to include in the register. 'Personal details' is defined to include the full name, date of birth and gender, the health, safety and support needs of the individual, the full name and contact details of any relevant guardian, any sensitive information that is relevant to the individual's housing requirements, any unique identifier assigned to the individual; and any other information relating to an assessment of the individual's housing requirements.

To ensure the information in the register is accurate, the bill provides for changes to information on the register. Under new section 142D, the director may, for the purposes of maintaining the accuracy of information in the register or complying with the requirements of the bill or any other act, enter, review, amend or remove any information in relation to

an applicant, or a household member of an applicant. New section 142H specifies the purposes for which the director or an authorised person may access the housing register, which relate to functions under the bill and the act.

New section 142G sets out who may be authorised to access the register, including persons employed by a registered agency or designated service provider which has been authorised (by declaration) to participate in the operation of the register. Any authorisation made under this section can be subject to any condition or limitation the director considers appropriate. New section 142J authorises the collection, use or disclosure of relevant information, by a relevant person to another relevant person, to the extent necessary for a number of specified purposes related to an applicant's application for social housing. These purposes are limited to the performance of relevant persons' functions under the act, as amended by this bill.

For the purposes of the restrictions on use and disclosure of information relevant to the operation of the register, 'relevant information' means the personal details of an applicant, the personal details of a household member of an applicant, the adequacy and appropriateness of an applicant's current or future housing needs, and any other information relating to an applicant's application for a tenancy in social housing. A 'relevant person' includes the director, a registered agency or a person employed or engaged by a registered agency, or designated service provider or a person employed or engaged by a designated service provider.

The establishment and operation of the register will provide for the collection and sharing of information of a private nature. However, I consider the collection, use and disclosure of personal information in accordance with the provisions of the bill will be compatible with the right to privacy, as any resulting interference with a person's privacy will be lawful and not arbitrary.

The powers that provide for the collection, use or disclosure of information will be clearly set out in the provisions of the act or regulations, tailored to the purpose of the register and appropriately circumscribed.

Further, any interference with privacy will not be arbitrary given that the bill only permits relevant information to be collected, handled, used or disclosed to the extent necessary for certain specified purposes that are directly related to the operation of the register, the allocation of social housing and ensuring that individuals have access to social housing that is appropriate to their needs.

Current applicants for social housing have provided information relevant to their application to either the director and, or alternatively, various social housing providers for the purpose of assessing their eligibility for public or other social housing and to identify their individual housing needs. As such, the transfer of this information to the register, and any subsequent use or disclosure within the terms of the bill, is, in my view, directly limited to the primary purpose for which it was provided. New applicants for social housing will be made aware that their information may be available to multiple social housing organisations that have been authorised to access the register in accordance with the provisions of the bill. As part of the process for new applicants, the primary applicant will be asked to sign a consent form that acknowledges how the information provided as part of their application could be shared by and with relevant organisations. While the director has discretion to include additional information on the register as considered appropriate, the director, as a public authority under the charter, will be required to give proper consideration to, and act compatibly with, the right to privacy when exercising such discretion.

The requirements for information sharing contained in the bill ensure that the operation of the register will be done so in a manner that least interferes with privacy, for strict purposes related to the administration of social housing. Where a person accesses the register for a purpose other than is provided for under the bill, or uses or discloses information contained in the register beyond the scope of their authorisation, this may constitute a breach of privacy legislation.

In addition, each person employed or engaged by a registered housing agency or designated support provider who is authorised to access the register will be required to be bound by a code of conduct before they will be provided access to the register. Accountability mechanisms including automated audits and checks will also be implemented to enforce lawful information management and privacy compliance. The Victorian privacy and data protection commissioner has been consulted about this approach to enforcement and has indicated that it provides sufficient protection. The information that is in the register will be stored in a secure database administered, on behalf of the director, by the Department of Health and Human Services. Only approved officers of the department (operating with delegated authority of the director), and authorised persons from participating registered agencies and participating designated service providers, will be permitted to access the information.

The registrar of housing agencies will continue to regulate and monitor registered agencies. The bill provides the registrar with additional triggers to exercise its existing regulatory powers under part VIIIA of the act to ensure that organisations with access to the register comply with the act's requirements regarding privacy. If a person employed by or acting on behalf of the registered agency uses or discloses health information or personal information in contravention of new part VIIIA, the bill provides a new criterion for the exercise of the registrar's powers in section 130(1) of the act. Additionally, any contravention of new part VIIIA may be relevant to the exercise of existing powers for the revocation of a registered agency's registration under section 141(1) of the act.

For the above reasons, I consider that the provisions in the bill that provide for the collection, use or disclosure of information will not arbitrarily interfere with the right to privacy. The information-sharing regime is reasonable in the circumstances and necessary in order to achieve a personalised and targeted housing outcome for applicants, facilitating the most sustainable tenancy.

Recognition and equality before the law — section 8

The right to equality before the law under section 8 of the charter provides that every person has the right to enjoy their human rights without discrimination, and that every person is equal before the law and is entitled to the equal protection of the law without discrimination. Under section 8 of the Equal Opportunity Act 2010 (the EO act), direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.

The amendments contained in the bill empower the director to determine eligibility criteria for persons to be included on the register, and to determine matters to which the director and registered agencies will have regard when allocating housing to persons on the register. New section 142E(1)(b) authorises the director to determine applicant priority categories having regard to the purpose of the register. These applicant priority categories will enable the objective assessment of the relative need of applicants who are eligible for social housing.

To the extent that eligibility criteria that are determined by the director results in different treatment on the basis of an attribute that is protected under the EO act, the right in section 8(3) of the charter that protects a person's right to equal and effective protection against discrimination may be relevant. For example, the creation of a priority category for persons aged 55 years and over may be seen as unfavourable treatment of persons under 55 years on the basis of age. However, section 8(4) of the charter, which provides that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination, may apply.

Relevantly, the director, as a public authority under the charter, will be required to give proper consideration to, and act compatibly with, relevant human rights when determining each eligibility criteria to be adopted. Such determinations will therefore be informed by statutory purpose of the register when determining applicant priority categories (i.e. facilitating the appropriate allocation of social housing, having regard to the availability of social housing, and the health, safety and support needs and housing requirements of eligible applicants), together with the director's own charter obligations. For these reasons, I am satisfied that any limitations on the right to equality will ultimately be compatible with the charter.

Jenny Mikakos, MP
Minister for Families and Children

Second reading

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

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Victoria is facing an increasing challenge in responding to homelessness, housing need and disadvantage.

The Victorian government believes all Victorians have a right to access safe, affordable, stable and long-term housing. This is one of the key building blocks for individuals and families to fully participate in their community.

A key part of this response is to make the best use of all information available to government and the community housing sector to drive better coordination and results in responding to housing and homelessness.

When the single Victorian Housing Register was launched in September this year we moved towards a more streamlined, transparent and fair way for eligible people across the state to access social housing. Victorians in need of housing support now only have to 'tell their story' once and submit one application.

Full implementation of the Victorian Housing Register will combine the existing public housing and over 40 community housing waiting lists into a single process. This bill provides the necessary legal assurance to both the department and the sector that information is being shared in an authorised, transparent and lawful way.

The information-sharing requirements in this bill will support disadvantaged Victorians and provide more personalised and targeted housing outcomes. Outcomes that best meet the individual's identified safety, support and health needs; thereby facilitating more sustainable social housing tenancies.

A robust information management regime informed by consultation with our housing and homelessness sector partners and the privacy and data protection commissioner will underpin the personal, and at times sensitive, information that will be stored on the Victorian Housing Register. The director of housing oversight and management of the system of information security and other compliance mechanisms outlined in the bill, a code of conduct for users accessing the register, service agreements as well as system audits and checks, will all be used to enforce lawful information management and privacy requirements. Such measure will also respect the role of community housing and other agencies with access and their autonomy.

The measures proposed for integration and coordination of data and information are in addition to existing legislative sanctions available, including those under the Privacy and Data Protection Act 2014.

The Victorian Housing Register has been developed with the community housing sector's participation in the design and development, and the checks and balances that support it. The sector has demonstrated its willingness to partner with government in relation to the development of the register.

This bill, through the creation of director determinations, also ensures that the decisions made by the department and the community housing sector in relation to eligibility and priority categories for the purposes of identifying the relative needs of eligible applicants within the Victorian Housing Register, are made in a consistent, transparent and accountable way. This also ensures that the prioritisation of various housing applicants is in line with the exemption requirements of the Equal Opportunity Act 2010 and the Age Discrimination Act 2004.

The government will look to utilise existing provisions within the Housing Act 1983 to enhance consistency in how allocation considerations are applied, and facilitate clearer understanding of social housing management and tenant outcomes across Victoria. Under sections 93 and 94 of the Housing Act, the Minister for Finance may determine performance standards in respect of the allocation of housing and the government intends to exercise such powers in order to ensure allocations from the register are transparent, accountable and consistent.

This work will be complimentary to consideration of the regulatory framework surrounding the community housing sector, and the social services sector more broadly, that will take place following the release of the government's housing statement. A modern, accountable and robust framework to align government policy and sector performance must be put in place to support government priorities such as the Victorian Housing Register, particularly as the community housing sector prepares to grow significantly.

The government believes in the importance of the community housing sector in housing applicants from the priority access list of the Victorian Housing Register if we are to improve outcomes for those in greatest housing need. People who are homeless, at risk of homelessness and escaping family violence need priority for social housing. The growth in these segments shows the need for more to be done to support these groups. The government will continue to work with the housing sector to support registered housing agencies meet this emerging need as the register is rolled out.

In addition to greater targeting of social housing to disadvantaged groups through the priority categories of the Victorian Housing Register, this bill is expected to benefit the Victorian community more broadly through enabling more personalised and targeted housing assistance that best meets a person's or household's identified safety, support and health needs.

The information-sharing provisions will assist the government, the community housing sector and services supporting disadvantaged Victorians to better share relevant and critical information which will in turn facilitate more sustainable tenancies for persons entering or living in social housing.

This bill also includes a minor technical amendment to the delegation powers of the act enabling the director of housing to delegate powers and functions in relation to division 6 part VIII of the act.

In summary, this bill and the facilitation of the Victorian Housing Register will allow the Victorian government, in partnership with the community housing sector and housing and homelessness support organisations, to best utilise data and deliver better assistance to vulnerable Victorians.

I commend the bill to the house.

Debate adjourned for Ms WOOLDRIDGE (Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 17 November.

ROAD LEGISLATION FURTHER AMENDMENT BILL 2016

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter'), I make this statement of compatibility with respect to the Road Legislation Further Amendment Bill 2016.

