PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 11 October 2016

(Extract from book 14)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

HANSARD 150

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

(from 20 June 2016)

Premier	The Hon. D. M. Andrews, MP
Deputy Premier and Minister for Education, and Minister for Emergency Services (from 10 June 2016) [Minister for Consumer Affairs, Gaming and Liquor Regulation 10 June to 20 June 2016]	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

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 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

CONTENTS

TUESDAY, 11 OCTOBER 2016

Tuesday, 11 October 2016

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 12.04 p.m. and read the prayer.

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT — Order! On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the first people of Victoria. I acknowledge and pay respects to the elders of the Aboriginal nations in Victoria, past and present, and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of Parliament in this week.

ROYAL ASSENT

Message read advising royal assent on 20 September to Livestock Disease Control Amendment Act 2016.

SENATE VACANCY

The PRESIDENT — Order! I have received the following message from the Governor:

> I write to advise that I have been informed by the President of the Senate that a vacancy has occurred in the representation of the state of Victoria in the Senate through the recent resignation of Senator the Honourable Stephen Conroy.
>
> Accordingly, I enclose a message to you as President of the Legislative Council in relation to this.
>
> I have written to the Speaker of the Legislative Assembly in like terms and have also informed the Premier of this correspondence.

This was on 6 October 2016.

I have a further message from the Governor in regard to the same matter:

> The Governor transmits to the Legislative Council a copy of a despatch which has been received from the Honourable the President of the Senate notifying that a vacancy has happened in the representation of the state of Victoria in the Senate of the commonwealth of Australia.

That was signed by the Governor on 11 October 2016.

She has written in that respect in regard to a copy of a letter that I am now able to also appraise the Council of. This is a letter from the President of the Senate, the Honourable Stephen Parry, on 30 September 2016 to the Governor, and it states:

> Vacancy in the representation of Victoria
>
> Pursuant to the provisions of section 21 of the commonwealth of Australia constitution, I notify Your Excellency that a vacancy has happened in the representation of the state of Victoria through the resignation of Senator the Honourable Stephen Conroy on 30 September 2016.

PETITIONS

Following petitions presented to house:

Ormond railway station

> To the Legislative Council of Victoria:
>
> We, the undersigned citizens of Victoria, call on the Legislative Council of Victoria to note:
>
> > the foundation deck for the development of an up to 13-storey residential tower on the Frankston railway line on North Road above Ormond station has been constructed without informing or consulting the local community;
> >
> > established low-rise suburbs should not be destroyed and permanently scarred by the construction of inappropriate, high-rise overdevelopment on railway land, particularly in the absence of community consultation; and
> >
> > the local community does not support or consent to the construction of a residential tower of up to 13 storeys above Ormond station.
>
> We therefore call on the Andrews Labor government to abandon its plans for the inappropriate overdevelopment of the Ormond station site and instead proceed with a development that is smaller in scale and more in keeping with the low-rise village atmosphere of Ormond.

By Ms CROZIER (Southern Metropolitan) (51 signatures).

Laid on table.

Equal opportunity legislation

> To the Legislative Council of Victoria:
>
> The petition of citizens of the state of Victoria draws to the attention of the Legislative Council our objection to the moves by the Victorian government to remove or restrict the freedom of faith-based schools and other organisations to employ staff who uphold the values of the organisation and to force faith-based organisations to hire staff who are fundamentally opposed to what the organisation stands for, thereby:
>
> I. denying those organisations the freedom to operate in accordance with their beliefs and principles;
>
> II. denying parents the ability to choose to send their children to schools that are able to give them the values-based education their parents are looking for; and

III. undermining Victoria's diverse, pluralist, multicultural society, which supports the right of people of many different faiths to establish institutions in accordance with their faith.

The petitioners therefore call upon the Legislative Council of Victoria to oppose these plans by the Victorian government and to uphold freedom of association and freedom of belief in Victoria.

By Dr CARLING-JENKINS (Western Metropolitan) (178 signatures).

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 13

Mr DALLA-RIVA (Eastern Metropolitan) presented *Alert Digest* No. 13 of 2016, including appendices.

Laid on table.

Ordered to be published.

OMBUDSMAN

Report 2016

The Clerk, pursuant to section 25AA(3) of the Ombudsman Act 1973, presented report.

Laid on table.

Ordered to be published.

PAPERS

Laid on table by Clerk:

Agriculture Victoria Services Pty Ltd — Report, 2015–16.

Architects Registration Board of Victoria — Minister's report of receipt of 2015–16 report.

Barwon Water Corporation — Report, 2015–16.

Barwon South West Waste and Resource Recovery Group — Minister's report of receipt of 2015–16 report.

Central Gippsland Region Water Corporation — Report, 2015–16.

Central Highlands Region Water Corporation — Report, 2015–16.

City West Water Corporation — Report, 2015–16.

Coliban Region Water Corporation — Report, 2015–16.

Commission for Children and Young People — Inquiry into compliance with the intent of the Aboriginal Child Placement Principle in Victoria, October 2016 *(Ordered to be published)*.

Commission for Environmental Sustainability — Minister's report of receipt of 2015–16 report.

Corangamite Catchment Management Authority — Report, 2015–16.

Crown Land (Reserves) Act 1978 — Ministerial Order for approval in relation to Richmond Park Reserve granting a lease, dated 5 September 2016.

Dairy Food Safety Victoria — Report, 2015–16.

Duties Act 2000 —

Treasurer's report of exemptions and refunds arising out of corporate consolidations for 2015–16.

Treasurer's report of exemptions and refunds arising out of corporate reconstructions for 2015–16.

East Gippsland Catchment Management Authority — Report, 2015–16.

East Gippsland Region Water Corporation — Report, 2015–16.

Energy Safe Victoria — Report, 2015–16.

Environment Protection Authority — Report, 2015–16.

Fisheries Act 1995 — Report on the Disbursement of Recreational Fishing Licence Revenue from the Recreational Fishing Licence Trust Account, 2015–16.

Geoffrey Gardiner Dairy Foundation Limited — Report, 2015–16.

Gippsland and Southern Rural Water Corporation — Report, 2015–16.

Gippsland Waste and Resource Recovery Group — Minister's report of receipt of 2015–16 report.

Glenelg Hopkins Catchment Management Authority — Report, 2015–16.

Goulburn Broken Catchment Management Authority — Report, 2015–16.

Goulburn-Murray Rural Water Corporation — Report, 2015–16.

Goulburn Valley Region Water Corporation — Report, 2015–16.

Goulburn Valley Waste and Resource Recovery Group — Minister's report of receipt of 2015–16 report.

Grampians Central West Waste and Resource Recovery Group — Minister's report of receipt of 2015–16 report.

Grampians Wimmera Mallee Water Corporation — Report, 2015–16.

Heritage Council of Victoria — Minister's report of receipt of 2015–16 report.

International Fibre Centre — Minister's report of receipt of 2015–16 report.

Interpretation of Legislation Act 1984 —

Notices pursuant to section 32(3) in relation to Statutory Rules No. 114.

Notice pursuant to section 32(4) in relation to the Dangerous Goods (Explosives) Regulations 2011, Dangerous Goods (Storage and Handling) Regulations 2012, Dangerous Goods (Transport by Road or Rail) Regulations 2008 and Occupational Health and Safety Regulations 2007.

Loddon Mallee Waste and Resource Recovery Group — Minister's report of receipt of 2015–16 report.

Lower Murray Urban and Rural Water Corporation — Report, 2015–16.

Liquor Control Reform Act 1998 — Report pursuant to section 148R by the Chief Commissioner of Victoria Police, 2015–16.

Mallee Catchment Management Authority — Report, 2015–16.

Melbourne Market Authority — Report, 2015–16.

Melbourne Water Corporation — Report, 2015–16.

Metropolitan Planning Authority — Report, 2015–16.

Metropolitan Waste and Resource Recovery Group — Report, 2015–16.

Murray Valley Wine Grape Industry Development Committee — Minister's report of receipt of 2015–16 report.

National Parks Act 1975 — Report on the working of the Act, 2015–16.

Minister's notice of consent pursuant to section 40 of the Act in relation to Origin Energy undertaking operations under the Petroleum Act 1988 within Port Campbell National Park.

National Parks Advisory Council — Report, 2015–16.

North Central Catchment Management Authority — Report, 2015–16.

North East Catchment Management Authority — Report, 2015–16.

North East Region Water Corporation — Report, 2015–16.

North East Waste and Resource Recovery Group — Minister's report of receipt of 2015–16 report.

Parks Victoria — Report, 2015–16.

Phillip Island Nature Parks — Report, 2015–16.

Phytogene — Minister's report of receipt of 2015–16 report.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes —

Ararat Planning Scheme — Amendment C35.

Bass Coast Planning Scheme — Amendment C146.

Benalla, Hepburn, Melbourne, Mitchell, Moreland, Mornington Peninsula, Wangaratta and Wellington Planning Scheme — Amendment GC52.

Boroondara Planning Scheme — Amendment C222 (Part 2).

Brimbank Planning Scheme — Amendment C120.

Casey Planning Scheme — Amendment C211.

Darebin Planning Scheme — Amendment C136.

Greater Dandenong Planning Scheme — Amendment C122.

Greater Geelong Planning Scheme — Amendment C336.

Kingston Planning Scheme — Amendment C161.

Manningham Planning Scheme — Amendment C102.

Maribyrnong, Melbourne, Port of Melbourne and Port Phillip Planning Scheme — Amendment GC54.

Mildura Planning Scheme — Amendment C75.

Moira Planning Scheme — Amendment C38.

Monash Planning Scheme — Amendment C113.

Southern Grampians Planning Scheme — Amendment C14.

Stonnington Planning Scheme — Amendment C241.

Surf Coast Planning Scheme — Amendment C99.

Warrnambool Planning Scheme — Amendments C93 and C99.

Wyndham Planning Scheme — Amendments C212 and C216.

Yarra Planning Scheme — Amendment C221.

Yarra Ranges Planning Scheme — Amendment C153.

Port Phillip and Westernport Catchment Management Authority — Report, 2015–16.

Project Development and Construction Management Act 1994 — Nomination order and application order, 4 October 2015 and statement of reasons for making a nomination order, 21 September 2016, in relation to the State Library Victoria, Ballarat Off Site Store Module 2 Project.

Queen Victoria Women's Centre — Minister's report of receipt of 2015–16 report.

Royal Botanic Gardens Board Victoria — Report, 2015–16.

South East Water Corporation — Report, 2015–16.

South Gippsland Region Water Corporation — Report, 2015–16.

Statutory Rules under the following Acts of Parliament —

Access to Medicinal Cannabis Act 2016 — No. 118.

Offshore Petroleum and Greenhouse Gas Storage Act 2010 — No. 123.

Planning and Environment Act 1987 — No. 120.

Prevention of Cruelty to Animals Act 1986 — No. 122.

Racing Act 1958 — No. 116.

Subdivision Act 1988 — No. 121.

Subordinate Legislation Act 1994 — No. 117.

Tobacco Act 1987 — No. 119.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rules Nos. 111, 115 to 122.

Surveyors Registration Board of Victoria — Minister's report of receipt of 2015–16 report.

Sustainability Victoria — Report, 2015–16.

Trust for Nature (Victoria) — Report, 2015–16.

Veterinary Practitioners Registration Board of Victoria — Minister's report of receipt of 2015–16 report.

Victorian Broiler Industry Negotiation Committee — Report, 2015–16.

Victorian Building Authority — Report, 2015–16.

Victorian Catchment Management Council — Report, 2015–16.

Victorian Coastal Council — Report, 2015–16.

Victorian Environmental Assessment Council —

Final Report on the Historic Places Investigation, August 2016.

Report, 2015–16.

Victorian Environmental Water Holder — Report, 2015–16.

Victorian Equal Opportunity and Human Rights Commission — Report, 2015 *(Ordered to be published)*.

Victorian Industry Participation Policy — Report, 2015–16.

Victorian Strawberry Industry Development Committee — Minister's report of receipt of 2015–16 report.

Wannon Region Water Corporation — Report, 2015–16.

West Gippsland Catchment Management Authority — Report, 2015–16.

Western Region Water Corporation — Report, 2015–16.

Westernport Region Water Corporation — Report, 2015–16.

Wimmera Catchment Management Authority — Report, 2015–16.

Yarra Valley Water Corporation — Report, 2015–16.

Zoological Parks and Gardens Board — Report, 2015–16.

Proclamations of the Governor in Council fixing operative dates in respect of the following acts:

Crimes Amendment (Sexual Offences) Act 2016 — Part 1 and sections 27(2), 28(2), 28(3) and 28(4) — 26 September 2016 *(Gazette No. S289, 20 September 2016)*.

Crimes Legislation Amendment Act 2016 — Parts 2 and 3 — 3 October 2016 *(Gazette No. S296, 27 September 2016)*.

Education and Training Reform Amendment (Miscellaneous) Act 2016 — remaining provisions — 29 September 2016 *(Gazette No. S296, 27 September 2016)*.

Justice Legislation (Evidence and Other Acts) Amendment Act 2016 — Part 3 — 3 October 2016 *(Gazette No. S296, 27 September 2016)*.

Land (Revocation of Reservations — Metropolitan Land) Act 2016 — Whole Act (except Parts 2 and 3) — 5 October 2016 *(Gazette No. S300, 4 October 2016)*.

Primary Industries Legislation Amendment Act 2016 — Parts 1 and 3 — 29 September 2016 *(Gazette No. S296, 27 September 2016)*.

Witness Protection Amendment Act 2016 — Parts 1 and 4 — 5 October 2016 *(Gazette No. S289, 20 September 2016)*.

Proclamations of the administrator of the state of Victoria fixing operative dates in respect of the following acts:

Access to Medicinal Cannabis Act 2016 — Parts 2, 4, 6, 7, 8 and 14, section 79 and the remaining provisions of Part 12 and 13 (except sections 99, 121, 122, 124, 127, 128 and 132) — 14 September 2016; sections 121, 122, 124, 127, 128 and 132 — 21 October 2016 *(Gazette No. S284,* 13 September 2016*)*.

Emergency Management (Control of Response Activities and Other Matters) Act 2015 — Sections 26(2) and 27 and Division 4 of Part 3 — 19 September 2016 *(Gazette No. S284, 13 September 2016)*.

BUSINESS OF THE HOUSE

General business

Ms WOOLDRIDGE (Eastern Metropolitan) — By leave, I move:

That precedence be given to the following general business on Wednesday, 12 October 2016:

(1) notice of motion given this day by Mr Barber in relation to the Supreme Court appeal by the government to the jurisdiction of the Ombudsman;

(2) notice of motion 319 standing in the name of Mr Davis in relation to the production of documents regarding Punt Road;

(3) notice of motion 326 standing in the name of Ms Crozier in relation to a committee reference regarding youth justice issues;

(4) notice of motion given this day by Mr Barber in relation to solar feed-in tariffs;

(5) notice of motion given this day by Mr Ondarchie relating to StartCon and the Minister for Small Business, Innovation and Trade;

(6) notice of motion given this day by Mr O'Donohue taking note of police numbers; and

(7) order of the day 24, resumption of debate on the Country Fire Authority proposed enterprise bargaining agreement.