In my opinion, the Road Legislation Further Amendment Bill 2016, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The Road Legislation Further Amendment Bill 2016 will make a number of amendments to the Road Management Act 2004, the Road Safety Act 1986, the Melbourne City Link Act 1995, the Independent Broad-based Anti-corruption Act 2011 and the Heavy Vehicle National Law Application Act 2013. For the purpose of this statement of compatibility, relevant amendments relate to sanctions for drink-driving offenders and impoundment and disposal of unlawfully used miniaturised motorcycles.

Human rights issues

Freedom of movement

Section 12 of the charter provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it and has the freedom to choose where to live.

The bill provides that a broader range of drink-driving offenders will be subject to sanctions, including the cancellation of driver licences and learner permits and disqualification from driving in Victoria for a specified period. The imposition of these sanctions is relevant to the right to freedom of movement under section 12 of the charter because they prevent a person driving a vehicle for a specified period.

However, the right to freedom of movement is not limited because the affected person is free to use other forms of transport such as walking, cycling and public transport. In addition, they are free to travel as passengers in private vehicles provided that another person drives the vehicle.

Property rights

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

The bill adds a new offence to the current list of relevant offences in the Road Safety Act 1986 which will enable Victoria Police to impound a miniaturised motorcycle ridden on a road or road-related area. Such impoundment may ultimately result in the sale or disposal of the vehicle, if it is uncollected or deemed to be abandoned following reasonable enquiries and public notification requirements made within the specified period.

However, as the bill will make it an offence to ride a miniaturised motorcycle on a road or road-related area, or own a miniaturised motorcycle ridden on a road and road-related area, it is my opinion that any deprivation of property under these provisions will be in accordance with the law and compatible with section 20 of the charter.

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. The charter therefore reinforces the principle that in criminal proceedings, the prosecution bears the burden of proof. The right is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that accused people are required to prove matters to establish, or raise evidence to suggest, that they are not guilty of an offence.

The bill provides that owners of a miniaturised motorcycle that were unlawfully ridden on a road or road-related area do not commit an offence under the Road Safety Act 1986 if the miniaturised motorcycle was stolen or hired or was otherwise ridden without their knowledge or consent.

This proposed section may be viewed as shifting the evidentiary onus on the accused. However, the proposed new offence does not transfer the legal burden of proof onto an accused to disprove unlawful use of the miniaturised motorcycle. The accused may point to evidence of lack of knowledge or consent but it will remain for the prosecution to prove the elements of the offence to a legal standard. Therefore, in my opinion, this provision does not limit the presumption of innocence under the charter.

Hon. Jaala Pulford, MP
Minister for Agriculture

Second reading

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

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The main purposes of this bill are to provide for the operation of the CityLink-Tullamarine widening project and to provide for the impoundment of miniaturised motorcycles which have been illegally used on public roads and road-related areas. The bill also makes a number of other amendments to the Road Management Act 2004, the Road Safety Act 1986, the Melbourne City Link Act 1995, the Independent Broad-based Anti-corruption Commission Act 2011 and the Heavy Vehicle National Law Application Act 2013.

CityLink-Tullamarine widening project

The CityLink-Tullamarine widening project includes the widening of the western link section of CityLink, which is operated and maintained by Transurban, in each direction between the West Gate Freeway and Bulla Road. The bill will facilitate the operation of this important project which is due to open in late 2017. The amendments allow the Minister for Roads and Road Safety to declare newly constructed parts of the road as 'Link road' under the Melbourne City Link Act 1995 prior to the grant of new leases over that land. This approach will allow widened sections of the road that are not within the existing CityLink road declaration to be operated, managed and tolled by Transurban upon opening of the widened section of road.

Use and disclosure of restricted tolling information

The Melbourne City Link Act 1995 currently places restrictions on Transurban's use and disclosure of 'restricted tolling information'. 'Restricted tolling information' is a broadly defined set of data collected by Transurban in the course of operating CityLink that includes licence plate numbers of any vehicle using the toll zone.

The Melbourne City Link Act 1995 currently prohibits Transurban from disclosing restricted tolling information (and the recipient of restricted tolling information from using such information if disclosed) except where authorised under particular provisions of that act.

These restricted use and disclosure provisions in the Melbourne City Link Act 1995 predate the introduction of the Victorian Information Privacy Act 2000 (now repealed and replaced by the Victorian Privacy and Data Protection Act 2014); and the changes to the Privacy Act 1988 of the commonwealth which extend that act to private sector organisations.

Transurban is subject to the Privacy Act 1988 and is required to comply with the Australian Privacy Principles contained in that act.

To the extent that the Melbourne City Link Act 1995 applies to restricted tolling information that is personal information for the purposes of the Australian Privacy Principles, the restrictions on use and disclosure of information set out in that act are no longer necessary in light of the subsequent extension of the commonwealth Privacy Act 1988 to private sector organisations.

The commonwealth Privacy Act 1998 provides a sufficient level of privacy protection with respect to the use, disclosure, storage and handling of personal information. Where VicRoads considers that additional restrictions or requirements should be imposed on the vehicle registration and ownership information it provides to Transurban, VicRoads has in place an information protection agreement under the Road Safety Act 1986 to properly manage the release of information.

This bill will therefore repeal the use and disclosure of tolling information sections of the Melbourne City Link Act 1995, giving precedence to the provisions of the Privacy Act 1988 of the commonwealth that are applicable to Transurban. VicRoads will continue to ensure the registration and licensing information it provides to Transurban is subject to the information protection agreement it has with Transurban under the Road Safety Act 1986.

The proposed amendments will bring Transurban's obligations for use and disclosure of personal information into line with its privacy obligations in other states, allowing a consistent approach across its business that is itself consistent with the Australian Privacy Principles.

As a consequence of these amendments the bill will also repeal the part of the Independent Broad-based Anti-corruption Commission Act 2011 that requires the Independent Broad-based Anti-corruption Commission to monitor compliance by police officers with the information privacy provisions of the Melbourne City Link Act 1995.

As the proposed amendments will repeal the information privacy provisions that specifically apply to the police in favour of privacy protections in commonwealth legislation, Victoria Police would no longer be compiling records that contain or relate to restricted tolling information under the Melbourne City Link Act 1995. The repeal of these provisions means that there is nothing for the Independent Broad-based Anti-corruption Commission to monitor in this regard. Transurban will still be required to maintain records of disclosures for enforcement-related purposes under the Privacy Act 1988 of the commonwealth and these records will be subject to the monitoring oversight of the Australian Information Commissioner.

It should also be noted that the Australian Privacy Principles under the Privacy Act 1988 and the Information Privacy Principles under the Victorian Privacy and Data Protection Act 2014 permit use and disclosure of personal information for some enforcement-related purposes that were not specifically mentioned in the 'restricted tolling information' provisions of the Melbourne City Link Act 1995. These include use and disclosure for the purpose of reporting suspected unlawful activity, surveillance and intelligence gathering, protective or custodial activities, the enforcement of laws relating to the confiscation of the proceeds of crime and the protection of the revenue. This reflects the fact that the provisions of the Melbourne City Link Act were enacted in 1995 and the Australian Privacy Principles and Information Privacy Principles reflect a more contemporary view as to the range of law enforcement purposes for which use and disclosure of personal information would be considered acceptable.

Application of the Subordinate Legislation Act 1994 to agreements made under the Melbourne City Link Act 1995

Part 2 of the Melbourne City Link Act 1995 ratifies the Melbourne CityLink agreement, the Exhibition Street extension project agreement and the integration and facilitation agreement (together referred to as the CityLink agreements) and sets out the procedure to vary each CityLink agreement. The procedure for varying the CityLink agreements includes:

publication of a notice in the *Government Gazette* of the making of a variation, which must specify the place at which the agreement or variation statement can be inspected;

the tabling of a variation before both houses of Parliament within six sitting days of the making of a variation;

a six-day sitting period in which the variation may be revoked wholly or in part by resolution of either house; and

a requirement that the variation be sent to the government printer as soon as practicable after the making of the variation.

The above process provides a high degree of transparency to the public, and provides Parliament with an opportunity to revoke the effect of proposed amendments to the contractual arrangements for CityLink.

Since the initial execution of the CityLink agreements in 1995 there have been over 50 variations effected through the above process.

Amendments to the Melbourne City Link Act 1995 will clarify the uncertainty which has arisen as a result of amendments to the Subordinate Legislation Act 1994 with effect from 1 July 2011. At that time amendments to the Subordinate Legislation Act 1994 extended the requirements for the making and scrutiny of regulations and other statutory rules to a class of subordinate legislation known as 'legislative instruments'.

Variations to the CityLink agreements are not the type of instruments which were intended to be caught by the Subordinate Legislation Act 1994 requirements for the making of subordinate legislation. The critical distinction between variations to the CityLink agreements and the types of instrument with which the Subordinate Legislation Act 1994 is concerned is that variations to the CityLink agreements affect the rights and obligations of the state and Transurban and do not regulate the conduct of third parties.

Agreements to vary or variations made to the CityLink agreements will continue to be undertaken in accordance with the procedure set out in part 2 of the Melbourne City Link Act 1995 to ensure transparency and proper scrutiny of the process.

Illegal use of miniaturised motorcycles

There have recently been a number of well-publicised incidents involving the illegal use of miniaturised motorcycles, otherwise known as monkey bikes, including one which tragically resulted in the death of a mother while shopping in Carrum Downs. Although the current impoundment scheme in the Road Safety Act 1986 enables Victoria Police to impound a vehicle for a period of 30 days following a range of offences, the scheme is limited in its ability to deal with monkey bikes. The highly mobile nature of the offending vehicles most often results in the rider fleeing police pursuit thereby compromising the ability of police to apprehend the rider at the time of the offence. Moreover, as such vehicles are not able to be registered due to their failure to meet relevant safety standards, tracing ownership in circumstances where it is reasonably believed that such a vehicle was unlawfully used can be very difficult.

The bill responds to this problem by creating an offence in the Road Safety Act 1986 of riding a miniaturised motorcycle on a road or road-related area or being the owner of a miniaturised motorcycle that is being operated on a road or road-related area. This offence has also been added to the list of offences which can lead to impoundment or forfeiture of the offending vehicle.

Other amendments to improve road safety

The bill also makes a number of amendments to improve road safety. In particular, the bill:

increases the minimum penalty for refusing a roadside drug test to align with the minimum penalty for refusing a blood or breath test for alcohol from 6 months for a

first offence and 12 months for a subsequent offence to two years for a first offence and four years for a subsequent offence;

provides that where a person who holds a Victorian driver licence or learner permit commits a drink-driving offence in another state or territory of Australia, any Victorian driver licence or learner permit held by the person must be cancelled and the person will be disqualified from obtaining a further Victorian driver licence or learner permit. The duration of the disqualification will be the minimum period of disqualification that would have applied had the person committed an equivalent Victorian offence;

establishes an administrative scheme for imposing an alcohol interlock condition where a person has been disqualified from driving as a result of an interstate drink-driving offence;

increases the time period for police to serve a notice on the registered operator of a motor vehicle requiring that the vehicle be surrendered from 10 days to 42 days, where police believe it was involved in evading police. This aligns with the time limit provided for impoundment of vehicles for road safety camera offences, and allows more time for police to identify the driver of the vehicle so that the vehicle can be impounded and the driver charged.

Ensuring that holders of overseas car licences can drive vehicles up to 4.5 tonnes

The bill will provide that the current exemption granted to holders of overseas 'car' driver licences from the requirements to hold a Victorian driver licence for a car (while temporarily in Victoria) continues to hold regardless of the definition of car in their country of origin.

European Union car licence-holders can only operate a vehicle up to 3.5 tonnes in weight. In Australia a car licence allows a driver to operate a vehicle up to 4.5 tonnes. On the face of it a European tourist who holds an EU category B car licence, and drives a hired motorhome or campervan in Australia while on holidays that weighs (for example) 4.4 tonnes (like a Winnebago), may be in breach of the Road Safety Act 1986.

This amendment will give surety that these drivers are not in breach of the Road Safety Act 1986. It will also provide national consistency through implementing an Austroads recommendation that has already been implemented in other states and territories.

Improved road management

The bill will amend the Road Management Act 2004 to directly empower VicRoads to remove vehicles that are unlawfully parked or causing an obstruction from all roads (and not just freeways) for which it is the coordinating road authority. Currently, VicRoads relies on ministerial gazette notices specifying the other roads to which the power applies.

The bill will also:

allow for all registers of public roads to be published on the VicRoads website to conform to modern practice;

clarify that written permission is still required from the relevant coordinating road authority for the placing of structures, hoardings or devices for advertising signs on or over roads, even if those structures or advertisements are exempt from the Victoria planning provisions. This amendment enables the road authority to consider road safety impacts in the placement of signs.

Other operational improvements

The bill also contains a number of operational amendments to the Road Safety Act 1986 that will assist in the efficient and effective use of the road network. These include:

modernising the provisions relating to the taking and storage of blood samples in hospital for use in prosecutions, to reflect contemporary hospital practice;

avoiding any doubt as to ability of VicRoads and its customers to enter into electronic transactions, including through web-based portals like 'myVicRoads' and the Victorian government's planned 'Service Victoria';

inserting an express and detailed regulation making power for chargeable fees, separate from the general regulation-making powers.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Ms Lovell.

Debate adjourned until Thursday, 17 November.

TRANSPORT INTEGRATION AMENDMENT (HEAD, TRANSPORT FOR VICTORIA AND OTHER GOVERNANCE REFORMS) BILL 2016

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Ms PULFORD (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter), I make this statement of compatibility with respect to the Transport Integration Amendment (Head, Transport for Victoria and Other Governance Matters) Bill 2016.

In my opinion, the Transport Integration Amendment (Head, Transport for Victoria and Other Governance Matters) Bill 2016 (the bill), as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill makes a number of amendments to the Transport Integration Act 2010 (the act). The amendments operate to reform the governance of sector transport agencies by establishing the office of Head, Transport for Victoria as the lead transport agency, setting out the object, functions and powers of the lead transport agency, and providing for several other related amendments.

Human rights issues

Privacy — section 13

New sections 64L, 64M and 64N of the act, introduced by clause 3 of the bill, confer powers on the lead transport agency to enter private land or buildings for specified purposes. As such, these provisions may engage the right to privacy in section 13(a) of the charter, which protects the right of a person not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. However, an interference with privacy will not be unlawful where it is permitted by a law which is precise and appropriately circumscribed. Interferences with privacy will not be arbitrary provided they are reasonable in the particular circumstances, and just and proportionate to the end sought.

The circumstances in which the lead transport agency may enter private land or buildings are clearly circumscribed in the bill and contain safeguards to ensure that any interferences with privacy will be minimal. The lead transport agency may enter land and do all things necessary and convenient for investigative purposes to determine whether the land should be compulsorily acquired (new section 64L(1)); enter land and do all things necessary and convenient for constructing, maintaining, altering and using any work in the performance of its functions (new section 64N(1)); and enter a building and undertake activities in the building to ascertain the construction and condition of the building ahead of the commencement of planned works in its vicinity (new section 64M). These powers serve purposes that are clearly linked to the agency's functions. The bill also contains appropriate safeguards in relation to these powers, such as that the agency must provide seven days' notice to an occupier prior to entry (unless, in the case of entry onto land, consent is obtained or immediate entry is necessary because of an emergency) and that entry occur at reasonable times of day. Further safeguards in relation to the powers to enter land include the obligations on the lead transport agency to cause as little harm and inconvenience as possible, stay on the land only for as long as reasonably necessary to exercise the power, leave the land as nearly as possible in the condition in which it was found, cooperate as much as possible with the owner and any occupier of the land, and pay compensation for any damage caused in the exercise of the power.

For these reasons, I am satisfied that any interference with the right to privacy occasioned by these provisions will not be unlawful or arbitrary and, as such, the bill does not limit the right to privacy.

Property — section 20

Section 20 of the charter provides that a person must not be deprived of his or her 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.

New section 64G of the act, introduced by clause 3 of the bill, empowers the lead transport agency to compulsorily acquire any land which is or may be required for or in connection with the lead transport agency's functions or powers. New section 64G(2) provides that the Land Acquisition and Compensation Act 1986 (Land Acquisition Act) applies to the bill. As the acquisition of land is to be governed by the Land Acquisition Act, the acquisition gives rise to a right to compensation on just terms, and the lawfulness of an acquisition may be tested through judicial review. Further, the Land Acquisition Act sets out clear requirements for notification, procedures for acquisition and determination of compensation.

To the extent that this provision may result in deprivations of property, in my view, any such deprivation will be in accordance with law. As such, I am satisfied that the right in section 20 of the charter is not limited by this provision.

The Hon. Jaala Pulford, MP
Minister for Agriculture

Second reading

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

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The transport challenge

Victoria is facing a period of unprecedented growth and this growth will be unevenly spread. Melbourne is predicted to grow from 4.5 million people to almost 8 million by 2050. The rest of Victoria's population is predicted to double to around 2 million people over the same period. This growth is unprecedented and we must ensure we are able to meet this challenge and preserve the inclusive and prosperous state we so value.

In addition to the rising number of people using our transport networks, the needs and expectations of people continue to change rapidly. As the transport system grows and travel options increase, users rightly expect their journey be simple and connected, and to have ready access to information about options for their travel.

Over the next 35 years, freight movements are also expected to treble to support state growth and it will largely use the same infrastructure that is used to move people, putting more pressure on, and between, our transport networks.

These challenges can be met if the transport system is focused on users. A transport system that is planned, developed and operated on an integrated basis across modes. A system that is synchronised with land use and economic and human behaviour.

A new approach is also critical as our transport networks are experiencing an unprecedented period of improvement and

investment — investment that is all about meeting the challenges of a growing and changing state.

An integrated, multimodal and strategic approach to planning and operating our transport systems is at the core of the Transport Integration Act. But the current system does not deliver this core objective. To deliver this objective requires an approach that reflects how people actually use the transport system, one that brings all aspects of our transport networks together to achieve outcomes for the good of the entire community, and one that ensures we are able to ensure the best value for our investment in services and infrastructure.

We are certainly moving in that direction, but we need to have the right institutional settings to ensure we have a truly integrated, multimodal and strategic operation and planning approach to our transport networks.

Design

We need to consider the system as a whole, think strategically about how and when to intervene, and make the most effective investment choices that have the desired impact on outcomes — outcomes that are economic, social and environmental. We need to coordinate our management and operations so that we are delivering metropolitan and regional networks that enable people to get to work and education, connect with others and be an active part of their community.

Earlier this year, the government released its Regional Network Development Plan — the first ever long-term plan to improve public transport in regional Victoria. This bill provides the critical institutional settings to deliver these improvements.

Build

We have an unprecedented pipeline of major transport projects, including the Metro tunnel, western distributor and 50 level crossing removals, the Murray Basin Rail project, as well as major road and rail projects to improve services in our regions, such as the Ballarat line duplication from Deer Park to Melton, and a significant package of road upgrades. In addition, this government has made unprecedented multibillion-dollar investments in new trains for metropolitan and regional lines.

These projects will deliver transport and employment benefits to the community and our economy but there are challenges. Businesses and residents are disrupted during construction and, in some cases, dislocated. Major new projects and upgrades will transform our physical infrastructure and make changes to how people move around on it. We need to support people with these network changes. We have to get it right.

It is incumbent on government that the best projects are pursued and that means the best projects for the system as a whole, not just for one mode or one corridor.

Transport planning in multiple separate agencies cannot deliver this alone. Projects in one part of the system impact on other modes of transport. Planning needs to be unified at a transport system level.

Operate

Infrastructure projects alone will not overcome congestion. Like many cities around the world, and compared to decades past, there are greater land challenges and fiscal constraints. New infrastructure alone cannot and will not help us manage congestion, keep services and choices at levels people expect and help transport contribute to the broader goals of a prosperous economy, connected places and connecting people and business to jobs and opportunities. We must use our existing transport assets more effectively. This requires a combination of projects to deliver a higher return on our transport assets and innovative service changes based on user demand and feedback.

Connections must be simple and reliable. Interchanging between modes must be made easier. Users need the right information to make informed choices and be able to change plans quickly and easily if the network is disrupted.

Regulatory and policy frameworks need to adapt quickly to changing technology and user preference. Autonomous cars, trains and ports are no longer science fiction. The ability to adapt and capitalise on technological change needs to be a part of our thinking as we design, build and operate our system.

The need for change

Past approaches cannot deliver the planning, projects or services that are needed.

Transport portfolio agencies have designated responsibilities for specific areas of transport, primarily based on modes. Each agency has required similar policy, planning and development functions. There is some duplication between agencies and lack of clarity for responsibility and accountability where overlap occurs. A fragmented system means responses are limited and, on some occasions, outcomes compromised. We have the Transport Integration Act to guide how we work; we now need the platform for delivery — Transport for Victoria.

Transport for Victoria

In June this year I, along with the Minister for Roads and Road Safety and Ports, announced that the Andrews Labor government would establish a new central transport agency to coordinate Victoria's growing transport system and plan for its future.

The Minister for Roads and Road Safety and I were pleased to meet stakeholders from public and private sectors, as well as interest groups, to discuss how we get the most from our transport system, how we prioritise new infrastructure and the institutional settings required to deliver these improvements.

The right institutional settings are a key part of building a transport system that is more focused on the needs of passengers, drivers and other users, and focused on getting people and goods where they need to go in an affordable, simple and timely way.

This bill provides the foundation for changing how we do business.

The bill establishes a new agency to lead our transport institutions. The bill creates the head, Transport for Victoria as a new statutory office to operate under the name Transport for Victoria and established within our lead economic department, the Department of Economic Development, Jobs, Transport and Resources. The head, Transport for Victoria provides a point of integration and direction setting for the whole portfolio, including departmental transport staff and the operational transport agencies who will report through the head, Transport for Victoria to ministers.