Motion agreed to.

MINISTERS STATEMENTS

Foster carers

Ms MIKAKOS (Minister for Families and Children) — I rise to inform the house about an Australian-first initiative that the Andrews Labor government is undertaking to support vulnerable children in Victoria. Labor understands that foster care is vital in reducing the need for residential care. We know children succeed in home-based settings. That is why we are investing $5.6 million in an Australian-first trial of a new professionalised model of foster care. The Treatment Foster Care Oregon model uses professionalised foster carers to provide intensive support for some of the most vulnerable children in Victoria's out-of-home care system. OzChild and Anglicare Victoria, with support from the Victorian Aboriginal Child Care Agency, will recruit and train 14 new carers to deliver the specialised Treatment Foster Care Oregon model in the bayside, peninsula and southern Melbourne areas. They will work with one child for six to nine months. It is expected that at least 28 children will be supported by this model over two years.

These children placed in professionalised foster care would typically be placed in residential care due to their significant emotional and behavioural needs. Professionalised foster carers will provide full-time care and will receive daily support and attend training and weekly team meetings in order to provide intensive support for children as part of the care team. The families of children in professionalised foster care will also receive intensive support. It is expected that many of these children will be able to return to their family following this support. In fact the US program has had a 67 per cent success rate in family reunification. Children not able to be safely reunited with their family will be supported to transition to other home-based care arrangements. These professionalised carers will complement the essential work of volunteer foster carers by preparing children to return to their placements or their families.

The former government sought to expand residential care while the Andrews Labor government is shrinking it. We have listened when children in care told us, 'Don't give us a system, give us a family'. Every child in care deserves to have a loving family.

MEMBERS STATEMENTS

Jerril Rechter

Ms LOVELL (Northern Victoria) — I wish to congratulate the VicHealth CEO, Jerril Rechter, who has been named as a finalist in the 2016 *Australian Financial Review* and Westpac 100 Women of Influence Awards. These prestigious awards identify and celebrate bold, energetic women who capture the spirit of progress and who help shape a vibrant, inclusive, economic and social future for Australia. In my role on the board of VicHealth I have worked alongside Jerril and know her to absolutely embody all of the characteristics that the awards celebrate. Jerril is a strong asset to VicHealth and to the future of health in our state, and I wish her all the best in the awards.

Sam Atukorala and Chris Hazelman

Ms LOVELL — I wish to congratulate Shepparton residents Sam Atukorala and Chris Hazelman, who were both acknowledged for their work in multiculturalism at the 2016 Serendib Awards. These awards are well deserved, and I thank both Sam and Chris for the work they do to make Greater Shepparton a fantastic place to live.

Shepparton Agricultural Show

Ms LOVELL — Last Friday I was delighted to participate in the opening of the 140th annual Shepparton show. The show is a major event for families in our region, and many of the traditional exhibitions of animals, crafts and cooking, as well as the traditional competitions, continue to this day. This year the show featured a new schools-based event called Herd of Cows, which involved decorating cut-out cows. This event was designed to stimulate awareness and classroom discussion about the dairy industry. I would like to congratulate the Shepparton

Agricultural Society, led by its president, Lloyd Ohlin, on another successful year, and may there be many more.

Millions Missing

Ms HARTLAND (Western Metropolitan) — Over the past few months I have been working with a group of people who suffer from chronic fatigue syndrome, and tomorrow there will be an event here on the steps referred to as Millions Missing, which is a global day of action for people who have chronic fatigue syndrome. Millions Missing represents the millions of people missing from their school, work, social lives and families due to myalgic encephalomyelitis (ME), as well as the millions of dollars missing from research and clinical education.

Tomorrow, 12 October 2016, between 1.00 p.m. and 2.00 p.m., Melbourne is holding a Millions Missing Melbourne rally on the steps of Parliament House, and the Greens will be attending. This rally follows Millions Missing rallies held in 24 countries around the world.At the Millions Missing Melbourne ME patients will be standing, sitting and lying on the steps of Parliament House to attract government attention to ME and request urgently needed funding for research into the illness. There will be a display of empty shoes to represent the millions of patients missing from the event due to being too ill to attend. One pair of shoes will represent 1000 Victorians or 40 000 Australian ME patients. Having worked with these people, I know that this illness is often very difficult to diagnose. People are often described as being hysterical and the condition is put down as being psychological, but it is truly a physical and very difficult illness to deal with. I admire the work they do.

Paralympic Games

Mr ELASMAR (Northern Metropolitan) — I would like to pay tribute to our 2016 Paralympians. Victorians once again led the way, with our own Dylan Alcott and Carol Cooke winning gold for Australia. Members of the wheelchair rugby team, of whom we are very proud, also hail from Victoria. On 5 October, in the heart of Melbourne, a public celebration and parade was held to honour and welcome our returning Paralympic Games heroes home from Rio. Altogether we won 81 medals, including 22 gold, and came fifth on the overall medals tally. This is a wonderful result from all our athletes who participated in these games. I congratulate each and every one of them.

Whittlesea community volunteers

Mr ELASMAR — On another matter, on Saturday, 17 September, I attended the City of Whittlesea mayoral community thank you event with my wife, Heam. The evening was a well-attended occasion organised by the council to sincerely thank community groups for their tireless volunteer efforts during the year on behalf of their less fortunate fellow Whittlesea residents. It was an enjoyable night, and I thank the council organisers for their hard work and for making this a special night for everyone who attended.

Parliamentary shooting competition

Mr ELASMAR — On another matter — and I will be very brief — parliamentarians had a competition in shooting. I would like to congratulate my colleague Jeff Bourman for hitting 12 out of 12.

Ballarat crime rate

Mr MORRIS (Western Victoria) — The crimes tsunami facing the people of Ballarat has continued over the past weeks since I detailed to this house the armed offender who terrorised Ballarat and surrounding towns with an axe. We have now experienced further unprecedented violent crime, including a 13-year-old boy who had not slept for two weeks causing $450 000 damage over a period of 18 days whilst he was on ice. Amongst the damage caused during this rampage was three cars valued at $80 000 stolen from a home in Mount Clear as well as $21 000 worth of damage caused to a Ballarat car dealership, with seven cars having their windows smashed by the offender looking for keys. These extraordinary crimes are all occurring at the same time that Police Association Victoria has said that population growth has outstripped the ability of police to meet calls for assistance in a timely way. As a result inadequate first response police numbers are placing the community and police members at risk. This government must immediately act to provide more frontline police instead of cutting them, as it has up until now.

Butterfly Foundation

Dr CARLING-JENKINS (Western Metropolitan) — I rise today to speak about eating disorders and the great work being done to address this issue by the Butterfly Foundation. Eating disorders are a deadly mental illness that are unfortunately overlooked too often and which affect an estimated 1 million Australians. It is not unusual for people with this illness to also experience severe depression and/or anxiety. Sadly, eating disorders have the highest

mortality rate of any psychiatric illness, and suicide rates for anorexia are 32 times higher than the general population. Fortunately, thanks to the efforts of organisations like the Butterfly Foundation, many Australians have been able to change their lives for the better.

One story I found particularly inspiring is that of Simone Brick. Simone almost lost her life to an eating disorder, but Butterfly was there to help her. Now, Simone has been training hard to run in the Melbourne Marathon this weekend to raise awareness and much-needed funds for the foundation. I have no doubt that with the efforts of Simone and many others who want to give something back to an organisation that has done so much for them, Butterfly will be able to continue its work in saving lives. I encourage everyone in the chamber to visit the Butterfly Foundation's website to learn more about eating disorders and to consider supporting the foundation in whatever way they can.

The PRESIDENT — Order! I might indicate that I denied Mr Melhem the opportunity to bring a prop into the house, but I share his sentiments.

Western Bulldogs

Mr MELHEM (Western Metropolitan) — Thank you, President. I do have the cup so that will do. It is a great time to be living in the west. After a 62-year drought my club finally did it. The Western Bulldogs emerged as the victors in this year's AFL Grand Final — and what a day it was. As a loyal fan and member of the football club I was also touched by the heartwarming moment when coach Luke Beveridge in a selfless act handed the club's injured captain Bob Murphy his Jock McHale medal. This victory is not only a significant moment for the football club; it is indeed a big moment for the entire west.

Just a day after the final Doggies fans in the thousands packed the club's home ground, Whitten Oval, in Footscray, in a demonstration of club patriotism and football fever. Indeed both the west and I are fiercely proud of the achievements of our club. This grand final was one of the best I think I have ever watched in the 30 years I have been in this country. It has been one of the most successful ones. The grand final parade established a new record. Hundreds of thousands of people enjoyed the day and enjoyed the public holiday.

I congratulate the coach of the Western Bulldogs, the president, Peter Gordon, the captain, Bob Murphy, the stand-in captain and the entire team. I think they have overcome adversity over the last 12 months with injuries, but they prevailed. So congratulations to the whole Western Bulldogs membership. Go Doggies!

Residential planning zones

Mr DAVIS (Southern Metropolitan) — Today I want to draw the attention of the house and the community to the Labor government's plans for increased densification across metropolitan Melbourne and beyond. We have seen the report from Infrastructure Victoria released last week, and it makes it clear that densification is one of the key objectives. It also says that the report will target established areas in Melbourne's east and south to further intensify housing. It says that this rebalancing is unlikely to occur without intervention.

It is pretty clear that Richard Wynne as Minister for Planning and the Labor government under the Premier, Daniel Andrews, are intending to declare war on the suburbs of Melbourne. It is very clear that they are going to strip away the NRZ, the neighbourhood residential zone, protections put in place by former planning minister, Matthew Guy, in 2013 and 2014. It is clear that they are going to force without consent increased densification, increased development, high-rise development and high-density development that communities largely do not want. That is not to say that there are not areas where increased development cannot occur, because there are. But what is critical is that there is sufficient community support and sufficient community buy-in and consent before these projects are forced on communities. Daniel Andrews and Richard Wynne have this as a clear plan, and when *Plan Melbourne* is released in its refreshed form I think you will see the neighbourhood zones trashed.

Violence against women

Ms SPRINGLE (South Eastern Metropolitan) — The Republican nominee for this year's presidential election in the United States is difficult to avoid talking about. While it is his groping video and attempted apology that has provided the trigger for the conversation the world is having now, I am not going to talk about him per se. Instead, I am going to talk about what we actually need to be talking about — the continuing need to change attitudes and behaviour around sexism, sexual assault and violence against women.

What has been truly unprecedented is the outpouring by over a million women worldwide who have shared their stories of their first sexual assaults, most prominently under the hashtag #notokay. The sheer volume of women who are now willing to talk about this in public

is awe inspiring. Sexual assault has historically been an issue that too many women remain silent about. That is beginning to change, and it is a promising sign that a fudged apology for appalling language and behaviour on the world stage has become the latest trigger for a global discussion all of us need to have. As leaders, we have a responsibility to consistently encourage the change of attitudes in our communities and particularly among men. Sexism, sexual assault and violence against women is never okay.

Metropolitan Fire Brigade northern district memorial

Ms SHING (Eastern Victoria) — On 1 October it was a profound honour and a privilege to attend the Thomastown Metropolitan Fire Brigade (MFB) station to unveil the northern district memorial wall. This wall contains the names of 15 firefighters who have lost their lives during the course of their work.

It is an inherently dangerous profession. It is one where health and safety is of paramount importance, and in this regard it was a great honour and a privilege to name the truck formerly known as Teleboom 7 after the late Scott Morrison and to commemorate colleagues and fellow firefighters Bill Arnold, Marcus Currie, Peter Hunt, Des Kelly, David Stewart, David Mulvihill, Rod Allen, Jeff Newland, Scott Bernart Morrison, John Williams, Reg Montague, Ray Muir, Bernie Henry, Phil Hodgson and Michael Bust for the loss of their lives in the course of their work.

It can never be overstated that firefighting is an inherently difficult profession. It is one that takes a toll physically and emotionally. We should never forget the sacrifices that are made by firefighters and their families in order to enable people to do their jobs. We look forward to welcoming more firefighters home as we lead up to this summer season. Congratulations to Glenn Marks, who has been such an instrumental part of making sure that the memorial wall project continues to be rolled out throughout the MFB areas.

Churchill lawn bowls club

Ms BATH (Eastern Victoria) — On 20 September I had the pleasure of attending the opening of the Churchill synthetic bowling green. This state-of-the-art facility was 10 years in the planning by the president of the bowling club, Bill Brown, and his dedicated committee. Lawn bowls is a tremendous activity — a community-friendly, family-friendly, all-age-friendly and all-ability-friendly activity — and I commend the bowling club for their hard work. I also congratulate Latrobe City Council for funding this great project in the absence of state funding.

Mawarra disability support services

Ms BATH — On 20 September I had the pleasure of visiting Mawarra disability support services based in Warragul to discuss the work that they have been doing for over 57 years. I also had the absolute pleasure of attending and speaking at their annual general meeting, where the community choir of participants and families in that great group of people gave a fabulous rendition of *Georgy Girl* that was an inspiration and a delight to hear.

Mawarra operates a multimillion-dollar business, which employs 30 staff and caters for over 100 clients, with a view to expand throughout the national disability insurance scheme. I congratulate Gordon Jamieson and the whole committee and board of management of Mawarra.

Swinburne University Young Mums program

Mr LEANE (Eastern Metropolitan) — I was very impressed yesterday when I visited the Young Mums Victorian certificate of applied learning program, which is being run at the Croydon campus of Swinburne University, where teenage mothers are able to complete their studies to year 12 and also undertake extra certificate IIs in business and so forth above that. They can attend their study with their baby in the classrooms. Obviously this is being facilitated for a number of important reasons. One is that it is a very important bonding period up to 18 months of a child's early life, and also obviously the students would not be able to complete their studies if this facility was not available to them. So I really want to recommend the work that is being done there.

Louise Schilling, who has developed the program and convenes the program, is an amazing person, and the people that work with her and the people that are kind enough to volunteer their time to assist with this program should be completely commended. I am encouraged to hear that more of these programs will be commencing in other metropolitan and regional areas into the future.

Western Bulldogs

Mr FINN (Western Metropolitan) — I rise to congratulate the Western Bulldogs on successfully capturing the Holy Grail, the 2016 AFL premiership. I have always been of the view that what is good for the Dogs is good for the west, and this win has lifted

everyone in the west, including those of us who were honorary Bulldogs for the occasion. Congratulations to Peter Gordon and his administration on bringing this result to Whitten Oval. As much as winning the flag itself, who will ever forget the sight of coach Luke Beveridge in the centre of the MCG removing his premiership medallion and draping it around the neck of injured captain Bob Murphy? If that does not stick in your memory, nothing will.

The euphoria in Melbourne's west will take some considerable time to subside, and rightly so. After 62 years without a flag every Doggy fan is entitled to lap up every moment of what has been a dream come true for so many. I can only join thousands throughout the west in a hearty 'Woof!'. It gives hope to those of us who have been waiting for a similar result for close to four decades. If the Dogs can rise up in the west, I have some hope that the Tigers will roar again before I depart this mortal coil. The west now has a premiership flag. All we need now is more police.