Like Transport for London and major cities around the world, Transport for Victoria will bring together the planning, coordination and operation of Victoria's transport system and its agencies, including VicRoads and the Public Transport Development Authority (Public Transport Victoria).

Transport for Victoria will plan for the future of Victoria's transport system, ensuring it grows as the community, economy and technology changes.

It will provide a single source for information about our road, train, tram, bus, taxi and freight networks, making it easier for Victorians to get information they need.

The creation of Transport for Victoria will provide a unity of purpose not seen before in the transport portfolio. It will bolster our ability to plan and coordinate the diverse needs of metropolitan and regional transport while increasing interconnectedness.

Transport for Victoria will lead the transport portfolio by advising government on strategic directions for the system as a whole, whether through policy, planning, legislation, system design and integration, investment prioritisation, project governance or strategic asset management.

The primary design principle in performing these functions is that Transport for Victoria will consider users at the centre.

Transport for Victoria will improve the user experience by providing a single point for user inquiry and engagement and using the feedback to improve coordination and management of the system.

Transport for Victoria is a natural and much-needed progression in how transport is designed and delivered in this state, realising the objectives of the Transport Integration Act.

Keeping V/Line in public hands

This government is committed to restoring confidence in V/Line and to ensuring the ongoing public ownership of V/Line.

We are already delivering on this first promise by investing in rolling stock, improving service frequency and reliability, and enhancing the onboard experience for travellers. This bill delivers on the second promise by changing V/line's structure so that it is clearly operated by the state, for the good of the state.

V/Line operates under a corporate structure whereby a statutory authority is the sole shareholder of a proprietary limited company which operates the business. This dual structure arose from the state taking back V/Line when National Express withdrew. However, the dual structure makes it easier for a future government to sell off V/Line — something this government opposes. It also puts extra reporting obligations on V/Line — this government wants V/Line focused on delivering better services to passengers, not complying with unnecessary red tape.

The bill facilitates the transfer of all V/Line's operations from the proprietary limited company to the statutory agency. V/Line Proprietary Limited can then be dissolved. The changes secure V/Line's position in the transport portfolio but also simplify its structure to enable it to focus on its core service delivery functions.

The bill

Part 1 of the bill deals with preliminary matters.

Part 2 of the bill establishes the head, Transport for Victoria in the Transport Integration Act 2010. The head, Transport for Victoria is a statutory office designed to lead transport bodies by developing the policies, strategies and networks to deliver more integrated and connected transport services.

A clear object of Transport for Victoria is to enhance the experience of transport system users through improved communications, choices and connections.

Transport for Victoria will support, guide and, where appropriate, direct some transport agencies to improve governance and accountability. The powers of Transport for Victoria provided for in this bill reflect this central leadership role.

The bill provides Transport for Victoria with broad functions. The breadth of functions is partly due to its integration and service mandate and partly because the old transport demarcations no longer apply. Flexibility and responsiveness require flexible and responsive legislation. To this end, part 2 also provides for changes to agency functions by order in council. Users' expectations and technological change is blurring the boundaries between modes of transport and our system must be agile enough to change with the times.

Part 3 of the bill amends the charters of the department and most transport portfolio agencies. The amendments focus on Public Transport Development Authority and VicRoads as managers of the principal public transport network and arterial road networks respectively. Most public transport runs on roads and so the distinction has always been artificial. This bill puts an end to such distinctions.

The changes align functions with the new portfolio structure and accountabilities. Accountabilities and responsibilities will be clearer in light of Transport for Victoria's role in relation to planning, policy and investment prioritisation to improve and integrate services. The charters of mode-specific agencies will become more focused on their vital role and expertise in managing the operating environment.

The Public Transport Development Authority will become a corporation solely in order to reflect its new role and harmonise its structure with VicRoads. There will be no change to the legal form or functions of VicTrack due to its dual role as rail asset owner and independent commercial operator with significant non-transport interests such as communications assets.

Part 4

The bill enables the transfer of all assets, rights, employees and liabilities from V/Line Proprietary Limited to the statutory agency, the V/Line corporation. The bill also provides for the voluntary liquidation of V/Line Proprietary Limited.

Conclusion

This bill is the natural continuation of the reforms of the former Labor government's Transport Integration Act. The institutional changes in this bill will make accountabilities clear and the portfolio more flexible.

The community expects a more integrated transport system, not old-fashioned competition between modes. This bill will deliver that integration. The changes mean that joined up solutions spanning public transport, roads and ports portfolios can be developed, leading to a more flexible and responsive transport portfolio. A portfolio that puts users at the centre of all of its decisions.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Ms Lovell.

Debate adjourned until Thursday, 17 November.

WORKING WITH CHILDREN AMENDMENT BILL 2016

Introduction and first reading

Received from Assembly.

Read first time for Ms TIERNEY (Minister for Training and Skills) on motion of Ms Pulford; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms TIERNEY (Minister for Training and Skills), Ms Pulford tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the 'charter'), I make this statement of compatibility with respect to the Working with Children Amendment Bill 2016.

In my opinion, the Working with Children Amendment Bill 2016 (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 Working with Children Act 2005 (the act) assists in protecting children from sexual or physical harm by ensuring that people who work with, or care for, children are subject to a screening process.

In August 2015, the Royal Commission into Institutional Responses to Child Sexual Abuse tabled its report on working with children checks in the commonwealth Parliament. This report made 36 recommendations for strengthening and improving the effectiveness of working with children regimes across Australia. Two key aspects of the report's recommendations are that the commonwealth government facilitate a national model, and that consistent standards for working with children checks be adopted by all states and territories.

This bill identifies and progresses a number of the recommendations that can be implemented independently of other jurisdictions, amending the act to:

expand the definition of 'direct contact' to include oral communication, written communication and electronic communication;

remove the element of 'supervision' from the definition of 'child-related work' and from a number of risk-assessment tests in the act;

expand the categories of child-related work to include kinship care;

introduce non-conviction charges for the purpose of working with children check assessments; and

provide the Secretary to the Department of Justice and Regulation (the 'secretary') with a power to require the production of certain information, and

The bill also makes a number of miscellaneous and technical amendments to the act including clarifying that the categorisation of certain offences is based on the age of the offender at the time the offence is committed, and adding certain interstate offences to schedule 1 to the act.

Human rights issues

The overarching purpose of the act is to assist in protecting children from sexual or physical harm by ensuring that people who work with, or care for children are subject to a screening process. The act establishes that the protection of children is paramount and, under section 1A, when the secretary or the Victorian Civil and Administrative Tribunal ('VCAT') makes a decision or takes an action under the act, the protection of children from sexual and physical harm must be the paramount consideration.

Protection of children and families

Section 17(1) of the charter recognises that families are the fundamental group unit of society and are entitled to be protected by society and the state. Section 17(2) provides that every child has the right to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

As noted above, the main purpose of the act is the protection of children from physical and sexual harm. In *ZZ v. Secretary, Department of Justice & Anor* [2013] VSC 267, the Supreme Court observed that the act seeks to achieve this purpose by establishing mechanisms for preventing certain persons from performing work which is likely to bring them into unsupervised contact with children. The court held that these mechanisms protect and promote the human rights of children in significant ways. Further to this, the court noted that the

interpretation of the 'unjustifiable risk' test engages section 17(2) of the charter, the interpretation of which positively ensures the protection of children from harm.

It is my opinion that the bill further promotes the rights under section 17 of the charter through improving the protections afforded to children under the act, including prohibiting individuals who are assessed as posing an unjustifiable risk to the safety of children from working with them.

Right to privacy and reputation

Section 13(a) and (b) of the charter provide, amongst other things, that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with and to not have his or her reputation unlawfully attacked.

The changes made by the bill to the definition of 'direct contact', the removal of the element of 'supervision' for the purposes of determining whether a person requires a working with children check, and the addition of the class of out-of-home care known colloquially as 'kinship care' as a category of child-related work under the act are potentially relevant to the rights to privacy and reputation under the charter.

Clause 4(1) of the bill amends the definition of 'direct contact' to include written communication, oral communication and electronic communication and clause 21(1) and (2) remove the reference to 'directly supervised' for the purposes of determining whether a person requires a working with children check. Together, these changes have the potential to expand the circumstances in which a person is required to apply for and obtain a working with children check, therefore requiring these individuals to provide personal information to the government.

Clause 22(1) of the bill adds 'kinship care' as a category of child-related work. The bill provides that a person is engaged in child-related work if the person is a family member or other person of significance to a child and the child is or has been placed in the out-of-home care of that person under the Children, Youth and Families Act 2005. This expands the circumstances in which a person will need to apply for and obtain a working with children check, requiring these individuals to provide personal information to the government.

In my opinion, any interference with a person's privacy or reputation which may arise from these provisions will neither be unlawful nor arbitrary. The act only applies to individuals who engage in child-related work, through which their contact with children is direct and at or for a service, body, place, or that involves an activity listed in section 9(3) of the act. The ability of the secretary to require, disclose and request information in the circumstances outlined above will be specifically authorised by the act. This is necessary to enable the secretary to assess the criminal history of these individuals to ensure they do not pose an unjustifiable risk to the safety of children. This, in turn, will ensure that people who engage in child-related work have had their criminal history information assessed, the outcome of which, where they are granted a working with children check, suggests that they do not pose an unjustifiable risk to the safety of children.

Clause 26 of the bill amends the act to include specific provisions that allow for the sharing of certain information between the secretary and the Secretary to the Department of Health and Human Services. These information-sharing provisions are limited to notifications in respect of working with children checks applied for, or held by kinship carers and allow for the disclosure of information relating to kinship carers between departments. This will assist with transitioning to the new requirements as well as ensuring the effective ongoing operation of the working with children check requirements for kinship carers.

Due to the unique nature of kinship care, it is crucial that there is no impediment to the effective exchange of information between departments in relation to this cohort. This will enable the Department of Health and Human Services to manage out-of-home care placements, including in the situation where a negative notice may be issued to a kinship carer.

I consider that the proposed information-sharing powers in clause 26 are neither unlawful nor arbitrary. The bill specifies the circumstances in which the secretary is empowered to notify the Secretary to the Department of Health and Human Services of information and provides that any disclosure of information by the Secretary to the Department of Health and Human Services to the secretary may only occur for the purposes of the administration or execution of the act or the Children, Youth and Families Act.

Fair hearing, rights in criminal proceedings and right not to be tried or punished more than once

Clauses 28 and 29 of the bill amend the act to include 'non-conviction charges' as relevant matters for the purposes of a category C application or re-assessment under sections 14 and 21AD of the act. For the purposes of a working with children check assessment, the bill provides that a non-conviction charge is taken to be a charge that has been finally dealt with other than by way of a conviction or finding of guilt. The bill limits the consideration of non-conviction charges to the most serious offences for the purposes of the working with children check, being offences listed in clause 2 of schedule 3 to the act.

These provisions do not limit the rights set out in section 24 of the charter (fair hearing), section 25(1) (presumption of innocence) or section 26 (right not to be tried or punished more than once), as they do not necessitate criminal proceedings or impose penalties on offenders for a criminal offence. The purpose and effect of preventing a person from engaging in child-related work is to not penalise persons for a criminal offence, but to assist in protecting children from sexual or physical harm in situations where the criminal history of a person represents an unjustifiable risk to the safety of children.

Under a category C assessment, there is a legislative presumption in favour of the person, specifically, that the applicant or working with children check holder will be given, or retain, a working with children check. On a category C assessment, a working with children check must be given unless the secretary is satisfied that giving an assessment notice would pose an unjustifiable risk to the safety of children, having regard to the risk-assessment tests under the act. A person issued with a negative notice following a category C assessment for a non-conviction charge will maintain the right to appeal the decision to VCAT, therefore protecting their rights under section 24, 25(1) and 26 of the charter.

It is my opinion that the inclusion of non-conviction charges as relevant matters for the purposes of category C assessments enhance the protective purposes of the act, the consideration of which requires the secretary or VCAT to ensure that the protection of children from harm is the paramount consideration. This amendment also brings Victoria into line with all other working with children regulators across Australia. The measures imposed by the act are clearly protective rather than punitive measures as there is no element of punishment involved.

Clause 19 amends the list of category A offences in schedule 1 to the act to clarify that the interstate offences, equivalent to the Victorian offences of murder, attempted murder, rape and attempted rape and child pornography offences are category A offences for the purposes of the act. Under a category A assessment, the secretary must refuse a working with children check.

These provisions do not limit the rights set out in section 24, 25(1) or 26 of the charter because they do not impose punishment or penalties on offenders for a criminal offence, nor do they alter the fact that the person is innocent of any offence until judged guilty by a court.

It is well established in common law that the actions of a regulatory body to dismiss, disbar, de-register or cancel a professional's right to practice in various industries and professions is not viewed as a punitive measure. It is a protective measure that operates to ensure the adequate standard of services to the public and to maintain the reputation of the profession. Although the working with children check does not strictly amount to professional registration, it does seek to prohibit individuals with criminal histories or disciplinary findings that represent an unjustifiable risk to children from engaging in child-related occupations. Accordingly, any measures imposed by the act, resulting in the issuing of a negative notice, are clearly protective rather than punitive measures as there is no element of punishment involved.

Rights in criminal proceedings (privilege against self-incrimination)

Clause 17 of the bill creates a power for the secretary to require the production of information if he or she suspects that a person has committed an offence against the act, Working with Children Regulations 2016 or Part 5 of the Sex Offenders Registration Act 2004.

Section 25(2)(k) of the charter provides that a person who has been charged with a criminal offence has the right not to be compelled to testify against himself or herself or to confess guilt. This right has been interpreted broadly as encompassing the privilege, at common law, against self-incrimination, which entitles a person to refuse to answer any question, or produce any document, if the answer or production would tend to incriminate the person.

Although clause 17(2) denotes that a person may fail to provide information with a 'reasonable excuse', to avoid any uncertainty, clause 17(4) clarifies that, if the provision of the information would tend to incriminate the person, it is a reasonable excuse for the person to fail to provide the information. Accordingly, it is my opinion that the bill protects the privilege against self-incrimination.

Children in the criminal process

Clause 20(1) removes the historical offence of carnal knowledge, if committed by a child, from schedule 3 of the act. This ensures a person charged with, convicted or found guilty of a carnal knowledge offence if they were aged under 18 at the time the offence was committed, does not result in that person being prohibited from engaging in child-related work during an assessment. This ensures that these individuals do not have their industrial rights unfairly denied because of a carnal knowledge offence committed as a child.

Section 23(3) of the charter states that a child who has been convicted of an offence must be treated in a way that is appropriate for his or her age. In my opinion, the bill protects this right by removing the prohibition from engaging in child-related work during an assessment if a person who was, as a child, charged with, convicted or found guilty of a carnal knowledge offence.

For the reasons above, I consider that the bill is compatible with the rights protected by the Charter of Human Rights and Responsibilities Act 2006.

The Hon. Steve Herbert, MP
Minister for Corrections

Second reading

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

Ms PULFORD (Minister for Agriculture) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The sexual abuse of children is amongst the most abhorrent crimes we can contemplate. A key role of government is helping to ensure that children are kept safe from harm. In 2006, the commencement of the Working with Children Act 2005 significantly changed the way Victoria treated the care of children and, for the first time, introduced mandatory, minimum statewide standards for screening people working or volunteering with children. The act recognises the unique position of trust held by those individuals who engage in child-related work and seeks to prohibit those who are assessed as posing an unjustifiable risk to children from working or volunteering with them. Since April 2006, approximately 1.93 million working with children checks have been issued.

The Working with Children Amendment Bill 2016 is a small, yet important bill, which seeks to ensure the safety of children in our community continues to remain a paramount consideration when assessing a person's eligibility to work with, or care for, children.

In August 2015, the Royal Commission into Institutional Responses to Child Sexual Abuse tabled its report on 'Working with Children Checks' in the commonwealth Parliament. This report made 36 recommendations for strengthening and improving the effectiveness of working with children regimes across Australia. Two key aspect of the

report's recommendations are that the commonwealth government facilitate a national model, and that consistent standards for working with children checks be adopted by all states and territories.

The government welcomes any steps aimed at strengthening the protections afforded to children and is committed to improving the Victorian Working with Children Check scheme to further ensure the safety of children.

The Victorian Working with Children Check is amongst the most comprehensive and robust schemes in the country and I am pleased to advise the house that many of the royal commission's recommendations align with current Victorian processes under the act.

That being said, in working towards national consistency, there are a number of recommendations that cannot be progressed without the cooperation and agreement of the commonwealth and other working with children regulators. Victoria continues to engage with the commonwealth and other states and territories regarding those recommendations.

This bill identifies and progresses a number of recommendations that can be implemented independently of other jurisdictions. The bill also makes a number of miscellaneous and technical amendments to improve the operation of the act.

I will now turn to the substantive elements of the bill.

Royal commission recommendations

The bill seeks to implement aspects of the royal commission's recommendations that do not rely on cross-jurisdictional cooperation. This demonstrates Victoria's commitment to strengthening the working with children check scheme so that protections for children are enhanced.

Non-conviction charges

The royal commission identified a key limitation in Victoria's scheme was that, unlike all other jurisdictions, Victoria does not consider non-conviction charges, nor does it exchange this type of information with other working with children regulators. Non-conviction charges are those charges that have been finally dealt with by a court other than by way of conviction or finding of guilt.

A key amendment put forward in this bill brings Victoria in line with the other states and territories through the introduction of an ability to consider non-conviction charges for the purposes of working with children check assessments.

The main purpose of pre-employment screening is to, where possible, identify demonstrated behaviours that pose a likely future risk to the safety of children. These behaviours are currently limited to orders and obligations under sex offender registration legislation, charges, convictions, and findings of guilt for certain offences, as well as disciplinary findings of the Victorian Institute of Teaching and the out-of-home care Suitability Panel. This amendment extends the matters that can be assessed as part of a working with children check to charges that are finally dealt with other than by way of a conviction or finding of guilt.

As a non-conviction charge is material that, in and of itself, may be less credible in nature than a conviction or finding of guilt, the amendment restricts the use of non-conviction charges to the most serious offences listed in clause 2 of schedule 3 to the act and classifies them in category C. This is lowest threshold category, under which the presumption is that a working with children check will be granted unless the Secretary to the Department of Justice and Regulation is satisfied that giving the working with children check would pose an unjustifiable risk to the safety of children, having regard to the various risk-assessment criteria under the act.

The criminal justice system is not infallible, and, as the Australian Institute of Criminology observes, sexual offending against children has one of the highest rates of attrition of any offence, meaning a relatively small proportion of cases progress successfully through the courts. The accepted body of knowledge surrounding abusive behaviours towards children further demonstrates the utility of this amendment. The ability, for example, to consider such charges for very serious offences that may have been dismissed on a technicality, or may not have proceeded because of the impact on the victim, will assist in a more informed assessment of the risk a person may pose to child.

Kinship care

The bill adds the class of out-of-home care known colloquially as 'kinship care' to the categories of child-related work in the act. This introduces an obligation on kinship carers to obtain a working with children check within 21 days of commencing as a carer, and brings Victoria in line with the other states and territories.

An element of the royal commission's recommendations on defining categories of child-related work called for out-of-home care to be incorporated in the definition. The act currently includes out-of-home care services as a service at which child-related work can occur. However, due to the particular nature of the class of out-of-home care that is kinship care, it has previously not been captured by the act's definition of child-related work.

The royal commission's 2016 consultation paper on institutional responses to child sexual abuse in out-of-home care further highlighted the commission's position that all carers, including kinship and relative carers, should be required to undergo a working with children check.

As children are increasingly being placed in kinship care over and above any other type of out-of-home care, the amendments proposed by this bill are timely and will assist in ensuring that children who are among the most vulnerable are not placed in the care of individuals who pose an unjustifiable risk to them.

The Department of Health and Human Services will continue to retain oversight of kinship carers, ensuring carers are supervised and supported during placements. This includes assessment of the appropriateness and suitability of kinship carers to provide such care, and the power to exclude carers for matters not relevant to the working with children check, such as drink-driving offences.

The Department of Justice and Regulation will work closely with the Department of Health and Human Services to ensure a smooth transition to these new requirements.

Contact with children and supervision

In recognition of the increasing means through which predators can gain access to children, the bill implements a

recommendation of the royal commission to expand the types of contact through which child-related work may occur. The growing use of technology in the community presents more opportunities for children to be groomed, and can facilitate sexual and physical abuse. To assist in preventing these types of abuse, the definition of 'direct contact' under the act is being expanded to include oral, written and electronic communication.

Additionally, the royal commission recommended that working with children checks should be required irrespective of whether or not the contact with children is supervised. The bill gives effect to this by removing the element of supervision from the act, thereby establishing that, for both the purposes of obtaining a working with children check as well as assessing the risk a person with a relevant criminal history may pose, supervision of that person's contact with a child is irrelevant. This will also enable easier understanding of working with children check requirements in those situations where it may have previously been unclear as to whether or not a person's contact with a child was supervised.

Power to require information

The royal commission considered that the power to compel a range of individuals to produce relevant information was crucial in ensuring compliance with working with children laws. In recognition of this, the bill inserts a power for the Secretary to the Department of Justice and Regulation to require individuals to produce information if there is a suspicion that a person has committed an offence against the act or, in the case of a registered sex offender, is engaging in child-related employment.

This amendment will support the secretary's ability to refer suspected breaches of the law to Victoria Police, which will, in turn, assist in ensuring compliance with the act.