Western Victoria floods

Ms TIERNEY (Western Victoria) — My member's statement relates to the ongoing impact of the record-breaking spring rainfalls in western Victoria. The shire communities of Glenelg, Southern Grampians and Buloke, among others, are dealing with the lasting effects of flooding after two major September rainfall events, each a 1-in-20-year event. They produced emergency situations to which the State Emergency Service, the Country Fire Authority and other emergency workers, along with local volunteers, responded quickly and expertly, for which I thank and congratulate them. We have three avenues of financial assistance: an emergency payment to meet immediate needs; the natural disaster relief and recovery arrangements, activated in 27 areas to help local councils clean up and repair infrastructure; and emergency re-establishment payments for devastating impacts on primary places of residence.

While the rains filled farm dams and gave hopes of a good harvest in the south-west, elsewhere there is damage to pastures and possible sheep foot issues. In Buloke Shire, where farmers anticipated excellent harvests after many years of disappointment, there is potential heartbreak as floodwaters slowly drain from the Charlton region into cropped land, inundating low-lying areas. The Glenelg continues to rise and fall, impacting on Casterton, and through western Victoria there is very serious damage to both local and state roads. Many roads are yet to be assessed. Recreation facilities like tennis courts, the Charlton swimming pool and Casterton's bowling club and Island Park recreational facilities have also been affected.

The efforts of shire employees and members of local organisations are outstanding, but with so much to be done communities need to be supported in their recovery efforts, and I am sure that all of us in this chamber will make sure that this continues to happen.

Cricket Southern Bayside

Ms CROZIER (Southern Metropolitan) — Last week I was delighted to be at the McKinnon Hotel in Bentleigh — —

Mr Finn — What time did you get home?

Ms CROZIER — It is a fantastic establishment, but more importantly I was attending the launch of Cricket Southern Bayside, which is a brand-new competition in the south-eastern regions of Melbourne. It is going to provide the opportunity for hundreds of cricket players right across the board to be involved in this exciting new competition. There are 23 foundation clubs across the south-eastern suburbs who will be involved and who have responded in a very encouraging way through their players and supporters.

The idea of having a cricket competition of this nature had been discussed at various levels for some time, but it only came to fruition a few months ago, so I would like to acknowledge those who have been involved in getting the competition up and running — and it is about to commence. As I said, there has been involvement at all levels, with players, umpires, sponsors, club volunteers and supporters as well as those within Cricket Australia and Cricket Victoria.

Cricket Southern Bayside chair, Rod Kimmitt, the head of Cricket Southern Bayside, Warren Griffin, plus the chair of Cricket Victoria, Russell Thomas, all commented to me about the excitement and dedication of those involved in getting this new competition in the area ready for the season. Can I say not only congratulations to all of those volunteers involved but that this is a great way of getting disengaged youth involved in club activities, and it also has health and wellbeing benefits for many players. It also assists local businesses and the general community. Congratulations to all involved.

Finley Warren

Mr O'DONOHUE (Eastern Victoria) — I would like to congratulate my 10-year-old constituent Mr Finley Warren, who has ridden his bike, with his mum and others, 230 kilometres from Maffra to

Melbourne to the Royal Children's Hospital to raise money for the hospital. In fact he raised more than $20 000. The reason why he has done that is he spent the first five months of his life, often in a very serious condition, in the Royal Children's Hospital because his oesophagus did not connect his mouth to his stomach. As a result of a number of operations he is now back to full strength. He has spent more time than he probably cares to think about at that hospital in the care of its wonderful staff. I would like to congratulate him on his courage. I acknowledge his wonderful parents, Glen and Kelly, and Fin's three siblings. They should be very proud of what they have achieved as a family and they should be very proud of Fin, who is a most courageous and impressive young man.

Police station closures

Mr O'DONOHUE — I would also like to comment on the Infrastructure Victoria report which recommends the sale of closed police stations. The Premier has closed police stations around Victoria. The Minister for Police must rule out the fire sale of these police stations on the back of the Infrastructure Victoria report.

CRIMES AMENDMENT (CARJACKING AND HOME INVASION) BILL 2016

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Mr Dalidakis 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 Crimes Amendment (Carjacking and Home Invasion) Bill 2016 ('the bill').

In my opinion, the Crimes Amendment (Carjacking and Home Invasion) 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.

The main purpose of the bill is to amend the Crimes Act 1958 to create the new offences of carjacking and aggravated carjacking; and home invasion and aggravated home invasion. It will also amend the Sentencing Act 1991 to impose statutory minimum sentences of imprisonment for aggravated home invasion and aggravated carjacking and the Bail Act 1977 to include aggravated carjacking, home invasion and aggravated home invasion as show cause offences under that act.

Human rights issues

A person charged with a criminal offence has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing (section 24 of the charter)

A person charged with a criminal offence has the right be presumed innocent until proved guilty according to law (section 25 of the charter)

Home invasion offence

Clause 3 of the bill creates the offence of home invasion. The offence is committed when a person enters a home as a trespasser in company with another, intending to steal something or to assault a person in the home or damage something; and there is a person present in the home at the time of the offence. The offence is also committed where the offender enters a home as a trespasser in company with another, intending to steal something or to assault a person in the home or damage something and the offender is armed — if the offender is armed, the offence is proven whether or not another person is present in the home. The offence carries a maximum sentence of imprisonment of 25 years.

Home is defined broadly under the bill but it is intended to capture any building which is intended to be used for the purposes of dwelling.

Clause 3 includes an element of strict liability in the new offence of home invasion, as it is immaterial whether or not the accused knew that there was, or would be, another person present in the home. This engages s 25(1) of the charter.

The element of strict liability is justified due to the serious nature of the offence, and the exceptional traumatic effect on a person who is present during such an offence. This reflects the extra culpability of targeting a home for a burglary, and the fact that there is always a risk that a person is or will be present. It will not be necessary for the prosecution to show whether the accused was aware that someone was present, or would be present during the burglary, as the indifference shown when entering the building to commit a burglary, is sufficient to justify the strict liability element. It is an appropriate response to the impact of violent crime on victims.

The remaining elements of the offence of home invasion must still be proven by the prosecution. To the extent that it limits the right in section 25, it is a reasonable limitation.

Clause 3 also creates the new offence of aggravated home invasion. The aggravated offence is committed where a person enters the house in the company of two or more others and at that time has a weapon and knows, or is reckless as to, that a person is present in the home and at time a person is present in the house. The requirement to prove a mental element is one of the elements of this aggravated version of the offence that balances the imposition of a statutory minimum sentence that must be imposed when a person is convicted and sentenced.

If on trial of a person charged with aggravated home invasion, the jury is not satisfied they are guilty, it can acquit them and find them guilty of the offence of home invasion.

Carjacking offences

Under the bill, a person will be guilty of carjacking when they steal a vehicle and, immediately before doing so, or in order to do so, they use force on another person or engage in conduct that could reasonably be expected to arouse fear in another person that they or another person will then or there be subjected to force. 'Vehicle' includes a motor vehicle and a vessel. The offence carries a maximum period of imprisonment of 15 years.

A person will be guilty of aggravated carjacking when they commit a carjacking and at the time have with them a firearm, imitation firearm, offensive weapon, explosive or imitation explosive or in the course of the carjacking, they cause injury to another person. The offence carries a maximum period of imprisonment of 25 years.

The offences require the prosecution to prove a number of elements. They are a response to the very serious effects of violent crime.

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty in accordance with the law. The onus of proving an accused's guilt beyond reasonable doubt lies on the prosecution.

The creation of these new offences does not displace the usual requirements that a person is considered innocent until proven guilty.

Statutory minimum sentences

A person must not be punished in a cruel, inhuman or degrading way. (Section 10)

A person must not be deprived of his or her liberty except on grounds, and according to procedures, established by law. (Section 21)

Clause 5 of the bill inserts new sections 10AC and 10AD into the Sentencing Act 1991 to impose a statutory minimum sentence of imprisonment for the offences of aggravated home invasion and aggravated carjacking. The provisions compel a sentencing court to impose a minimum three year non-parole period for aggravated carjacking and aggravated home invasion.

The statutory minimum sentence is only applied to the aggravated version of each offence. For each of these offences, the prosecution must prove extra elements if the statutory minimum sentence is to be imposed.

In the case of aggravated carjacking, that aggravating factors that must be proved are either that the offender was armed or that the offender caused injury to another person in the course of the carjacking.

In order to prove aggravated home invasion, the prosecution must prove that:

> the offender was acting as part of a gang of three or more;
>
> the offender had a weapon;
>
> there were people present in the home at the time of the offence; and
>
> the offender knew or was reckless as to whether there were people in the home.

This extra burden on the prosecution, and the extra culpability demonstrated by those who will be convicted of these aggravated forms of the offences, work to balance the statutory minimum sentence. These sentences will create a strong deterrent and are a proportionate response to the aggravated forms of these offences.

Section 11(3) of the Sentencing Act 1991, which requires a non-parole period fixed by a court to be at least six months less than the term of a sentence, will apply to both offences created by the bill.

A sentencing court may depart from the imposition of a statutory minimum sentence if it finds that special reasons pursuant to the existing section 10A exist in a particular case. The special reasons are:

> the offender has, or has undertaken to, provide assistance to the police or the Crown;
>
> the offender was aged between 18 and 20 at the time of the offence and, due to a psychosocial immaturity, has a substantially diminished ability to regulate their behaviour;
>
> the court imposes a hospital security order, or residential treatment order; or
>
> the offender has impaired mental functioning.

In addition, a court is also permitted to depart from imposing a statutory minimum sentence if there are 'substantial and compelling circumstances to justify doing so'. In considering such circumstances, the bill amends sections 10A(2) and 10A(3) of the Sentencing Act 1991 so that the court must have regard to the intention of Parliament that the statutory minimum sentence is the sentence that should ordinarily apply to the offence, and whether the cumulative impact of the circumstances of the case justify departure from the statutory minimum.

These amendments are an appropriate response to the level of criminality demonstrated by these new offences. They address not only the traumatic outcomes for victims of crime but are an important response to ameliorate the concerns of the community about the prevalence of violent crime and impact that it frequently has.

It is also worth noting that the High Court has consistently held that provisions imposing mandatory minimum sentences — which this bill does not do given the special reason provisions — do not constitute an inappropriate usurpation of judicial power.

In my opinion, the statutory minimum sentences introduced by the bill do not limit the protection from cruel, inhuman or degrading punishment, as they do not compel the imposition of a grossly disproportionate sentence. Statutory minimum sentences are directed at serious offences that involve a high level of harm and culpability because of the trauma they cause to victims.

The bill acknowledges the possibility that individual cases might include the presence of factors which lessen the culpability of an offender such that the statutory minimum sentence should not be imposed. It does not change the

operation of the special reasons exceptions and therefore protects against disproportionate sentences in individual cases by allowing a court to depart from the statutory minimum if it finds that the personal characteristics of the offender and/or the circumstances of the case justify doing so.

A court that finds a special reason exists has the full sentencing discretion available to it and may impose whatever sentence it considers appropriate.

Right to a fair trial (section 24)

Section 24 of the charter provides that a person charged with an offence has the right to have the charge decided by an independent and impartial court after a fair hearing.

Although the bill prescribes the minimum sentence for the offences of aggravated home invasion and aggravated carjacking, a sentencing court has discretion to impose any sentence within the parameters of the minimum and maximum sentences.

Furthermore, as outlined above, the bill's special reasons provisions allow the courts to take account of factors that reduce an offender's culpability to such a degree that the offender should not be subject to the statutory minimum sentence.

For these reasons, I consider that the bill does not limit section 24 of the charter.

Amendments to the Bail Act 1977

The Bail Act 1977 contains a general presumption in favour of bail, but this presumption is displaced where an alleged offender is charged with an offence that falls within the 'show cause' provisions. The bill adds to the offences for which an offender must show cause as to why bail should be granted. Clause 7 inserts new section 4(4)(bc) to provide that an accused charged with the offence of aggravated carjacking, home invasion or aggravated home invasion must be refused bail unless they can show cause that their continued detention is not justified.

The bill amends the wording of section 4(4)(c) of the Bail Act 1977 to make clear that, in addition to the show cause provisions applying to the new offence of home invasion and aggravated carjacking, a person charged with any indictable offence which was committed using firearms or weapons, must also show cause why bail should be granted.

Section 21(6) of the charter provides that a person awaiting trial must not automatically be detained in custody. Sections 25(1) and 25(2) contain the right to be presumed innocent until proved guilty according to law and minimum guarantees in criminal proceedings.

Clause 7 may limit the rights in sections 21 and 25 of the charter, as it expands the exceptions to the general presumption in favour in bail. However, any such limitation is justified for the following reasons. Firstly, as with all offences that attract the show cause exception, an accused person retains the ability to present evidence and arguments why bail should be granted. The bill does not restrict the ability of an offender to put whatever matters they consider relevant to a court that is deciding whether to release the person on bail. Secondly, the purpose of clause 7 is to protect the community and ensure that community safety is maintained. Thirdly, clause 7 only applies to the more serious offences of aggravated carjacking, home invasion and aggravated home invasion.

The bill does not specifically change how bail applies where a child is charged with an offence. A child charged with home invasion, aggravated home invasion or aggravated carjacking will have to show cause why bail should be granted.

Section 17(2) of the charter provides that children have the right to such protection as is in their best interests and needed by reason of being a child. Section 23 provides that children accused of crimes must be segregated from adults in custody, brought to trial as quickly as possible and treated in an age-appropriate manner. Section 25(3) provides that children have the right to procedures that take account of their age and the desirability of promoting their rehabilitation.

The Bail Act 1977 contains provisions that apply when the person seeking bail is a child. Section 3B requires a court to take into account a number of factors specific to children when making a determination as to bail. For example, a court must take into account that placing a child in custody should be a last resort, the need to minimise the stigma to a child associated with incarceration, the importance of preserving family relationships, living arrangements, education and employment and that bail conditions must be appropriate and proportionate.

In addition, the court can also take into account any recommendation or information contained in a report provided by a bail support service. In all cases, bail must not be refused to a child solely on the ground that they do not have any or adequate accommodation.

For these reasons, the creation of the new offences in the bill and the addition of home invasion, aggravated home invasion and aggravated carjacking to the show cause offences in the Bail Act 1977 will not lead to children being unreasonably remanded.

The bill, in creating new offences and statutory minimum sentences, is an appropriate response to the violence and trauma associated with carjackings and home invasions. Section 17(1) of the charter acknowledges that families are the fundamental group unit of society and are entitled to be protected by society and the state. The bill, in creating new offences, statutory minimum sentences and changes to the Bail Act 1977, appropriately balances rights in order to promote and protect community safety.

The Hon. Steve Herbert, MP
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Andrews Labor government is very concerned about recent serious criminal offending, which has involved breaking into people's homes and dragging people out of their cars.