Technical and miscellaneous amendments

The bill makes a number of technical and miscellaneous amendments to improve the operation of the act and enhance protections afforded by the scheme to children. These include:

clarifying that, in circumstances where an individual has a relevant criminal history, the classification of their working with children check as a category A or category B application is determined by the age of the person at the time the offence, or alleged offence is committed;

ensuring that the categorisation of the interstate offences of rape, attempted rape, murder, attempted murder and child pornography are classified as category A offences, in line with the equivalent Victorian offences;

removing the historical offence of carnal knowledge, if committed as a child, from schedule 3 of the act, which will remove the prohibition on working whilst being assessed for anyone who was charged with this offence; and

clarifying the secretary's ability to cease a re-assessment following the revocation of a person's working with children check in the situation where a person fails to respond to a request for further information.

Conclusion

The Victorian community's commitment to protecting children is demonstrated through the continued and strong support for the working with children check. As the royal commission found, the working with children check is an important tool but, in the absence of other child-safe strategies, cannot alone make organisations safe for children. A working with children check is most effective when used in combination with other preventative strategies and should not be relied upon as a complete solution. The amendments proposed by this bill seek to strengthen the current protections afforded by the scheme and go some way towards progressing the important work of the royal commission.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (Eastern Victoria) on motion of Ms Lovell.

Debate adjourned until Thursday, 17 November.

ADJOURNMENT

Ms PULFORD (Minister for Agriculture) — I move:

That the house do now adjourn.

Craiglee Vineyard

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Planning. It concerns a real mess, I have to say, out in Sunbury — a planning issue which threatens the future of a winery.

Honourable members interjecting.

Mr FINN — I thought that would get the attention of the house. This is a particularly good winery, I have to say, that produces an exceptional wine. I think everybody is familiar with Craiglee shiraz. As I think I may have told the house before, I have actually seen fights break out at dinners over the last bottle of Craiglee shiraz. I can fully understand why, because it is certainly one of my favourite wines, if not my favourite. It is very, very drinkable indeed.

The situation involves a threat to the future of this winery, because the growling grass frog is a species which may or may not live near the winery, but apparently some experts are suggesting that the growling grass frog could be there. They are not saying it is there, they are saying it could be there, but that is enough in itself to actually threaten the future of the winery. To my way of thinking, this is insanity in itself to put an exceptional Victorian small business to the wall because of what may be near Jacksons Creek, which is nearby the winery. This is quite insane, particularly when one considers that across the road at

the Goona Warra winery there is no such problem with the frog. Apparently the frog only stays on one side of the road. Perhaps we should suggest that the council puts in a crossing for the frog. It is just ridiculous, and I really think that something has to be done to stop this lunacy.

I ask the minister to visit the winery with me, Pat Carmody and his wife, Dianne. Pat Carmody is of course an identity of some considerable note in Sunbury and surrounds, and I think he is one of the finer winemakers in Australia today. If the minister were to join me, I am sure that Patrick would not mind giving us a small taste of his wares, but of course that would not be the only reason for going. We need to sort this issue out, and I ask the minister to join me in order to do that.

Seymour rail services

Ms SYMES (Northern Victoria) — My adjournment matter this evening is for the Minister for Public Transport, and the action I seek is a minor change to the Seymour to Melbourne timetable. Currently on Mondays to Fridays the first train arrives at Southern Cross station at 6.46 a.m. Many residents along the line are having their employment and training opportunities negatively impacted by the inability to get to their place of work or study by 7.00 a.m.

Last week I met with a delegation of Kilmore residents to hear the stories of locals who find the timetable frustrating and the measures that they have to take to meet their work and training needs also frustrating. Louise is a nurse whose shift at the Epworth starts at 7.00 a.m. She simply cannot make it from Southern Cross to the hospital in 14 minutes. She drives to Craigieburn to catch the metro service to the city and has a choice of arriving at 5.10 a.m., 5.21 a.m., 5.30 a.m., 5.41 a.m., 5.50 a.m., 6.10 a.m. or 6.30 a.m., all at Southern Cross and all before the 6.46 a.m. option if she were to use the Seymour line.

Laura is a zoologist with a 7.00 a.m. start at the zoo. For her it is also a case of having to drive to Craigieburn first. Corey from Clonbinane is a tradesman who is currently working on a building site in St Kilda Road. It is ridiculous that he literally drives over the tracks of the Seymour train line on his way to the Craigieburn station to get a connecting service there.

These are just some of the stories of locals in my area who would like to see a tweak to the timetable. There are plenty more nurses, tradies, apprentices and hospitality workers who are required to start work or a course at 7.00 a.m. Some of them are driving all the way to Melbourne and paying exorbitant parking fees or leaving their cars at Craigieburn station. Others are having to relocate from their homes to Melbourne. Then there are those that are having to forgo their opportunities in the city, simply due to the timetable.

I am asking for the minister to implement a change so that the first train that leaves from Seymour will see commuters arrive at Southern Cross station before 6.30 a.m. on Mondays to Fridays.

Latrobe Valley Authority

Ms BATH (Eastern Victoria) — My adjournment matter this evening is directed to the Premier, the Honourable Daniel Andrews, and is in relation to the last-minute Latrobe Valley Authority, which the government announced would be established following the stated closure of the Hazelwood power station by the end of March 2017. It has been a week since Engie announced the forthcoming closure of Hazelwood, and we need to feel assured that there are measures put in place and that planning is underway to deal with the impending job losses.

Currently unemployment in Latrobe city stands at 10.7 per cent and in the town of Morwell a ghastly 19 per cent. We already have an unemployment crisis in the valley. There is a potential and likely loss of jobs in the thousands. Workers are highly trained in this area, and they have highly specialised skills. I have spoken with some of those workers, including union representatives, and they do not want a body set up to help them write résumés or enrol in barista courses. They are real people with families and mortgages who want to have a plan for long-term job availability and investment with purpose. Medium and small size business owners, contractors and service industries will also be affected. There is certainly going to be a ripple effect from this closure.

There has been money allocated to the Latrobe Valley Authority, and the Premier, I am told, is the chair of this pre-authority task force. An interim CEO has been appointed, but we are yet to hear of any real detail. If you look on the website, you will find there is little real information about this. I have constituents asking me such questions as: what is the status of this authority? Is it a community authority? Will there be a local board run by local Latrobe Valley people, businesspeople, industry, unions, community groups and members, or will it be a bureaucratic entity? If it is, who can be advising the bureaucrats on behalf of the community, and how will it be accountable to the community? I think it is vitally important that this newly formed

group be a true representative of people who will be most affected by the decisions to come.

I know that my colleague Russell Northe in the Legislative Assembly is extremely passionate and has been working very hard for the people in his community and listening to them and their forthcoming needs. The action I seek from the Premier is that he explain the exact status of this authority, its members and its reporting mechanisms so it can do the job it is supposed to do.

Vietnam War school resource

Mr EIDEH (Western Metropolitan) — My adjournment matter tonight is for the Acting Minister for Veterans. As we head towards the end of 2016 we will also be heading towards the conclusion of the commemoration activities the Andrews Labor government has been undertaking in partnership with the Vietnam Veterans Association of Australia's Victorian branch as part of the 50th anniversary of the Battle of Long Tan.

Some of the key activities that have taken place to commemorate the battle and the Vietnam War during 2016 have included a gravesite vigil — which included a service at Altona cemetery in my region — along with a veterans bike ride to Canberra, a Vietnam and Vietnamese veterans acknowledgement day here at Parliament House, a Vietnam Veterans Day service at the shrine and a school student study tour of Vietnam, amongst other events. However, it is important that beyond 2016 we build on the good work undertaken during this year to ensure the service, sacrifice and legacy of our Vietnam veterans, Vietnamese veterans and the Vietnam War are never forgotten.

In this regard I welcome the announcement of a new year 9 and year 10 school resource that has been developed and released to help educate young Victorians about the history of the Vietnam War, the controversy around the war and the service of our veterans. The action I seek of the acting minister is to advise my Western Metropolitan Region community and schools on how they can engage with this new Vietnam War school resource and how it will help students better understand the role of the war in our national identity and community.

Northern Victoria Region roads

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Roads and Road Safety, and it is regarding the dreadful condition of roads in northern Victoria and the desperate need for urgent maintenance on these roads. My request of the minister is that he make an urgent and significant allocation of funding to VicRoads for maintenance and improved safety on roads maintained by VicRoads and that he also make an urgent and significant allocation of funding to local councils to allow for maintenance and improved safety of roads maintained by local councils.

The roads in country Victoria are a disgrace and a serious safety threat to families who rely on these roads. Over the past two years the Andrews Labor government has cut funding for road maintenance by almost $200 million by cutting the road restoration and resurface budget by almost $116 million and losing a further $80 million when this government scrapped the country roads and bridges program. The reduction in maintenance on country roads, combined with this year's wet winter, has left country roads in a dreadful condition. Many of our roads are unsafe, and because of their condition they are causing damage to vehicles and causing accidents.

A major investment in maintenance is desperately needed to improve safety, prevent accidents and save lives. This investment is needed not only at a VicRoads level but also at a local government level. The loss of the country roads and bridges funding has had an enormous impact on the 40 rural and regional councils that had received this funding under the former Liberal government. This is a loss of $1 million per annum, and this loss, together with the Andrews government's rate capping policy, means that rural and regional councils do not have the capacity to stretch their limited budgets further.

I have been seeking feedback via Facebook on some of the worst roads in my region. I will not mention the council roads in this contribution, but the number nominated is significant, and I will pass these on to the relevant councils.

The state roads mentioned were all nominated in multiple posts. They include the C357, the Tatura to Murchison road. Just this morning I received a petition with over 400 signatures, and an online petition had over 135 signatures, asking for maintenance and widening to be carried out on this road. Other roads include the C369, the Mooroopna to Murchison road, and the C351 both from Kyabram to Echuca and from Kyabram through Lancaster to Mooroopna. These were the three roads that I received the most feedback on, and they are in extremely poor condition.

Other roads include the C355 from Mooroopna to the Murray Valley Highway, the C354 from Merrigum to Lancaster, the C361 from Numurkah to Nathalia and

the C348 from Rushworth to Stanhope. The intersection of the Midland Highway and Archer Street in Shepparton was also nominated; its problems include a significant pothole, which appears to be more of a sinkhole. There is also the Goulburn Valley Highway, the A39, particularly at the end of the duplicated section as you approach Kialla West but also some of the areas in the town of Shepparton on Wyndham Street and the service road on Numurkah Road near the Northside gym.

Last week the minister made an announcement of scheduled maintenance for some of the major roads across north-east Victoria, but this will only scratch the surface of such a large road network, and far more needs to be done. I have already outlined my request to the minister.

Lilydale Primary School

Mr MULINO (Eastern Victoria) — My adjournment matter is for the Acting Minister for Veterans, and it is to ask for funding for an Anzac centenary project at Lilydale Primary School in my electorate. There are a number of Anzac centenary community projects in my electorate. Earlier this year I was at Lilydale High School for the unveiling of a mural with the Minister for Education and also with a previous Premier, Ted Baillieu. It was a really wonderful event, quite an amazing piece of artwork and something that was very moving for all involved, and of course for the students in particular. It was a really wonderful project in which a professional artist had worked with the students to create something to a very high standard and something that will stand the test of time.

The project that I am talking about tonight is at Lilydale Primary School, and it is in relation to the World War I honour board. In 1918 the Lilydale State School, as it was then known, created an honour board with a list of names of all former students who had served in the First World War. This was destroyed in a fire at the school in the 1960s. The funding that I am requesting from the veterans minister is to provide assistance to the school to restore that honour board.

Foster carers

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is to the Minister for Families and Children. It relates to foster care payments, and I am wanting some clarity from the minister or her department. It involves foster care parents Kevin and Wendy Maria from Langkoop, which is in the far western part of the state — it is an area that I know — right on the South Australian border, so it is quite a way from Melbourne. Kevin and Wendy have two foster children that they look after, and both have high care needs. One of them is a level 5 and the other is a level 4 — they have a level 4 and level 5 care allowance. Their unfortunate circumstances are quite distressing. Both of their parents are in prison, and the foster parents wanted to give some permanency to the children. They have been carers for almost six years, and they have had these children for quite some time — since 2011.

In wanting to give these children some permanency, they spoke with the Department of Health and Human Services (DHHS) about funding arrangements for them. When they both asked whether the allowance would be cut, the DHHS regional department and manager assured them that it would remain unchanged. However, only recently the family has been advised by DHHS that that is not the case and that they will be in fact losing $3000 a month from the allowance they receive to care for these children.

As I said, the foster parents live near the South Australian border, close to 4½ hours away, and they often have to come to Melbourne with the children for appointments at the Royal Children's Hospital because they have high care needs. DHHS asked them to appeal their case, admitting that they had told them in error that nothing would change in losing these payments. They are understandably very distressed by the fact that they potentially cannot afford to look after these two very needy children because of the $3000-a-month cut to their payments.

They need to have some clarification from the minister and her department as soon as possible because there will come a time when they may have to give up these children simply because they cannot care for them and meet their high care needs. The action I seek is that the minister immediately intervene to get the clarification that this family needs so that they can maintain the foster care they are providing to these two very vulnerable young children.

Gatwick Hotel

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Consumer Affairs, Gaming and Liquor Regulation, and it concerns the Gatwick Hotel. The Gatwick has operated as a rooming house for decades in Fitzroy Street, St Kilda. It has a long and very troubled history, which has been very well documented over the years. In the run-up to the 2014 state election the ALP promised to protect the Gatwick, improve safety and

build a brighter future for those who call it home. It pledged to provide $600 000 in grants over four years to St Kilda Community Housing to improve the shared facilities and rooms. Money was allocated in the budget last year, but I understand it has not been paid and the work has not occurred because the prerequisite was not achieved.

According to the ALP's media release during the campaign, St Kilda Community Housing would partner with the Sacred Heart Mission to provide support programs for residents to address transience and chronic homelessness, health and wellbeing issues, alcohol and drug issues, and physical and intellectual disabilities. At the time Mr Wynne said:

> If we can improve the facilities at Gatwick, we can improve the future of its residents.
>
> Labor will team up with St Kilda Community Housing and Sacred Heart Mission to make the Gatwick safer for residents and give them a place they can be proud of.

This has totally failed to happen. Instead the crime and the public nuisance which have long been associated with the Gatwick just continue and, if anything, are worse.

I raised this issue with the Minister for Health in May last year, and she advised that discussions were ongoing between the owners, St Kilda Community Housing and the department, but 18 months later nothing has come of this. In February the *Sunday Herald Sun* reported that the police database showed that there were around 252 offences recorded at the Gatwick between January 2012 and March of this year. These included rape, bomb threats, violence, drugs and robberies. There were also petty crimes, including drunkenness, trespass and graffiti.

Police Association Victoria secretary Ron Iddles said the hotel has already tied up significant police resources, without having to act on issues that are trivial, like graffiti. He has been reported as saying:

> The issue with the Gatwick is the people who stay there — there are a lot of criminals and those who are drug addicted but they need to live somewhere. It's a concern to us our members are being assaulted.

In December last year the Gatwick was put up for sale, but this has failed to eventuate and it has been withdrawn from the market, which is a blow to local residents, traders and police. Many of the shops around the Gatwick have closed because of the effects of crime. The 7-Eleven remains open, but its employees deal with constant theft, abuse and harassment.

Last week I spoke to a police officer about the Gatwick. He told me that in a 25-year career he had seen nothing like it. He said it is a shooting gallery, with syringes left in the communal bathroom and on the kitchen table. Leaving aside prostitution, girls are lured into the Gatwick and raped. There is a long history of unnatural deaths, he told me, with around 34 deaths over the last 15 years. Around 19 of those were drug overdoses; the rest were the result of violent attacks. There have been 2 murders there this year. Most alarming of all, he told me the police are currently working out a safety plan for when they have to enter the hotel. The police at the moment visit five to six times a day.

The action I am seeking is that the minister use her powers to close the Gatwick and work with her ministerial colleagues to rehouse its residents to more suitable accommodation where they can get the treatment they need.

Local government councillors

Mrs PEULICH (South Eastern Metropolitan) — The matter I wish to raise is for the attention of the Minister for Local Government. The reason for my raising this matter tonight is in response to some concerning comments made by the member for Narre Warren South in the Legislative Assembly last night during a debate in the other house on a bill pertaining to public housing. Obviously through Ms Graley's connection to Kingston councillor Steve Staikos, who was formerly an employee of hers in Narre Warren South, and his support and the government's support of the building of social housing, the issue that she brought to the house was the likely proposal of the redevelopment of the Kingswood golf course for the purpose of housing. It has been suggested that it would be purchased by an industry super fund for double the market value in anticipation of somehow getting it rezoned for medium to high-density housing, and that would include a component of social housing, which is obviously Labor Party policy.

This issue is a very sensitive one for the Dingley Village community in the Assembly electorate of Lyndhurst and in South Eastern Metropolitan Region. We all know that there are strict rules that apply to conflicts of interest and apprehended bias, and it never goes astray to reinforce the meaning of those rules to both new councillors and continuing councillors. One issue that concerns me greatly is the degree to which Labor councillors are bound by Labor policy and are therefore bound to follow it in consideration of matters before council, such as may be the case when this site eventually comes before the Kingston council.

I am calling on the Minister for Local Government to make it clear to all councillors, including Labor councillors, that having a predisposed position on a planning matter would indeed be a breach of the precedent set by Winky Pop, which is a demonstrated case of apprehended bias. This certainly could apply to a proposal to rezone a pristine resource, such as the Kingswood Golf Club, for residential high-density and medium-density housing, including social housing. This clarification for councillors needs to be done forthwith. Now is the time for all councillors to be refreshed on the rules that apply to them. I am calling on the minister to be proactive and to make sure that we do not find ourselves in a position where Labor Party rules are imposed upon councillors who have been elected to make decisions on behalf of their communities in good faith and with an impartial and unbiased mind.

Responses

Ms PULFORD (Minister for Agriculture) — I have adjournment matters this evening from your good self, Acting President Finn, and from Ms Symes, Ms Bath, Mr Eideh, Ms Lovell, Mr Mulino, Ms Crozier, Ms Fitzherbert and Mrs Peulich. I will seek responses for members from the respective ministers.

I also have a written response to an adjournment matter raised by Mr Morris on 11 October.

The ACTING PRESIDENT (**Mr Finn**) — Order! The house now stands adjourned.

House adjourned 7.59 p.m. until Tuesday, 22 November.

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

Responses have been incorporated in the form provided to Hansard and received in the period shown.

28 October to 10 November 2016

Youth justice centres

Question asked by: **Ms Crozier**
Directed to: **Minister for Families and Children**
Asked on: **25 October 2016**

RESPONSE:

I am advised that the 2015/16 Youth Justice Custodial Services Category One incident data show there were zero client deaths, 80 assaults, three incidents related to behaviour and 17 other incident types.

In the first quarter of 2016/17 the Youth Justice Custodial Services Category One incidents data show there were zero client deaths, 12 assaults, two incidents related to behaviour and three other incident types.

As the member is aware, where there is an allegation, it is met with a strong response that includes medical attention (should this be required), a report to police if it involves an allegation of physical or sexual abuse or a client is a victim of a crime and counselling and support being offered to all parties.

Following public hearings at the Royal Commission into Institutional Responses to Child Sexual Abuse, a practice change occurred in mid-2015 that has resulted in all youth justice clients being asked about events prior to being admitted to custody. Following this practice change, there has been an increase in the number of assault incidents reported. These incidents are alleged to have occurred prior to clients entering the custodial setting.

I am advised that as the Department of Health and Human Services reports incidents by category and not the number of young people involved, a response would require manual interrogation of individual reports. As the Member would appreciated this would require a significant diversion of the Department's resources.

I am advised that two young people involved in an incident in October 2015 at the Parkville Youth Justice Precinct were also involved in a category one incident at the Malmsbury Youth Justice Precinct between 25 July 2016 and 25 October 2016.

As the member should be aware, category one incidents reports are allegations and capture the details of young people impacted by an incident, including alleged victims and perpetrators.

Youth justice centres

Question asked by: **Ms Crozier**
Directed to: **Minister for Families and Children**
Asked on: **25 October 2016**

RESPONSE:

I am advised that decisions about young people's placement across the youth justice custodial system occur on a daily basis based on a range of factors not restricted to behavioural issues.

As the Member would appreciate, to manually interrogate each of the daily placement decisions would require a substantial diversion of the Department of Health and Human Services's resources away from service delivery.

I am advised that since 1 October 2015 10 young people have been transferred to adult remand or prison at the request of the department under the authority of the Children Youth and Families Act 2005.

Carlton heritage property

Question asked by: **Ms Patten**
Directed to: **Minister for Small Business, Innovation and Trade**
Asked on: **26 October 2016**

RESPONSE TO SUBSTANTIVE QUESTION:

I am outraged by the demolition of the Corkman Irish pub without permission and I know that many Victorians share my outrage. This was a deliberate and dangerous act, which was conducted having no regard to public safety, the heritage of the building or the wishes of the local community.

In conjunction with the City of Melbourne, the Minister for Planning has sought an enforcement order from the Victorian Civil and Administrative Tribunal to re-instate the Corkman Irish Pub in a manner sympathetic to the heritage character of the area and reflect the scale, design and layout of the building that has been demolished.

Minister Wynne has also put in place a control in the Melbourne Planning Scheme, which requires any permit issued for the site to restore and reconstruct the building that stood at the site immediately prior to its demolition.