There is absolutely no place for this sort of behaviour. All Victorians should be able to feel safe and secure in their own homes. All Victorians should be able to drive around without fear of being set upon by criminals.

The government is introducing offences and penalties which appropriately reflect the terrifying nature of these crimes. In doing so, the government, and the Parliament, denounce the perpetrators of such crimes in the strongest terms and send a message to the community that such activities will not be tolerated.

The bill creates the new offences of carjacking, aggravated carjacking, home invasion and aggravated home invasion. To recognise the particular seriousness of aggravated carjacking and aggravated home invasion, the bill imposes statutory minimum sentences of three years on these offences.

The bill also makes some changes to the operation of the Bail Act 1977 to ensure that those charged with aggravated carjacking, home invasion and aggravated home invasion are not entitled to the general presumption of bail and must show cause why they should be granted bail before they may be released.

Carjacking

Under the bill, a person will be guilty of carjacking when they steal a vehicle and, immediately before or at the time of doing so, and in order to do so, they use force on another person or they or another offender put another person in fear that they or anyone else will then and there be subjected to force. 'Vehicle' includes a motor vehicle and a vessel. The offence carries a maximum period of imprisonment of 15 years.

A person will be guilty of aggravated carjacking when they commit a carjacking and at the time have with them a firearm, imitation firearm, offensive weapon, explosive or imitation explosive or in the course of the carjacking, they cause injury to another person.

The definition of 'offensive weapon' includes any article made or adapted for use for causing injury, or that is intended to be used or adapted for that purpose. This will cover bats, crowbars or any other object that might be used in an aggravated carjacking.

The offence will also cover causing injury without a weapon — and so will be broader than armed robbery.

The offence carries a maximum period of imprisonment of 25 years. In order to recognise the particular seriousness of this offence there is also a statutory minimum sentence of three years. This is intended to be a serious deterrent to those who plan to use weapons and violence to take another person's vehicle.

The offence of carjacking will be able to be heard and determined summarily, similarly to the existing offence of robbery. The new offence of aggravated carjacking will be tried on indictment only, the same as armed robbery.

Home invasion

The bill creates a new offence of home invasion. The offence of home invasion will be made out when a person enters a home as a trespasser in company with another, intending to steal something or to assault a person in the home or damage something; and there is a person present in the residence. The offence is also made out if the offender is armed — but if the offender is armed there is no need to prove that another person is present in the home.

The definition of home is broad enough to also cover rooming houses, caravans and hotels. It is intended to cover any building in which a person lives.

The penalty for the new offence is a maximum of 25 years imprisonment. That is the same penalty as for aggravated burglary. The offence of aggravated burglary remains on the statute books as it is. It will cover a single offender entering a residence, and cover any aggravated burglary of a commercial premises.

The bill specifically introduces an element of strict liability into the offence of home invasion, so that an offender's knowledge of the presence of another person is irrelevant. This is deliberate and is a response that properly recognises the traumatic effect on victims. If two or more individuals decide to enter a residence as a trespasser to commit a burglary and there is someone present, they should face a serious charge. Whether they knew someone was present or whether they turned their minds to that possibility is irrelevant. Anyone who targets a residence for burglary takes the risk that a person will be inside and should face the consequences of that risk.

It is unacceptable for someone to feel unsafe in their own home. It would be even worse to actually be confronted by strangers in what should be a person's sanctuary. If a person wants to engage in these acts of criminality, they should get no credit for arguing that they did not know people would be present or they did not think other people would be present. Whether or not it is intentional, the effect on victims is the same and is rightly condemned by the introduction of this offence.

The bill also introduces the offence of aggravated home invasion. This offence has been created to capture the most serious instances of home invasions and will be committed when:

- the offender was acting as part of a gang of three or more people;
- the offender had a weapon;
- there were people in the home; and
- the offender knew or was reckless as to whether there were people in the home.

Like home invasion, this offence has a 25-year maximum penalty, but it also carries a statutory minimum sentence of three years imprisonment. As with aggravated carjacking, this is intended to deter those who think it is acceptable to form a gang, arm themselves and break into a home — not caring that there are people at home and that those people will be terrified and traumatised.

Special reasons

Although we are imposing statutory minimum sentences for the most serious offences, we do recognise that there are always unusual cases that, for a variety of reasons, will not warrant three years in jail. To allow for these cases, the bill preserves the application of the existing special reasons provisions that allow a court to consider factors that either substantially reduce the offender's moral culpability or provide a strong public policy reason for imposing a lesser sentence than the statutory minimum.

In addition, the new provisions appropriately exclude the operation of a statutory minimum sentence where an offender was 18 years of age or younger when the offence was committed.

The government is mindful that there may be, in some cases, older, more experienced criminals who are procuring younger people to effectively do their dirty work in the commission of these offences. The government is in discussions with Victoria Police about the development of an appropriate response targeted at those who induce and encourage younger people to commit serious crimes.

Bail

In general, a person arrested for an offence is entitled to bail. However, for a certain class of offences, that presumption is displaced and a person must show cause why they should be granted bail.

The amendments to the Bail Act 1977 in this bill add the offences of home invasion, aggravated home invasion and aggravated carjacking to those offences for which a person must show cause why bail should be granted. In addition, the bill amends the existing show cause provision to clarify that a person charged with aggravated burglary and with any indictable offence where the commission of that offence involved the use of firearms or other weapons must show cause why bail should be granted.

These amendments recognise the serious nature of the new offences by requiring a person arrested for the offences to bear the burden of demonstrating that they would not pose an unacceptable risk to the community were they to be granted bail.

Conclusion

The government has examined the existing laws and concluded that these modifications are a necessary response to recent incidents of criminal offending. It is incumbent on governments to make laws which help to improve community safety.

Some may say the new offences and sentences are too harsh. The government says offenders take the risk when they decide to engage in acts of serious criminality.

The community rightly expects that such acts with their traumatic consequences for victims should be punished in a manner consistent with the harm caused. This bill delivers on that expectation.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until next day.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT BILL 2016

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Mr Dalidakis 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 Births, Deaths and Marriages Registration Amendment Bill 2016 (the bill).

In my opinion, the Births, Deaths and Marriages Registration 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 bill amends the Births, Deaths and Marriages Registration Act 1996 to remove current barriers for an adult to apply to the Victorian registrar of births, deaths and marriages (the registrar) to alter the sex recorded in their birth registration, namely the requirements for a person to have undergone sex affirmation surgery and to be unmarried. Instead, the bill allows an adult to apply to the registrar to alter the sex recorded in their Victorian birth registration by way of a statutory declaration that the person believes that their sex is as nominated in the application, and which is accompanied by a supporting statement from an adult who has known the applicant for at least 12 months. The applicant must nominate the description of the sex on their birth record, which may be 'male', 'female' or any other gender diverse or non-binary descriptor nominated by the applicant. This means a person will be able to describe their sex in a way that reflects their identity.

The bill introduces a new process to allow the parents or guardian of a child to apply to the registrar to alter the sex recorded on the child's Victorian birth record. This process will be restricted to children with the capacity to consent to the alteration. Children aged 16 and 17 years old will be presumed to have that capacity.

The bill allows the registrar to issue a document acknowledging the sex of an adult or child whose birth is registered outside of Victoria, if they have lived in Victoria for at least a year.

In addition, the bill amends the Children, Youth and Families Act 2005, the Corrections Act 1986, the Serious Sex Offenders (Detention and Supervision) Act 2009 and the Sex Offenders Registration Act 2004 to require detainees, prisoners, prisoners on parole, offenders or registered sex offenders to comply with an approval process before making their application to alter the sex on their birth record or for a document acknowledging their sex. The approval process is similar to the approval process for change of name applications.

The bill amends the Births, Deaths and Marriages Registration Act and the Corrections Act to allow the Secretary of the Department of Justice and Regulation to

obtain information from the registrar about all alterations of the record of sex of a prisoner or all of the documents issued acknowledging the sex of the prisoner where this is reasonably necessary for the purposes of the administration of the corrections legislation or for the purpose of the provision of services related to the health of the prisoner. The bill also amends the Births, Deaths and Marriages Registration Act to allow the registrar to provide written notice that a document has been issued to the registrar in the state or territory where the birth of the person, the subject of the document, is registered.

Human rights issues

Right to equality and the protection of families and children

Section 8 of the charter provides that every person has the right to enjoy their human rights without discrimination, is equal before the law and is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. Discrimination under the charter means discrimination on the basis of an attribute set out in section 6 of the Equal Opportunity Act 2010, including gender identity, marital status or sex. Section 17 of the charter provides that families are the fundamental group unit of society and are entitled to protection and that every child has the right, without discrimination, to such protection, as is in their best interests and is needed by reason of their being a child.

New sex descriptors

New section 30A(2) in clause 8 and new section 30E(2) in clause 10 of the bill, provides for a person to nominate a sex descriptor of their choice to describe their sex in their birth registration or document respectively. A sex descriptor may be 'male', 'female' or any other descriptor nominated by the applicant. This means a person will be able to describe their sex in a way that reflects their gender diverse or non-binary identity. This new additional category promotes the right to equality of trans, gender diverse and intersex persons because it allows a person to use a description of their sex that is most appropriate and meaningful to them. This description will be recorded in their birth registration, and be what is shown on their birth certificate.

Removal of barriers to acknowledging a person's sex on their birth record

Currently, a person wanting to alter the sex recorded in their birth registration must have undergone sex affirmation surgery and be unmarried.

Sex affirmation surgery is a serious medical procedure that involves the alteration of a person's reproductive organs. For some people who identify as a sex that is different from that recorded in their birth registration, such surgery is not an option because the person has a medical condition or disability that prevents the surgery being undertaken, or because the surgery is unaffordable, not easily accessible or even available where the person lives. Further, the surgery requirement applies regardless of other ways in which the person may live in their affirmed gender identity.

Even where a person has undergone sex affirmation surgery, they will not be able to alter the sex recorded in their birth registration if they are married. In effect, this provision requires the person to choose between a birth certificate that reflects their sex or affirmed gender identity, and the maintenance of the legal relationship with their spouse, even where that relationship is ongoing. Such a choice can have both financial and emotional consequences for the people involved.

New section 30A in clause 8 of the bill removes the current requirements to have undergone sex affirmation surgery and to be unmarried. New section 30E in clause 10 of the bill similarly removes these requirements for a person whose birth is registered in a place other than Victoria, in order to apply for a document that acknowledges their sex in accordance with their nominated sex descriptor.

In removing these unnecessary barriers, the bill promotes the right to equality and makes it easier for trans, gender diverse and intersex people to alter their birth record in a way that recognises the inherent dignity and autonomy of a person.

The new process for applying to alter the record of sex in a birth registration does not require a person to show medical evidence of gender transition or confirmation by a medical professional as to the person's sex: such requirements would inappropriately medicalise the person's sex or gender identity, and undermine the person's own statements about their sex or gender identity. Instead, the new process is primarily based on the person's self-declaration as to their sex. The equality rights of persons with disabilities may also be promoted by these changes, as some medical conditions preclude persons from undertaking sex affirmation surgery.

Removal of the requirement to be unmarried also promotes the right to protection of families: a person will no longer need to divorce their spouse in order to obtain a birth certificate that reflects their sex or affirmed gender identity.

New process for acknowledging a child's recorded sex

New sections 30B and 30BA in clause 8 of the bill introduce a process for the parents or guardian of a child to apply to alter the sex recorded in the child's birth registration. New sections 30EA and 30EB in clause 10 of the bill introduce a process with the same requirements for the parents or guardian of a child whose birth is not registered in Victoria, but who has lived in Victoria for at least 12 months, to apply for a document acknowledging the child's name and sex in accordance with the nominated sex description.

In both cases an application cannot be made unless the child consents to the application and the child must have the capacity to consent to the alteration. As for adults, clauses 8 and 10 of the bill provide for the nomination of a sex descriptor of the child's choice. The introduction of these new processes for altering a child's recorded sex, where previously there were no mechanisms for doing so, promotes the right to equality and the protection of trans, gender diverse and intersex children by allowing them to alter the sex recorded in their birth registration in a way that is appropriate and meaningful to them.

However, the bill may also limit the right to equality of children and the right to protection of children by: providing for a special approval process to alter a child's recorded sex which is different to the process for adults; providing a more restrictive application process for children under 16 than for those aged 16 and 17 years old; and requiring minors to obtain parental approval for altering their recorded sex. In my opinion, any such limitation is reasonable and justified for the

protection of families and children in accordance with section 7(2) of the charter.

The bill introduces a special approval process to alter a child's recorded sex by requiring a relevant person, being a doctor, registered psychologist or a person in a prescribed class of persons, to make a supporting statement affirming that in their opinion the application is in the best interests of the child. Although this requirement makes the application process for children more restrictive than for adults, it provides an important independent safeguard of the child's general health and wellbeing and takes into account the particular vulnerabilities of children. I therefore consider that it strikes a balance between the rights of the child to equality and their right to such protection as is in their best interests, and is needed by reason of their being a child under section 17 of the charter.

Children aged 16 and 17 years old are presumed to have the capacity to consent to an application to alter their recorded sex. This presumption means that the application process for children under 16 years of age is different than those for children aged 16 and 17. Unlike children aged 16 and 17, children under 16 years of age must have their individual decision-making capacity assessed by a relevant person to ensure that they have the capacity to consent to the application being made. This variation recognises that children aged 16 and 17 generally have the maturity to understand the meaning and consequences of altering their recorded sex. A different process for children aged under 16 than for those aged 16 and 17 is therefore appropriate in recognition of this variation in capacity. In my view, there is no less restrictive means available to ensure that the rights of children who have different decision-making capacities are protected in this context.

The application process for altering the child's recorded sex is also more restrictive than that available for adults in that the application must be made by a child's parents or guardians on their behalf and be accompanied by a supporting statement from a relevant person. I consider that this process strikes an appropriate balance between the rights of the child to equality and the protection of families under section 17 of the charter, by preserving the rights of parents to make decisions in the best interests of their child and recognising the variations in capacity between children of different ages and children and adults.

In recognition of the fact that parents might disagree as to what is in their child's best interests, new section 30BB and new section 30EC provide a mechanism for one parent or guardian to make an application to the County Court for an order to approve the alteration of the child's recorded sex if the court is satisfied that the alteration is in the child's best interests. Where neither the parents, nor a guardian, make an application on behalf of the child, despite the child's request for an application to be made, the matter would need to be resolved through the Family Court. New section 30C(3)(a) in clause 9 of the bill would allow the registrar to alter the record of the child's sex if the Family Court has ordered that the record be altered. In my view, there is no less restrictive means available to ensure that the rights of families, children and the right to equality are all respected.

Right to privacy

Section 13 of the charter provides that a person has the right to not have their privacy unlawfully or arbitrarily interfered with.

Change to process for acknowledging recorded sex

Both clauses 8 and 10 of the bill remove the requirements that a person must have undergone sex affirmation surgery and that a person must not be married in order to apply to alter the sex recorded in their birth registration or for a document acknowledging their name and sex. The bill therefore promotes the right to privacy, as a person seeking to alter their recorded sex will no longer be required to disclose their medical history or relationship status in their application.

Information sharing

New section 30K in clause 16 of the bill allows the Secretary of the Department of Justice and Regulation, in certain circumstances, to obtain information from the registrar about all of the alterations to a prisoner's recorded sex and all documents issued acknowledging the name and sex of the prisoner.

New section 30K of the bill clearly sets out that the registrar must only disclose information to the secretary about a prisoner's recorded sex upon the request of the secretary. The interference is not arbitrary because the information that the registrar must disclose is limited to certain information about a prisoner's recorded sex and the request can only be made in relation to a defined class of persons who are deemed to be in the legal custody of the secretary under part 1A of the Corrections Act. Furthermore, the secretary will only be able to make a request for this information where the request is reasonably necessary for the administration of corrections legislation, as defined in section 104ZX of the Corrections Act or for the purpose of providing services related to the health of the prisoner. Consequently, requests for information about alterations to the prisoner's recorded sex in their birth registration may be required for the management, supervision or transfer of prisoners in the secretary's custody. Such information might be required, for instance, to ensure the safety of trans, gender diverse and intersex prisoners or to determine whether a person should be considered an at-risk prisoner in need of special protective measures.

Further, the information disclosed under new section 30K to the secretary would come within the meaning of 'personal or confidential information' in part 9E of the Corrections Act and would be subject to the provisions of that part providing for the use and disclosure of that information only in prescribed circumstances.

New section 30FA of the bill provides that the registrar has the power to provide written notice to another registrar that a document has been issued. The interference with privacy is lawful because it is clearly set out in the bill and it is not arbitrary because it relates only to providing notice in specific circumstances where a document has been issued and only to the registrar in the state or territory where the birth of the person, the subject of the document, is registered. The purpose of sharing this information with another registrar is to ensure the integrity of all state and territory births, deaths and marriages registers, as a person who has altered their recorded sex could potentially have different identity documents. Written notice of the acknowledgement document offers the

best identity security protection, enabling the registrar of the state or territory where the person's birth is registered to appropriately note the name and sex of the person as recorded in the document.

I therefore consider that any interference under the bill with a person's privacy is lawful and not arbitrary and is therefore compatible with the charter.

The Hon. Steve Herbert, MP
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The government has made a strong commitment to put equality back on the agenda in Victoria, particularly for lesbian, gay, bisexual, trans, gender diverse and intersex — LGBTI — Victorians. This government aims to create a fairer Victoria by reducing discrimination and respecting diversity. The Births, Deaths and Marriages Registration Amendment Bill 2016 is an important part of the government's broader equality agenda.

The bill seeks to amend the Birth, Deaths and Marriages Registration Act 1996 and has been developed in close consultation with the LGBTI communities. I am grateful for their assistance in developing a bill that will improve the legal recognition of trans, gender diverse and intersex people in Victoria.

Many trans, gender diverse and intersex people face barriers in daily life because they are unable to alter the sex recorded in their birth registration, and therefore what is shown on their birth certificate. As a result, organisations and institutions may query the person's sex by asking inappropriate and intrusive questions, for example when providing a service or amending documentation such as bank accounts, insurance details, credit cards, university records etc. In some circumstances where there is a lack of understanding, it may lead to appropriate care and services not being provided.

The bill implements the government's pre-election commitment to remove barriers for trans, gender diverse and intersex Victorians to apply for new birth certificates. First, in line with the principle of self-declaration, the bill inserts a new process for a person to alter the record of their sex without having to undergo sex affirmation surgery. Sex affirmation surgery is a serious medical procedure that involves the alteration of a person's reproductive organs. For some people, such surgery is not an option because the person has a medical condition or disability that prevents the surgery being undertaken, or because the surgery is inaccessible or unaffordable. The amendments mean that a person can apply to have their recorded sex altered on the basis of the person's own declaration and in accordance with a description of their sex that is appropriate and meaningful to them.

Secondly, the bill removes the current requirement for a person to be unmarried in order to make an application to alter the record of their sex in their birth registration. This requirement can force a person to choose between a birth certificate that reflects their sex or affirmed gender identity, and the maintenance of the legal relationship with their spouse, even where that relationship is ongoing. Such a choice can have both financial and emotional consequences for the people involved.

By removing these requirements, the bill promotes the right to equality in the Charter of Human Rights and Responsibilities.

The application process for adults

The bill introduces a new application process for adults to alter the record of sex in their birth registration in a way that provides an appropriate level of legal formality, while promoting the dignity and personal autonomy of applicants. The applicant must make a statutory declaration nominating the sex to be recorded in their birth registration. Their application must include a statement from another adult who has known the applicant for 12 months or more, who believes the application is made in good faith and supports the application.

The bill allows the applicant to nominate a sex descriptor of their choice to describe the sex on their birth record. A sex descriptor may be 'male', 'female' or any other descriptor chosen by the applicant to recognise their gender diverse or non-binary identity. This new additional category is not limited by the bill and will allow a person to describe their sex in a way that reflects their identity. This choice is important because a list of descriptive terms to describe a person's sex in their birth registration has not otherwise been widely agreed within the general community. This approach is consistent with that of the Australian Bureau of Statistics, which allows counting of persons who are male, female or 'other'. The category of 'other' can be further described in a way that is specified by the applicant. In addition, in the recent commonwealth census, people who do not identify as either male or female had the option of identifying as 'other', with such identity able to be specified by the person completing the census.

The only limitation on the use of sex descriptors in the bill is a discretion for the registrar to refuse to register a descriptor that is obscene or offensive, or cannot practicably be established by repute or usage.

The bill similarly provides for a person, whose birth is registered in a place other than Victoria, but has lived in Victoria for at least a year, to apply for a document that acknowledges their nominated sex.

The application process for children

Unlike all other states and territories, Victoria currently has no statutory process for a child to alter the sex recorded in their birth registration. In recognition of the fact that many young trans and gender diverse people are capable of expressing a strong gender identity from an early age, the bill also introduces an application process for a child's record of sex to be altered in their birth registration. Similar to the process for an adult, a child would not be required to undergo

treatment and a sex descriptor of their choice must be nominated in the application.

The application would be made on behalf of a child by their parents or guardian (or in particular circumstances one parent may make the application on the child's behalf). The application must include a statutory declaration from the parents or guardian of the child stating that they believe on reasonable grounds that altering the sex recorded in the child's birth registration is in the best interests of the child.

An application cannot be made unless the child consents to the application. Where the child is under 16 years of age, the application must include an assessment by a doctor or registered psychologist (or prescribed person) that the child has the capacity to consent to the application. In all cases, the application must include a statement from a doctor or registered psychologist (or prescribed person) that the alteration is in the child's best interests. These are all important independent safeguards of the child's general health and wellbeing that recognise the different decision-making capacities of children and their ability to understand the outcomes of their decisions. A child aged 16 or 17 will be presumed to have the necessary legal capacity.

The bill similarly provides for the parents or guardian of a child, whose birth is registered in a place other than Victoria, but who has lived in Victoria for at least a year, to apply for a document that acknowledges the child's nominated sex.

Approval process for people subject to detention or supervision orders to make an application

In addition, the bill will provide additional checks and safeguards in respect of applications by people (both adults and juveniles) in detention or under supervision who wish to make an application to alter their recorded sex. The additional conditions are very similar to those that currently apply in relation to the change of name process. The approval process provides for the relevant supervising authority to consider the application with regard to its reasonableness, necessity and other relevant considerations including security or the safe custody or welfare of the person or any other person.

Conclusion

The purpose of the bill is to remove barriers for trans, gender diverse and intersex Victorians to apply for new birth certificates. It enables more adults who want to alter their recorded sex to do so without having to undergo invasive surgery or forsake their legal relationship with their spouse, and enables children to have a birth certificate that reflects their affirmed gender identity. At the same time, the bill maintains the integrity of the register of births. Together these amendments promote the right to equality and privacy in the Charter of Human Rights and Responsibilities. The bill recognises the inherent dignity and autonomy of a person applying for a new birth certificate that is most appropriate and meaningful to them.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 18 October.

EQUAL OPPORTUNITY AMENDMENT (RELIGIOUS EXCEPTIONS) BILL 2016

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Mr Dalidakis 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 Equal Opportunity Amendment (Religious Exceptions) Bill 2016 (the bill).

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

Overview

The Equal Opportunity Act 2010 (EO act) prohibits discrimination on the basis of a specified attribute of a person in certain areas of public life, such as employment, education and the provision of goods and services. The EO act also sets out 'exceptions' to discrimination, which recognise that discrimination may be justified in certain circumstances.

Sections 82 and 83 of the EO act currently provide for exceptions for the conduct of religious bodies and schools in all areas covered by the act.

The bill modifies the application of these exceptions in the area of employment by reinstating an 'inherent requirements test' for a religious body or school that wishes to rely on a religious defence to discriminate in this area. The modified exceptions provide that the EO act's prohibitions on discrimination will not apply to anything done in relation to the employment of a person by a religious body or school where conformity with the body or school's religious doctrines, beliefs or principles is an inherent requirement of the job, and, because of a particular personal attribute, the person does not meet that inherent requirement.

The purpose of reinstating the inherent requirements test is to better balance a person's right to equality and to be free from discrimination with the need to protect the right to freedom of religion and belief. This is to ensure that both of these rights can be appropriately recognised and enjoyed.

Human rights issues

Relevant human rights

There are two rights recognised by the charter that are relevant to the bill: the right to recognition and equality before the law (section 8) and the right to freedom of thought, conscience, religion and belief (section 14).

Recognition and equality before the law

Section 8 of the charter provides that every person has the right to enjoy their human rights without discrimination. It also provides that every person is equal before the law, is entitled to the equal protection of the law without

discrimination, and has the right to equal and effective protection against discrimination.

The value underpinning section 8 is personal dignity. To treat somebody differently because of a specified attribute, rather than on the basis of their individual worth and merit, can undermine personal autonomy and self-realisation.

The exceptions to the prohibition on discrimination in the EO act, including the religious exceptions, act as a defence to discrimination and prevent relief from being sought in relation to conduct that would otherwise be unlawful. As such, the exceptions limit the right to equality protected by the charter and should be reasonable and demonstrably justified.

Freedom of religion and belief

Section 14 of the charter provides that every person has the right to freedom of thought, conscience, religion and belief. This right includes the freedom to have or adopt a religion or belief of the person's choice, and the freedom to demonstrate the religion or belief in worship, observance, practice and teaching, either individually or as part of a community, in public or in private.

The purpose of the religious exceptions in sections 82 and 83 of the EO act is to protect the right to freedom of religion and belief, and, in particular, the freedom to demonstrate a religion or belief in practice and teaching, as part of a community. This protection is important in a pluralistic society that values freedom of religion.

These current religious exceptions carefully set out the scope of the protection afforded to the freedom of religion and belief, including by defining the persons or bodies that can rely on the exceptions, and limiting the attributes that are relevant to the exceptions to those that might conflict with core beliefs and values held by religious bodies and schools.

By reinstating the inherent requirements test, the bill further qualifies the scope of the religious exceptions in the area of employment.

The charter makes it clear that only human beings have human rights. It is therefore not necessary to consider whether the bill limits any human rights of religious bodies and schools, as employing organisations rather than human persons. In any case, to the extent to which the bill, in reinstating an inherent requirements test, might limit any such rights, I am of the view that any limit of the right to freedom of religion of a religious body or school must be appropriately balanced against the right of job applicants and employees to be free from discrimination.

Balancing the rights

The bill's reinstatement of the inherent requirements test in sections 82 and 83 of the EO act modifies the existing balance between the right to equality and the right to freedom of religion and belief. As noted above, both rights are important and both are recognised under the charter.

As the Victorian Court of Appeal held in *Christian Youth Camps Ltd v. Cobaw Community Health Services Ltd* [2014] VSCA 75, the balancing of these rights does not involve the privileging of one right over the other, but a recognition that the rights coexist. It is up to Parliament to decide how best to balance these rights.

The inherent requirements test imposes a stronger requirement on religious bodies and schools to demonstrate the necessary religious basis for discrimination on religious grounds. However, it will continue to allow a religious body or school to discriminate in employment in appropriate circumstances, namely where conformity with the doctrines, beliefs or principles of the particular religion is an inherent requirement of the relevant position.

The inherent requirements test takes into account the nature of the religious body or school, and the religious doctrines, beliefs and principles in accordance with which the body or school is conducted.

However, the defence will only be available where conformity with religious doctrines, beliefs or principles is an inherent requirement of the employment in question, and, because of a particular personal attribute, an employee or job applicant does not meet that inherent requirement. This approach ensures that there is a direct relationship, and a necessary connection, between the religious doctrines, beliefs or principles of the body or school, and the need to discriminate in employment because of those religious doctrines, beliefs or principles.

Further, the test will only apply in relation to personal attributes of an employee or job applicant that are likely to conflict with religious doctrines, beliefs or principles, namely: having a different religious belief to the body or school or no religious belief, or the person's sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity.

There are inevitably different views about how to balance sections 8 and 14 of the charter. In my view, the approach adopted by the bill — that is, the reinstatement of the inherent requirements test — is the least restrictive means available to achieve the objective of striking the appropriate balance between the rights to equality and freedom of religion.

While continuing to recognise that religious bodies and schools have an important role as an expression of freedom of religion practised in community, the inherent requirements test ensures that the large number of people employed, or seeking to be employed, by these organisations are better protected from discrimination. It is therefore an approach that allows both the right to equality and the right to religious freedom to be appropriately recognised and enjoyed.

The Hon. Steve Herbert, MP
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Andrews Labor government is proud to introduce the Equal Opportunity Amendment (Religious Exceptions) Bill 2016. The government believes that it should stand up for people's rights and has made a strong commitment to put equality back on the agenda in Victoria.

An important part of this commitment to equality is reversing changes to the religious exceptions in the Equal Opportunity Act 2010 (the act) made in 2011. The changes removed an 'inherent requirements test' for employment by a religious body or religious school, which was intended to limit the ability of such organisations to discriminate unreasonably against people with particular characteristics.

The removal of this test has meant that too many Victorians remain vulnerable to unjustified discrimination in employment, particularly because of their sexual orientation or gender identity.

A large number of people are employed by or seek to be employed by religious bodies and schools in Victoria, in a range of different positions. In these circumstances, it is fair to ask these organisations to demonstrate the necessary connection between their religious beliefs and principles, and proposed discrimination in employment because of an individual's personal attribute.

In line with our clear election commitment, the bill will amend the religious exceptions in sections 82 and 83 of the act to reinstate the inherent requirement test, as it was enacted in 2010, in order to ensure that the religious exceptions operate more fairly.

Under the bill, a religious body or school will still have the scope to discriminate in employment on religious grounds. Importantly, the inherent requirements test takes into account the nature of the religious body or school, and the religious doctrines, beliefs and principles in accordance with which the body or school is conducted.

This test recognises that different religious bodies and schools adopt different approaches to the application of religious beliefs and principles within their organisations. Some religious organisations have an approach that requires participation by all staff in their religious mission. Others only seek religious adherence from staff in particular positions.