The Environment Protection Authority is also investigating the disposal of waste removed from the Corkman Irish pub site, which includes asbestos, at a site in Cairnlea. The site is required to be covered and the asbestos will be required to be removed once a management plan is in place.

RESPONSE TO SUPPLEMENTARY QUESTION:

Taking these steps provides a loud and clear message to the developer of this site that this type of action is just not on in Victoria.

Minister Wynne has instructed his department to look at new fines for commercial heritage buildings so owners face tougher penalties for illegal demolition. This will ensure fines are a deterrent, not just the cost of doing business in Victoria.

In addition to the planning enforcement action, the Victorian Building Authority and the City of Melbourne are conducting a joint investigation into alleged offences under the Building Act 1993.

The task of assessing and regulating any risks associated with the site is being co-ordinated between the Environment Protection Authority, WorkSafe Victoria and the City of Melbourne.

The Environment Protection Authority has, and continues, to take strong enforcement action at the site and investigations into a range of possible offences under the Environment Protection Act 1970.

Firearms

Question asked by: **Mr Bourman**
Directed to: **Minister for Training and Skills**
Asked on: **26 October 2016**

RESPONSE TO SUBSTANTIVE QUESTION:

An updated National Firearms Agreement, which included the proposed reclassification of lever action shotguns, was considered at the most recent Law, Crime and Community Safety Council meeting held in Melbourne on 21 October 2016.

While a unanimous agreement was not reached at the meeting, Commonwealth Justice Minister Michael Keenan has publicly stated that the majority of States and Territories, including Victoria, supported moving lever action shotguns with a magazine capacity of up to 5 rounds into Category B and lever action shotguns with a magazine capacity of greater than 5 rounds into the Category D.

RESPONSE TO SUPPLEMENTARY QUESTION:

The Government's position on the lever action shotgun is based on information provided by the Firearms and Weapons Policy Working Group and the National Justice and Policing Senior Officers Group, both of which recommended reclassification and further discussions with stakeholders.

Regional and rural infrastructure

Question asked by: **Mr Ramsay**
Directed to: **Minister for Regional Development**
Asked on: **26 October 2016**

RESPONSE:

Regional Victoria is a major winner thanks to the successful leasing of the Port of Melbourne, with more than $970 million to be invested in regional and rural infrastructure projects, creating jobs and supporting economic growth across the State.

The Delivering Victoria Infrastructure (Port of Melbourne Lease Transaction) Act 2016 {the Act) establishes the Victorian Transport Fund (VTF) into which the Port of Melbourne lease proceeds are to be paid.

Under section 15(1)(ii) of the Act, the VTF will fund the development of infrastructure projects for or in relation to public transport, roads, rail, the movement of freight, ports or other infrastructure (including regional infrastructure).

Section 15 (2) of the Act requires amounts authorised by the Treasurer to be paid out of the VTF to fund the cost of all or any part of the development of regional infrastructure projects, to equate to, in aggregate, at least 10 per cent of the net transaction proceeds.

Other funds established by the Andrews Labor Government, such as the Regional Jobs and Infrastructure Fund and the Agriculture Infrastructure and Jobs Fund, provide support for broad regional development and to the agriculture sector for activities such as infrastructure development, market access and skills, and business capability development.

Minister for Corrections

Question asked by: **Mr Rich-Phillips**
Directed to: **Minister for Corrections**
Asked on: **27 October 2016**

RESPONSE:

As mentioned in the response to the substantive question, I reject the premise of the question and I reject the-allegation. As the Department of Premier and Cabinet has confirmed, no complaint has been made.

Minister for Corrections

Question asked by: **Mr O'Donohue**
Directed to: **Minister for Corrections**
Asked on: **27 October 2016**

RESPONSE:

I reject the premise of the substantive question. As the Department of Premier and Cabinet has confirmed there has been no complaint made. Since this question was raised I have spoken to the Premier and I had spoken to the Government Director of Parliament.

Minister for Corrections

Question asked by: **Mr Ondarchie**
Directed to: **Minister for Corrections**
Asked on: **27 October 2016**

RESPONSE:

The driver logs have been signed by a number of authorised signatories however in a majority of cases since December 2014 they have been signed by myself.

Minister for Corrections

Question asked by: **Ms Wooldridge**
Directed to: **Minister for Corrections**
Asked on: **27 October 2016**

RESPONSE:

A thorough review of driver log records has been undertaken to get an accurate figure for this response. However the detail sought has not been recorded and is not reflected in the logs. This response is therefore based on my recollection. On one, or possibly two occasions the driver couriered my dogs unaccompanied, in travel containers at the rear of the vehicle, directly between Parkdale and Trentham when I was not in the car.

On other occasions when I have travelled to or from my residence, the dogs have also been transported in their travel containers with cargo including luggage, portfolio-related paperwork and other work equipment, consistent with current guidelines.

Wild dogs

Question asked by: **Mr Young**
Directed to: **Minister for Agriculture**
Asked on: **27 October 2016**

RESPONSE:

Wild dogs are distributed throughout forested areas in eastern Victoria, and in the Big Desert Wilderness area in the north-west of the state. They create a significant challenge for land managers; estimated to cost Victoria's livestock industry up to $18 million every year.

That's why the Labor Government is supporting farmers across Victoria with a suite of measures which, importantly, gives local communities a voice on how these pests are managed. This includes the bigger, better bounty for 2017 announced last month.

Feral or wild populations of dogs are declared as established pest animals under the Catchment and Land Protection Act 1994. In Victoria, dingoes are a protected species under the Wildlife Act 1975 and it is an offence to kill protected wildlife without an authorisation to do so. Since October 2010, the dingo has been declared to be unprotected wildlife in certain circumstance to enable better control:

- on all private land in Victoria;

- on public land within 3km of any private land boundary in defined areas in the east and north west of the state (the 'buffer zones'); or

- where a wildlife management authorisation has been issued.

When completing bounty reward application forms, participants must sign a declaration stating where they have sourced wild dog skin pieces and that the wild dog was taken in accordance with the bounty terms and conditions. Full details are available on the Agriculture Victoria website: www.agriculture.vic.gov.au/pestanimals.

VicForests

Question asked by: **Ms Dunn**
Directed to: **Minister for Agriculture**
Asked on: **9 November 2016**

RESPONSE:

I will not provide commentary on legal proceedings involving VicForests and its customer about an existing Timber Sale Agreement.

The Forest Industry Taskforce is finding common ground to make recommendations to the Government about a durable plan for timber supply, for jobs, and for the good stewardship of our forests, for the long-term.

VicForests' contractual arrangements are ensuring utilisation and sale of all potential products from harvested areas, while respecting the work of the Taskforce.

I am confident in VicForests' capacity to fulfil its commercial arrangements. VicForests recently posted its fourth consecutive profit, delivering a net profit after tax of $3.4 million for 2015-16.

Hazelwood Pondage

Question asked by: **Ms Bath**
Directed to: **Minister for Regional Development**
Asked on: **9 November 2016**

RESPONSE:

An Agreement is in place between Latrobe City Council and the State for delivery of the Project. However, Council has received notification from the Victorian Civil and Administrative Tribunal (VCAT) that an appeal had been lodged against Council's decision to issue a planning permit for the proposed development. The VCAT compulsory conference and hearing, originally scheduled for 8 June 2016 and 11 August 2016 were granted an adjournment and the matter is now scheduled to be heard on 10 and 11 November 2016. The Government will work with Latrobe City to determine the future of this project.

Corrections system electricity costs

Question asked by: **Mr O'Donohue**
Directed to: **Minister for Agriculture**
Asked on: **9 November 2016**

RESPONSE:

Any fluctuations in electricity prices will be managed in by the department in the normal budgetary process.

I reject the premise of the question. The Remand Centre has been restored to the condition it was in before the riot occurred on time and on budget. This happened at the same time as the centre continued to be operational.

Further work has commenced at the Metropolitan Remand Centre to harden the facility and, importantly reduce the overcrowding to respond to the concerns in the Walshe Report.

This overcrowding was caused by the previous coalition government's quick fix policy of double bunking which saw the centre running above capacity leading up to last year's riot.

Darebin FReeZA event

Question asked by: **Mr Ondarchie**
Directed to: **Minister for Youth Affairs**
Asked on: **9 November 2016**

RESPONSE:

I am advised that the Department of Health and Human Services funds 80 local government and community organisations to deliver over 420 FReeZA events across Victoria each year.

All the organisations that receive FReeZA funding are required to follow FReeZA guidelines and conditions for service delivery, which are comprehensive in terms of planning, risk management, safety and security at events.

I am advised that the Member may be mistaken as under the guidelines the Department is not required to "sign off' on each and every locally organised event.

In relation to the anti-social behaviour that occurred outside the Halloween party that was organised by the Darebin Council as part of its FReeZA program, the department undertook a debrief with Darebin Council and the Preston Police.

Preston Police advised that they had been fully briefed by council in the lead up to the event and were satisfied with the level of planning that went into the event. Appropriate and timely notifications were made to the police and the event had met all security requirements. As planned, police undertook a walk-through of the event at approximately 8.50pm.

Preston Police also advised that the anti-social behaviour was started by people outside the venue who were not associated with the event.

Darebin Council will continue to work with Preston Police and the department to ensure young people in the area are given the opportunity to organise and participate in events in a safe environment, and in accordance with the FreeZa guidelines.

Malmsbury Youth Justice Centre

Question asked by: **Ms Crozier**
Directed to: **Minister for Families and Children**
Asked on: **9 November 2016**

RESPONSE:

I am advised that there will be a full investigation into this incident, as was the case following an abscond incident in July 2014, where the matters raised by the Member will be thoroughly examined.

I am further advised that the precinct was immediately secured and all client placements were reviewed. Security monitoring has been increased to any mitigate risk of any unsettled client behaviour due to the abscond.

Operational managers and staff continue to actively engage and monitor clients to inform ongoing assessment and management of risk.

Child protection

Question asked by: **Ms Crozier**
Directed to: **Minister for Families and Children**
Asked on: **9 November 2016**

RESPONSE:

The death of any child is a tragedy.

The Andrews Labor Government has committed to data transparency that the previous government never provided. I have directed my department to publish Category One incident reports quarterly and we ‘currently have legislation before the parliament that will enshrine the requirement to publish serious incident reports on a quarterly basis.

In respect of the 17 deaths recorded in the last quarter, I can advise that one of those deaths related to a parent of a child protection client.

As has been the case over many years, sadly many deaths of children known to child protection are of infants who have died due to congenital abnormalities, Sudden Infant Death Syndrome or medical conditions, It is important to understand this context as these deaths may have not been preventable.

All children whose cases are substantiated but not allocated receive some supervision from a senior Child Protection Practitioner.

These deaths may be subject to police or coronial investigations and it is premature to comment on the details at this time.