However, the defence will only be available where conformity with religious doctrines, beliefs or principles is an inherent requirement of the job in question, and, because of a particular personal attribute, an employee or job applicant does not meet that inherent requirement. This approach will ensure that there is a necessary connection between the religious doctrines, beliefs or principles of the body or school, and the need to discriminate in employment because of those religious doctrines, beliefs or principles.

The test will only apply in relation to personal attributes of an employee or job applicant that are likely to conflict with religious doctrines, beliefs or principles, namely: having a different religious belief to the body or school or no religious belief, or the person's sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity.

In this way, the bill does not privilege the right to equality over the right to freedom of religion. Instead, it balances the rights more fairly, so that both can be appropriately recognised and enjoyed.

Further, the inherent requirements test will not force religious bodies and schools to employ people with attributes that conflict with their religious beliefs. Nor will it put an end to religious schools. What the test will do, and appropriately so, is require those organisations that do seek to discriminate in employment on religious grounds to demonstrate the necessary connection between their particular religious beliefs and the need to discriminate.

With this bill, the government is following through on its election commitment to reinstate the inherent requirements test in the act's religious exceptions. The bill will restore a fairer balance between the right to equality and the right to religious freedom than exists currently.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 18 October.

ESTATE AGENTS AMENDMENT (UNDERQUOTING) BILL 2016

Statement of compatibility

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) 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 Estate Agents Amendment (Underquoting) Bill 2016.

In my opinion, the Estate Agents Amendment (Underquoting) 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 Estate Agents Act 1980 to introduce new measures to address the problem of underquoting by estate agents and agents' representatives in the sale of residential property.

In particular, the bill will require estate agents or their representatives to take into account three comparable properties in determining their estimated sale prices, and to provide details of these properties, and other information in relation to the property for sale, to prospective buyers in an information statement.

The bill also requires agents or representatives to update advertised prices to reflect any change in the estimated selling price or where a written offer is rejected by the seller.

The bill will enable the director of Consumer Affairs Victoria to give substantiation notices to estate agents requiring them to provide the director with information or documents. The

bill also provides for courts to require estate agents' commissions to be forfeited to the Victorian Property Fund in certain circumstances.

Human rights issues

Property rights

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

Clause 12 of the bill amends the Estate Agents Act to provide that a court may require a person to forfeit commissions and other fees received or owing to the agent to the Victorian Property Fund in certain circumstances. The circumstances in which a court may decide to do so are clearly formulated in the bill. The court must first have found a specified offence proven against the person.

Therefore, I consider that these provisions are lawful and not arbitrary and are compatible with the right to property under section 20 of the charter.

Right to privacy

Section 13 of the charter provides that a person has the right not to have his or her privacy unlawfully or arbitrarily interfered with.

Clause 8 of the bill amends the Estate Agents Act to enable the director of Consumer Affairs Victoria to give an estate agent a written notice requiring the agent to give information or produce documents to the director to substantiate the reasonableness of various specified matters, including the agent's estimated selling price and choice of comparable properties.

An agent must not, without reasonable excuse, fail to comply with a substantiation notice within 21 days after the agent is given the notice, or, if the director grants an extension, the time specified in the extension.

Most information required by a substantiation notice will not be of a private nature. However, to the extent that these provisions require the disclosure of personal information, there is no arbitrary or unlawful interference with the right to privacy because of the need to comply with clearly articulated requirements. Access to information and documents that might substantiate the reasonableness of an agent's estimated selling price assists the director to effectively administer the bill. The provisions are clearly set out in the bill, are circumscribed in scope and only operate to compel the provision of material necessary to monitor compliance with provisions set out in the bill.

Therefore, I consider that these provisions are lawful and not arbitrary and are compatible with the right to privacy under section 13 of the charter.

Right to protection against self-incrimination and the right to a fair hearing

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. The right applies in relation to incriminatory material obtained under compulsion, and extends to cover information that may have been obtained prior to any charge being laid. This is also an aspect of the right to fair hearing under section 24 of the charter. Section 24 provides that a person charged with a criminal offence or a party to a civil proceeding has a right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Clause 8 of the bill provides for the director to require an estate agent to give information or produce documents specified in a substantiation notice. Clause 9 of the bill amends section 70U of the Estate Agents Act to provide that the protection against self-incrimination afforded to natural persons under that section also applies to the giving of information requested under a substantiation notice that would tend to incriminate the person.

The protection against self-incrimination under the amended section 70U does not extend to the production of documents that would tend to incriminate the person. This enables the director to obtain pre-existing documents that could substantiate the reasonableness of the matters specified in the notice, even if the documents would tend to incriminate the person.

At common law, the privilege against self-incrimination generally extends to documents a person is required to produce. However, the courts have drawn a distinction between the production of pre-existing documents, and oral testimony or documents that are brought into existence to comply with a request for information. In the former case, the protection against self-incrimination is considerably weaker.

It is my view that the amended section 70U is a reasonable limit on the rights of criminal defendants to fair hearing and against self-incrimination under section 7 of the charter. The limitation is directly related to its purpose. The documents that are required to be produced are necessary to monitor compliance with the provisions set out in the bill and ensure the effective administration of the regulatory scheme. The requirements are consistent with reasonable expectations of persons who operate a business and choose to participate within a regulated scheme.

I am of the view that there are no less restrictive means available to achieve the purpose of enabling the director to monitor compliance with the provisions set out in the bill, as providing an immunity for documents would unreasonably obstruct the administration of the regulatory scheme. Therefore, I consider that these provisions are compatible with the right not to be compelled to testify against oneself in section 25(2)(k) and the right to fair hearing in section 24 of the charter.

Right to be presumed innocent

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty in accordance with the law.

A number of provisions of the bill impose an evidential onus on defendants in criminal proceedings.

Clause 5 of the bill requires that, in determining an estimated selling price for a property they have been engaged or appointed to sell, an estate agent or agent's representative must take into account the three properties the agent or

representative reasonably considers to be most comparable, having regard to the matters set out in the bill. The bill further provides that, if the agent or representative reasonably believes there are fewer than three comparable properties, this requirement does not apply.

An agent or representative seeking to rely on this exception bears an evidential onus to adduce evidence that they had such a reasonable belief. The provisions do not impose a legal burden on a defendant. Once the defendant has adduced some evidence to support his or her reliance on the exception, the burden is on the prosecution to prove the elements of the relevant offence beyond reasonable doubt.

The basis for an agent or representative's belief that there are fewer than three comparable properties is a matter particularly within the knowledge of the defendant. Consequently, even if these provisions were found to limit the right to be presumed innocent through imposing an evidential onus upon defendants, they would be reasonable and justified under section 7(2) of the charter.

Clause 5 of the bill also provides that, in marketing a residential property, an estate agent or an agent's representative must not state as the estimate of the selling price of the property a price or a price range that the agent or representative knows, or could reasonably be expected to know, is less than the price proposed in any written offer to purchase the property that the seller has rejected. An agent or representative that becomes aware of a rejected offer must take all reasonable steps to remove or amend any advertising that contains an amount lower than the price proposed in the rejected offer.

The bill further provides that these provisions do not apply if the seller rejected the offer for a reason other than because the price was too low. This is to ensure there is no requirement to update pricing information if the offer was rejected in circumstances where the price may have been acceptable to the seller, but other terms of the offer were not acceptable.

Clause 5 also requires the indicative selling price included in the information statement to be, among other matters, not lower than the price proposed in any written offer rejected by the seller, unless the offer was rejected for a reason other than because the price proposed in the offer was too low.

An agent or representative seeking to rely on the exceptions set out in these provisions bears an evidential onus to adduce evidence that the seller rejected the offer for a reason other than because the price was too low. These provisions do not impose a legal burden on a defendant and only require a defendant to adduce some evidence to support his or her reliance on the exception.

If no reason for rejecting the offer is indicated to the agent or representative by the seller, the requirements not to advertise below the proposed price and to update price advertising will still apply. Accordingly, the evidential onus is based on matters particularly within the knowledge of the defendant. Consequently, even if these provisions were found to limit the right to be presumed innocent through imposing an evidential onus upon defendants, they would be reasonable and justified under section 7(2) of the charter.

Clause 8 makes it an offence for an estate agent to fail to comply with a substantiation notice issued by the director, without reasonable excuse. An agent seeking to rely on this exception bears an evidential onus to adduce evidence that they had a reasonable excuse for failing to comply with the notice. These provisions do not impose a legal burden on a defendant and only require a defendant to adduce some evidence to support his or her reliance on the exception.

The basis for an estate agent's reasonable excuse is a matter particularly within the knowledge of the defendant. Consequently, even if these provisions were found to limit the right to be presumed innocent through imposing an evidential onus upon defendants, they would be reasonable and justified under section 7(2) of the charter.

Accordingly, I consider that these provisions are compatible with the right to be presumed innocent in section 25(1) of the charter.

Hon. Philip Dalidakis, MP
Minister for Small Business, Innovation and Trade

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill will amend the Estate Agents Act 1980 to introduce new measures to address the problem of underquoting by estate agents and agents' representatives in the sale of residential property. The bill delivers on the government's commitment to act on areas of poor practice and complaints against estate agents.

For most Victorians, buying a home is one of the biggest decisions they will make. Underquoting can cause significant emotional, and often financial, distress. As well as spending time inspecting properties that were in reality beyond their means, prospective buyers may also incur costs associated with legal advice, building and pest inspections, or other prepurchase costs. The bill aims to ensure that prospective buyers can confidently participate in the property market.

The bill will improve the transparency of agents' estimated selling prices, improve information available to consumers and create certainty about the way prices are quoted and advertised. Substantial penalties for non-compliance will apply, and a new substantiation notice process will assist the director of Consumer Affairs Victoria (CAV) to monitor compliance with the new requirements.

As well as the Estate Agents Act, estate agents and agents' representatives are also required to comply with the Australian Consumer Law (ACL) and other laws in the marketing and sale of land. The bill does not in any way limit or deviate from the effect and scope of the ACL or any other law. What the bill does is to set out detailed, industry-specific requirements to complement the ACL requirements, which are of a more general application.

Currently, the provisions of the Estate Agents Act in relation to underquoting apply to all property sales. The new requirements to be introduced by the bill will be restricted to residential property sales, which is the sector of the market where underquoting has been identified to be a problem. This will reduce the compliance burden for agents in non-residential property sales.

Estimated selling price and statement of information

Estate agents commonly use comparable property sales information in determining their estimated selling prices. The bill will make this practice more transparent by requiring agents or their representatives to determine a reasonable estimate of the selling price that explicitly takes into account the sale prices of the three properties that the agent reasonably considers to be the most comparable to the property for sale, and to include that estimate in the engagement or appointment. The bill sets out the matters agents or representatives must have regard to in choosing the three comparable properties, including guidelines issued by the director of CAV. If the agent reasonably believes that there are fewer than three comparable properties, as set out in the bill, the agent is exempt from this requirement, but must still ensure that their estimate is reasonable.

The bill will require agents to ensure that their estimated selling price remains reasonable. If the estimate ceases to be reasonable, agents will be required to notify the seller of this fact in writing and to revise the estimate of the selling price contained in the engagement or appointment.

Estate agents will be required to disclose details of the three comparable properties that they took into account in determining their estimate in a statement of information which will be provided to prospective buyers. If the agent believes that there are fewer than three comparable properties in relation to the property for sale, they must disclose this belief in the statement of information.

A statement of information will be required to be displayed at any inspection of the property, with any internet advertisement for the property published by or on behalf of the agent or representative, and must also be provided to prospective buyers on request within two business days.

A statement of information will also include other important information in relation to the property for sale. It must include an indicative selling price, which must not be lower than the estate agent's current estimated selling price, any asking price advised by the seller, or any offer rejected on the basis of price. This will ensure that prospective buyers will have access to the most accurate current pricing information, even if a price has not been advertised for the property. A statement of information must also include the median selling price for the suburb. This information will assist prospective buyers to make informed decisions about the property.

Advertising

The bill will create certainty about the way residential property prices are quoted and advertised.

Currently, while the estimated selling price contained in the engagement or appointment is restricted to being a single price or a range of no more than 10 per cent, there is no such restriction on the advertised price. The bill will provide that any advertised price must be a single price or a range of not more than 10 per cent.

Additionally, the use of qualifying words or symbols in relation to the advertised price, such as 'offers over', 'from' or 'plus' will be prohibited. Such words or symbols can be misleading to prospective buyers as they offer no information about what additional amount is required.

The bill prohibits estate agents or their representatives from advertising below the estimate contained in the engagement or appointment. Additionally, the bill prohibits advertising below the amount of any written offer that has been rejected by the seller. This does not apply if the offer was rejected for a reason other than because the price was too low, for example, because of other proposed terms that were unacceptable to the seller. These requirements are in addition to the requirements of the ACL in relation to price representations.

When an estate agent or agent's representative revises their estimate or becomes aware of a rejected written offer, they must update any advertising that contains a selling price or likely selling price that is lower than the estimate or rejected offer, either by removing or amending the advertisement. For internet advertising, this must be done within one business day, and for all other advertising, as soon as practicable. These requirements will ensure that advertising remains current.

Penalties and enforcement

Substantial penalties of up to 200 penalty units, or more than $31 000, will apply for non-compliance with the requirements set out in the bill. In some cases, this represents a doubling of existing penalties under the Estate Agents Act.

For the most serious offences, the bill also enables courts to order the forfeiture of any commissions or other consideration received or owing in relation to the sale. For a median house sale in Melbourne, this represents an additional penalty of more than $14 000. For more expensive properties, the cost to agents found breaching the law will be even higher.

The bill will also strengthen requirements for agents to substantiate their estimates and choice of comparable properties. The director of CAV will have new powers to issue a substantiation notice requiring an estate agent to give information, or provide documents, capable of substantiating the reasonableness of various matters including their estimated selling price, choice of comparable properties, or any other pricing information given to prospective buyers or the seller. This will assist the director to effectively monitor compliance with the bill.

The bill aims to address the problem of underquoting and ensure prospective buyers can confidently participate in the property market.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 18 October.

CORRECTIONS LEGISLATION AMENDMENT BILL 2016

Statement of compatibility

For Mr HERBERT (Minister for Corrections), Mr Dalidakis tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

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

In my opinion, the Corrections Legislation 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 bill amends the Corrections Act 1986 (Corrections Act) to:

a. establish a new safety role for prison officers in the security and emergency services group (SESG) of Corrections Victoria in supervising prisoners on parole, drawing on recent reforms in relation to serious sex offenders;

b. provide a clear power for the Secretary to the Department of Justice and Regulation to issue a warrant, or authorise an application for a magistrate's warrant, authorising:

   i. a police officer to break, enter and search a public place or private residence to arrest and return an unlawfully released prisoner to custody; or

   ii. a prison officer or an escort officer to arrest the prisoner in a public place and return them to custody;

c. improve and clarify the information-sharing provisions in part 9E to expressly incorporate current ministerial authorisations permitting a relevant person (such as corrections staff) to share personal or confidential information about offenders and prisoners:

   i. for the purpose of the Working With Children Act 2005 (Working With Children Act) to protect children from sexual or physical harm; and

   ii. with correctional services authorities in other states, territories or countries (in particular New Zealand) to prevent crime and to monitor offenders who may pose risks to the community;

d. provide an exemption from liability for any damage or injury caused by the use of reasonable force by corrections staff to ensure a consistent approach to exemption from liability throughout the Corrections Act;

e. make technical or miscellaneous amendments to improve the operation of the Corrections Act, including clarifying the power for prison governors and regional managers to delegate functions and powers under the Corrections Regulations 2009, in addition to the Corrections Act, and removing references to abolished home detention orders.

New powers in relation to high-risk situations involving prisoners on parole

Clause 8 inserts a new division 5A into part 8 of the Corrections Act. The new division provides additional powers to specified officers in relation to a prisoner on parole. 'Specified officer' is defined by reference to the Serious Sex Offenders (Detention and Supervision) Act 2009, and includes prison officers appointed as community corrections officers in accordance with section 12(4) of the Corrections Act.

The additional powers in new division 5A only apply if the commissioner believes on reasonable grounds that the circumstances of the supervision of a prisoner on parole would otherwise pose a high risk of violence or other threat to the safety of any officer engaged in the supervision of the prisoner or any other person (new section 78G(2)). Further, the powers may only be exercised when supervising or assisting in the supervision of the prisoner on parole, and must be exercised in accordance with any direction given by the commissioner (new section 78G(3)). The commissioner may by instrument delegate to any employee of the Department of Justice and Regulation any of the commissioner's powers and functions, other than the power of delegation (new section 8AB).

Powers to direct, use reasonable force, and apply an instrument of restraint

New section 78H provides that specified officers may:

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

use reasonable force to compel a prisoner on parole to obey a direction if the specified officer believes on reasonable grounds that the use of force is necessary to prevent the specified officer, the prisoner on parole or any other person from being killed or seriously injured. This may include the use of a weapon, other than a firearm (for example, an extendable baton or capsicum spray), if the weapon is subject to an exemption order made under the Control of Weapons Act 1990;

apply an instrument of restraint to the prisoner on parole if the specified officer believes on reasonable grounds that it is necessary to do so to prevent the prisoner on parole or another person being killed or seriously injured. The instrument must be approved by the secretary and used in the manner determined by the secretary.

New sections 78I(5) and 78J(4) provide that a specified officer may, if necessary, use reasonable force in carrying out a search or seizure respectively (discussed below).
Section 78I also provides that the search may continue only for as long as necessary to achieve the purpose of the search.
New section 78K provides that immediately before a search or seizure is carried out, the specified officer must inform the prisoner that —

(a) the search or seizure (as the case requires) is to occur; and

(b) reasonable force may be used to assist in the conduct of the search or seizure.

Section 78L requires the use of reasonable force or application of an instrument of restraint to be reported by the specified officer to the commissioner who, in turn, must report these matters to the Secretary to the Department of Justice and Regulation.

The power to use reasonable force to compel a prisoner on parole to obey a direction and apply instruments of restraint will necessarily involve the physical restraint or apprehension of a person. This may constitute an interference with the prisoner's freedom of movement (section 12), bodily privacy (section 13), and security of person (section 21).

The use of force may reasonably interfere with these rights provided it occurs within the framework of the law and with the objective of protecting public order, people's lives or property. Human rights principles require that the law and policies governing the use of force protect life to the greatest extent possible and confine the circumstances in which force is used. Any use of force must be no more than absolutely necessary and strictly proportionate to achieving a clearly defined lawful purpose.

From time to time there are continuing safety risks to the community, especially community corrections staff, in the supervision of some prisoners on parole. The provisions in the bill are necessary for the important purpose of addressing safety concerns in high-risk situations associated with supervising prisoners on parole by community corrections staff, especially in the case of prisoners on parole who require after-hours home visits to check electronic monitoring equipment, or where home attendance to check compliance with a curfew or alcohol abstinence condition has been assessed as high risk. These restrictive conditions are increasingly being imposed by the adult parole board. Breaches of parole conditions identified as part of specified officers' exercise of powers in supervising prisoners on parole may lead to cancellation of parole.

The legislation ensures that these powers may only be used in circumstances in which they are strictly necessary. First, the powers only apply if the commissioner believes on reasonable grounds that the circumstances of the supervision of the prisoner on parole poses a high risk of violence or other threat to the safety of any officer engaged in the supervision of the prisoner or any other person (new section 78G(2)). This will ensure that the powers only apply to a limited cohort of prisoners on parole, namely those whose supervision is reasonably believed to create a high-risk situation. For example, a prisoner on parole may be assessed as posing a high risk of violence if that prisoner has a history of serious violent offences on parole, is an influential gang member, or has a history of violent crime and is linked to outlaw motorcycle clubs. Such persons may present a danger to officers tasked with their management, as well as to the community.

Further, the powers may only be exercised when supervising or assisting the supervision of the prisoner on parole, and must be exercised in accordance with any direction given by the commissioner (new section 78G(3)). Even where these conditions are met, the powers can only be used where the specified officer believes on reasonable grounds that it is necessary for the safety of any person, or to prevent death or serious injury. The Corrections Act ensures accountability for any use of these powers by requiring that, under new section 78L, specified officers must report any use of force or application of an instrument of restraint to the commissioner, and the commissioner must then report to the secretary. In addition, as the officers exercising these powers are public authorities under the charter, they have an obligation to act compatibly with human rights protected by the charter, including the right to life (section 9), the right to humane treatment when deprived of liberty (section 21) and the right to protection from cruel, inhuman or degrading treatment (section 10).

The provisions meet important community expectations that specified officers have appropriate powers to adequately supervise or manage high-risk prisoners on parole. This expectation forms part of a broader and legitimate expectation that officers with duties under the Corrections Act are able to fulfil their role in contributing to public order and public safety. The powers also assist the secretary in meeting his or her implicit duty of care to ensure a safe working environment for community corrections staff and specified officers.

Existing operational procedures for prison officers exercising similar powers under the Corrections Act ensure that the use of force is always proportionate to the relevant safety risk and is a last resort. Officers are trained to appropriately assess security risks and must identify possible courses of action that involve the use of all other options before resorting to the use of force to manage risks to safety, such as verbal direction, communication or negotiation.

Accordingly, I am satisfied that any interference with human rights caused by new sections 78H, 78I or 78J is compatible with the charter.

Search and seizure powers

New division 5A, inserted by clause 8, provides that the commissioner may give a direction to a specified officer to search the part of a residence occupied by a prisoner on parole, and any thing belonging to or in the possession of, or under the control of, the prisoner at the residence (new section 78I). The commissioner may also direct a specified officer to search and examine the prisoner on parole (with a garment search or a pat-down search) at the residence. The commissioner may only give a direction under this section if he or she reasonably suspects a search is necessary to monitor compliance with a parole order, or reasonably suspects the prisoner on parole of behaviour or conduct associated with an increased risk of the prisoner reoffending or breaching the conditions of the parole order.

During a search, a specified officer may seize any thing found in the possession or under the control of the prisoner on parole that he or she reasonably suspects will compromise the welfare or safety of a member of the public or the compliance of the prisoner on parole with the parole order, or which relates to behaviour or conduct associated with an increased risk of the prisoner on parole reoffending or breaching the conditions of the parole order (new section 78J).

These new search powers are relevant to the right to privacy of a prisoner on parole, as the powers involve an interference with the prisoner's home, correspondence and bodily integrity. It is arguable that, in the absence of a requirement to seek a warrant, these searches have the potential to arbitrarily

intrude into the private and home spheres of prisoners subject to parole orders.

However, I am of the view that any such interference will not constitute a limit on a prisoner's right to privacy, as it will occur lawfully and not arbitrarily. The prohibition on arbitrariness requires that any interference with privacy must be reasonable or proportionate to a law's legitimate purpose. These powers only apply to prisoners on parole where the circumstances of their supervision have been assessed as posing a high risk of violence or other threat to the safety of any person. It is critically important that those charged with supervising such persons in the community be provided with sufficient tools to monitor compliance with parole conditions to reduce risks of further offending. The management of prisoners on parole, particularly in high-risk situations, poses challenges for Corrections Victoria, due to the complex nature of factors which may contribute to a particular prisoner's level of risk and due to the parole conditions that a prisoner may be subject to, which regulate behaviour in a number of contexts, such as electronic monitoring, curfew, drug and alcohol consumption and supervision. The availability of immediately executable search powers where there is a reasonable suspicion that it is necessary to monitor compliance with parole conditions, or a reasonable suspicion arises that the prisoner on parole is engaging in conduct or behaviour associated with reoffending, provides a valuable tool to enforce compliance with parole conditions and respond to conduct or behaviour which has a real likelihood of causing harm to the community.

In my view, the powers contain sufficient safeguards to prevent overreach. The search provisions only apply to offenders in high risk situations. For the powers to be lawfully exercised, the commissioner must possess the requisite reasonable grounds that the search is necessary. With respect to concerns regarding bodily integrity, I note that the search is limited to a garment or pat-down search only. It is my view that the nature and scope of the searches are proportionate to the protective aims of the provision. I am of the view that these powers strike an appropriate balance between upholding the privacy of offenders and the community's expectation that those tasked with supervising high-risk prisoners on parole be provided with necessary and effective tools to discharge this function. I do not consider there to be any less restrictive means reasonably available to ensure the safety of the community and prevention of future violent offending.

While I note that the search powers have the potential to indirectly interfere with the privacy of other persons who may reside with a prisoner on parole in the community, the search power only permits searches to be conducted in relation to parts of the residence occupied by the prisoner on parole or items belonging to, or in the possession or control of that prisoner. I do, however, acknowledge that even though these search provisions do not target a third party residing in the same residence, a search of a residence may lead to an interference with a third party's privacy as a consequence of their proximity to the prisoner on parole. I am of the view that there are no less restrictive means reasonably available to protect third party privacy rights in this situation, and I am satisfied these search powers are compatible with the charter with regards to the protective and preventative aims of the search powers, which include furthering the safety and protection of that third party.

The power to seize items also engages the right not to be deprived of property other than in accordance with the law in section 20 of the charter. The right has been interpreted as requiring that a person must not be deprived of property other than in accordance with clear, transparent and precise criteria. In this case the amendments meet these criteria, as specified officers may only seize items that they reasonably suspect will compromise the welfare or safety of a member of the public or the compliance of the prisoner on parole with the parole order, or which relates to behaviour or conduct associated with an increased risk of the prisoner on parole reoffending (for example, prohibited drugs or weapons). Further, the commissioner is required under new section 78M in the bill to establish and maintain a register of seized things. Further protections for offenders' property rights are built into the search and seizure provisions by new sections 78I(6), 78K, 78L, 78M, 78N and 78O, such as the provisions requiring specified officers to photograph or otherwise record all items seized and provide a receipt with sufficient particulars for seized items. In my view, any deprivation of property associated with such seizures will occur in accordance with law, and so the right to property is not limited by these provisions.

Powers concerning drug and alcohol testing

New division 5A, inserted by clause 8, also provides that prisoners on parole must, at the direction of a specified officer, submit to breath testing, urinalysis, or other test procedures approved by the secretary for detecting alcohol or drug use (new section 78P). A specified officer may give a direction under this section if the specified officer has reasonable grounds to suspect that the prisoner on parole has breached a condition of the parole order by consuming alcohol or drugs.

Compelling a prisoner on parole to submit to alcohol or drug tests engages the right to privacy in section 13(a) of the charter. Privacy covers the physical and personal integrity of a person, and includes the freedom from compulsory blood, breath or urine tests. However, as the tests will not be unlawful or arbitrary, I do not consider that the right to privacy is limited by the new section 78P. This is because the powers are confined to high-risk prisoners on parole, and a specified officer may only direct a prisoner on parole to undergo testing if he or she has reasonable grounds to suspect the prisoner has breached a condition of the parole order by consuming alcohol or drugs.

If the testing is capable of constituting medical treatment, the new section 78P may limit the right of a prisoner on parole not to be subject to medical treatment without consent under section 10 of the charter.

The power to direct prisoners on parole to submit to drug and alcohol testing will be for the legitimate purpose of ensuring that the person is complying with any relevant parole conditions, which in turn lessens the risk of the prisoner reoffending or posing a danger to the community. The interference caused, if any, with the right not to be subject to medical treatment without consent is relatively minor, appropriately circumscribed, and proportionate to the end sought to be achieved. In my view, there are no less restrictive means available to meet the objective of ensuring a prisoner on parole is complying with parole conditions concerning the use of drugs or alcohol.

For completeness I note that new section 78R further provides that a specified officer may also take for analysis a sample of a substance that the officer believes to be a drug of dependence or alcohol that is found in the possession of the prisoner on parole and that was not lawfully in his or her possession. The specified officer must advise the

commissioner as soon as possible if he or she takes such a sample. While this new section may engage the right not to be arbitrarily deprived of property in section 20 of the charter, in my view the right is not limited as any deprivation of property will be in accordance with the law.

Return of prisoner unlawfully released

Clause 16 inserts a new section 108A which clarifies and expands the secretary's existing power to return a prisoner to custody if that prisoner is unlawfully released. If a prisoner who is not legally entitled to be released is released from custody, the secretary may issue a warrant, or authorise an application to a magistrate for a warrant, authorising a police officer to break, enter and search any place where the prisoner is reasonably believed to be, and to arrest the prisoner and return the prisoner to prison. The secretary may also issue a warrant, or authorise an application to a magistrate for a warrant, authorising a prison officer or escort officer to arrest the prisoner and return the prisoner to custody. An officer authorised by a warrant to arrest a prisoner and return the prisoner to prison may detain the prisoner temporarily at a police gaol, police station, hospital or medical facility if it is impractical to immediately return the prisoner to prison, or if the prisoner requires urgent medical attention.

These powers may constitute an interference with a person's right to privacy, right to liberty, and right to freedom of movement. However, any limits imposed by the provision are reasonable and demonstrably justifiable in accordance with section 7(2) of the charter. The provisions only apply in limited circumstances, and will only affect prisoners who are subject to an existing custodial order requiring that prisoner to be held in prison. In such circumstances, these powers ensure that the prisoner can be swiftly returned to custody as appropriate. The provision also ensures that prisoners can be temporarily held in other facilities where it is appropriate and practical to do so. The return of the prisoner is for the purpose of ensuring the prisoner remains in custody to serve the sentence of imprisonment imposed by an independent and impartial court. There are no less restrictive means reasonably available to achieve the purpose of the provision.

I therefore consider that the powers in new section 108A are compatible with the rights in the charter.

Information sharing

Section 104ZY of the Corrections Act provides for circumstances in which a relevant person may use or disclose personal or confidential information. This includes: information relating to the personal affairs of a person who is or has been an offender or a prisoner; information relating to the classification of a prisoner; information identifying a person or his or her address (or from which any person's identity or address can be reasonably determined); information given to the adult parole board that is not disclosed in a decision or reasons for decision of the board; information contained in a report given to a court that is not disclosed by the court's decision or reasons for decision; business, financial or commercial information that relates to the provision of correctional services or certain agreements under the Corrections Act; information concerning the investigation of a contravention or possible contravention of the law by various specified persons; information concerning the management of prisoners or emergency management procedures or plans; information concerning security systems and measures; and information given to an independent prison visitor.

Section 104ZY(1) includes two broad instances where sharing personal or confidential information is permitted: where it is reasonably necessary for the performance of official duties of the relevant person or any other relevant person, or where it is reasonably necessary for the performance by the relevant person of certain specified other duties (such as law enforcement duties or for the enforcement of a court order). Section 104ZY(2) further lists a number of specific circumstances when a relevant person may use or disclose personal or confidential information.

These laws authorise a discretion to disclose personal and confidential information about offenders through a case-by-case assessment.

Clause 13 expands these information-sharing powers by expanding the definition of 'relevant person' to include various bodies including: the Secretary to the Department of Justice and Regulation; the secretary and employees of the Department of Health and Human Services and service providers acting on its behalf; certain persons appointed under the Public Prosecutions Act 1994; the secretary and employees of the Department of Immigration and Border Protection of the commonwealth and service providers acting on its behalf; and the secretary and employees of the Attorney-General's department of the commonwealth and service providers acting on its behalf. These amendments are designed to ensure that the information-sharing powers in the Corrections Act are, where appropriate, consistent with the powers in the Serious Sex Offenders (Detention and Supervision) Act 2009.

Clause 14 further expands the information-sharing powers by amending section 104ZY(2) to enable disclosures of information relating to requests for information under the Working With Children Act 2005. The underlying purpose of these information-sharing amendments is to support a working with children scheme that aims to ensure protection of children from sexual or physical harm. Clause 14 also clarifies that section 104ZY(2)(k), which enables disclosures to the commonwealth Department of Immigration and Border Protection for the purpose of determining the eligibility of a prisoner to remain in Australia, includes information relating to former prisoners.

Clause 14 also authorises disclosures of confidential or personal information to a correctional services authority (including a parole authority) of another state, territory or country, if the information relates to a person who is or has been an offender or prisoner and the disclosure is reasonably necessary to ensure the other jurisdiction can properly supervise, or assess the risks of reoffending by, that person. The sharing of information in this context is principally aimed to prevent crime and to monitor offenders who may pose risks to the community. Safeguards are contained in the bill. For example, disclosures to any foreign jurisdictions can only be made with the written authority of the secretary, who will consider all the circumstances on a case-by-case basis before authorising such a disclosure. The compliance of the other jurisdiction with international human rights treaties and information privacy principles will be one of the relevant considerations for the secretary in making a decision to authorise disclosure.

The provisions engage the right to privacy by broadening the circumstances in which confidential or personal information may be used or disclosed under the Corrections Act. However, any interference with the right to privacy is neither unlawful nor arbitrary. The provisions ensure that information

can be disclosed to and used by persons or bodies which require that information to carry out their authorised functions. The persons who can access information can only do so for the limited circumstances set out in the Corrections Act. I consider that adequate protections are in place to ensure that personal or confidential information is not used or disclosed inappropriately, and therefore I consider that these provisions are consistent with the right to privacy in section 13 of the charter.

Limitation of liability

Clauses 5 to 8, 10 and 12 each introduce amendments to the Corrections Act to limit the liability of certain persons exercising powers under the Corrections Act to use reasonable force and to apply an authorised instrument of restraint in certain limited circumstances. These provisions restrict a person's ability to bring legal proceedings against such persons in certain circumstances, which may engage the right to a fair hearing under section 24 of the charter by impeding access to the court.

The powers affected by these amendments are contained in:

sections 42, 43 and 45 of the Corrections Act, which authorise prison officers, if necessary, to use reasonable force to compel certain persons to leave a prison in limited circumstances;

section 90, which provides that an officer may in limited circumstances use reasonable force to compel an offender to obey a direction given for the purpose of the management, good order or security of a location;

section 104I, which provides that the regional manager, a community corrections officer or a specified officer may in limited circumstances use force to compel a monitored person at a community corrections centre to obey a direction, and may apply an authorised instrument of restraint to the monitored person;

new section 78H, discussed above, which provides that in limited circumstances reasonable force and instruments of restraint may be used in relation to certain high-risk prisoners on parole; and

new sections 78I and 78J, which provide that in limited circumstances reasonable force may be used in relation to certain prisoners on parole, in cases of high risk, in exercising search and seizure powers.

The provision of these immunities is consistent with various other protections from liability in the Corrections Act for persons who use reasonable force in specified circumstances. These immunities are designed to maintain the effectiveness of relevant officers under the Corrections Act in carrying out functions directed to maintaining order and security in correctional facilities or to protect community safety. Without some protection from litigation, relevant officers may hesitate to use reasonable force or apply an instrument of restraint, notwithstanding that doing so may be required to prevent safety risks, including to prevent serious injury or serious property damage.

Providing a statutory immunity to such officers will facilitate the proper exercise of powers which are in the public interest, and which the community expects will be effectively exercised when necessary. Further, these immunities only extend to cover use of reasonable force or instruments of restraint in circumstances where it is necessary to carry out specified functions, and liability will still arise for any unreasonable or unnecessary use of force that has not been exercised in accordance with a relevant provision of the Corrections Act. Accordingly, officers will still remain accountable for any improper, unreasonable or unauthorised use of force, and a cause of action will remain for any person who has suffered injury or damage in such circumstances.

Accordingly, I am satisfied that that the limitation of liability in this context does not limit the right to a fair hearing and is compatible with the charter.

The Hon. Steve Herbert, MP
Minister for Training and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

In summary, the bill will amend the Corrections Act 1986 to:

a. establish a new safety role for the security and emergency services group (SESG) of Corrections Victoria in supervising prisoners on parole, drawing on recent reforms in relation to serious sex offenders;

b. provide a clear power for the Secretary to the Department of Justice and Regulation to issue a warrant, or authorise an application for a magistrate's warrant, authorising:

   i. a police officer to break, enter and search a public place or private residence to arrest and return an unlawfully released prisoner to custody; or

   ii. a prison officer or an escort officer to arrest the prisoner in a public place and return them to custody;

c. improve and clarify the information-sharing provisions in part 9E including to expressly incorporate current ministerial authorisations permitting a relevant person (such as corrections staff) to share personal or confidential information about offenders and prisoners:

   i. for the purpose of the Working With Children Act 2005 (Working With Children Act) to protect children from sexual or physical harm; and

   ii. with correctional services authorities and parole authorities in other states, territories or countries (in particular New Zealand) to

prevent crime and to monitor offenders who may pose risks to the community;

d. provide an exemption from liability for any damage or injury caused by the use of reasonable force by corrections staff to ensure a consistent approach to exemption from liability throughout the Corrections Act;

e. make technical or miscellaneous amendments to improve the operation of the Corrections Act, including clarifying the power for prison governors and regional managers to delegate functions and powers under the Corrections Regulations 2009, in addition to the Corrections Act.

Safety role for the security and emergency services group in relation to parole

There are continuing safety risks to the community, especially community corrections staff, in the supervision of some prisoners on parole. These safety risks are more likely to occur in relation to particular categories of prisoners on parole whose offending profile, subsequent evidence of escalating behaviour or residence environment indicate a high risk of violence. This is particularly so when combined with after-hours home visits by community corrections staff, for example, to check electronic monitoring equipment, compliance with a curfew or an alcohol abstinence condition.

The bill addresses these safety risks by establishing a new safety role for prison officers in the SESG in supervising prisoners on parole, drawing on recent reforms in relation to serious sex offenders.

Recent reforms under the Serious Sex Offenders (Detention and Supervision) Act 2009 (SSODSA) established a new type of officer to assist in the management of serious sex offenders, called 'specified officers'. These officers have certain safety powers when assisting in the supervision of serious sex offenders. The 'specified officers' are intended to be the prison officers in the SESG who are also community corrections officers.

The bill extends the safety role of SESG to supervising prisoners on parole. Safety risks to community corrections staff are posed from time to time in the supervision of prisoners on parole. The risk profile of the prisoner on parole may be related to their criminal history and/or their behaviour while on parole. Prisoners on parole can include serious sex offenders and serious violent offenders. Other prisoners on parole may be subject to conditions such as electronic monitoring or other restrictive parole conditions requiring attendance and close supervision. Breaches of parole conditions identified as part of SESG's new safety role may lead to cancellation of parole.

Community corrections officers currently have general powers to use reasonable force to respond to threats of death, serious injury or serious property damage. Under the bill, prison officers in the SESG, in their new safety role as a special class of community corrections officers, may supervise prisoners on parole and use additional safety measures when using reasonable force.

The additional powers in the bill include application of instruments of restraint, garment or pat-down searches of the prisoner on parole or at the prisoner's residence, and the power to seize items on safety or welfare grounds or due to a risk of reoffending or the risk of breaching the parole order. The SESG officer may also conduct alcohol or drug testing of the prisoner on parole.

Supporting these reforms will be a legal exemption to use extendable batons and capsicum spray. This will be authorised by a subsequent Governor in Council order under the Control of Weapons Act 1990. These powers will be defensive and aim to ensure protection of any person, including community corrections staff. No firearms will be used.

The powers are modelled on those currently exercised by specified officers under the SSODSA. However, under the bill, before the new safety powers can be used by the SESG, the circumstances surrounding the supervision of the prisoner on parole must be assessed by the commissioner of Corrections Victoria as otherwise posing a high risk of violence or other threat to the safety of any person.

This threshold is higher than that under the SSODSA because in the context of parole, the SESG will be engaging with a much larger category of offenders in the community who may pose a range of risks. As these are significant powers involving the use of reasonable force, a high risk is an appropriate threshold.

Supporting the reforms will be an enhancement of current processes used by Corrections Victoria in conducting risk assessments of the offender's residence and risk of violence.

To ensure oversight of the exercise of these stronger powers, SESG officers will be subject to the direction of the commissioner of Corrections Victoria. The bill requires specified officers to report on instances of use of reasonable force to the commissioner who is then required to report these matters to the Secretary to the Department of Justice and Regulation.

The new role of SESG officers in supervising prisoners on parole in the community does not undermine the proper role of Victoria Police. The SESG officers will be, in effect, specialist community corrections officers responding to safety issues when supervising a prisoner on parole in the community. Corrections Victoria will continue to work closely with Victoria Police including on after-hours responses that require police support and under the enhanced operational model supporting the broader SESG role in the bill.

Any breaches of parole conditions or risks to community safety identified as part of the SESG's new safety role in supervising prisoners on parole may lead to a report to the adult parole board who may cancel parole.

The bill builds on recent sentencing reforms for violent offending against custodial staff in the prison environment in the Crimes Legislation Amendment Act 2016, which recognised the ongoing risk of violence in the correctional environment.

The bill is one of the many actions the government is taking to deliver on its duty to keep community corrections staff and other members of the community safe.

Unlawful releases from custody

There is currently a lack of a clear and express power in the Corrections Act for the return of unlawfully released prisoners to custody. This undermines community safety and confidence in the corrections system.

There are currently general powers under the Corrections Act which can be used to return a prisoner to custody after they are mistakenly released into the community. However, the current powers do not allow police officers (or any other officers) to break and enter premises for the purpose of taking charge of the prisoner and therefore, currently the prisoner must be located in a public place. The amendments in the bill remove the anomaly that a prisoner could seek to avoid capture by entering a private home.

The bill provides clear powers for the Secretary to the Department of Justice and Regulation to issue a warrant, or authorise an application to a magistrate for a warrant, for the return of an unlawfully released prisoner to custody. The warrant can authorise a police officer to break, enter and search a public place or private premises to arrest and return the prisoner to custody. Alternatively, the warrant can authorise a prison officer or escort officer to arrest the prisoner in a public place and return the prisoner to custody. A magistrate-issued warrant may be used, for example, to return a prisoner who may be at risk of leaving Victoria or there are other criminal proceedings on foot.

These express powers will provide greater clarity and protection for police officers or other officers who return the prisoner to custody. It is important that the clear power can be recited to the prisoner and accompanied by a legally valid warrant issued under a power in the Corrections Act.

Information sharing under part 9E of the Corrections Act

There is currently a lack of transparency on the face of the Corrections Act regarding some circumstances where the disclosure of confidential information may be appropriate.

Part 9E of the Corrections Act governs the use and disclosure of private and confidential information about offenders and prisoners in the Corrections system. These laws authorise a discretion to disclose personal and confidential information about offenders. It is not mandatory. It is a case-by-case assessment.

These laws are intended to cover all situations where use or disclosure of personal or confidential information about offenders and prisoners may be necessary. Under part 9E, however, the minister can authorise use or disclosure of that information in unexpected situations that fall outside those specifically identified.

There are currently two ministerial authorisations in force, which permit a relevant person (such as Corrections staff) to share personal or confidential information about offenders and prisoners:

a. for the purpose of the Working With Children Act 2005 to protect children from sexual or physical harm; and

b. with correctional services authorities in other states, territories or other countries (such as New Zealand) to prevent crime and to monitor offenders who may pose risks to the community.

The current ministerial authorisations have been in place for approximately one year and are ordinarily intended to be temporary and limited.

The bill makes these two new categories of information sharing explicit in the Corrections Act to provide greater transparency and includes further classes of persons who may use or disclose that information to ensure consistency between the two information-sharing schemes under the Corrections Act and the serious sex offender legislation.

Information sharing under the Working With Children Act 2005

The bill confirms in the Corrections Act the first ministerial authorisation which assists decision-making under the Working with Children scheme, for the purpose of protecting children from sexual or physical harm.

The amendment confirms information about offenders and prisoners may be shared in response to a request for information under the Working With Children Act for the purposes of assisting the Victorian Civil and Administrative Tribunal making a decision about an applicant.

The bill will also permit sharing information for other purposes of the Working With Children Act, including to identify whether a serious sex offender under a supervision order has committed an offence by applying for a working with children check despite being prohibited from doing so.

Information sharing with other jurisdictions

The bill confirms in the Corrections Act the second ministerial authorisation that was made in response to Corrections Victoria receiving a number of requests for information about offenders from overseas correctional services authorities, in particular New Zealand, due to recent changes to deportation laws by the commonwealth regarding criminal offending by persons with visas. The bill also permits information sharing between parole authorities and with correctional services authorities either in or outside Australia.

The information sharing between correctional services authorities and parole decision-making authorities in these cases is principally aimed to prevent crime through the supervision and assessment of risks posed by offenders who move between jurisdictions in or outside Australia. This measure further protects community safety.

As per current practices, the sharing of information will be limited on a case-by-case assessment of each request, rather than a blanket approach. Under the bill, any sharing of information with other foreign jurisdictions must be carefully scrutinised.

The bill contains legal safeguards to ensure information sharing with other countries is assessed on a case-by-case basis with senior level oversight. The Secretary to the Department of Justice and Regulation must be satisfied that sharing the information is appropriate in all the circumstances and has authorised such disclosure. This will include a high-level consideration of the particular jurisdiction that has made the request, for example, having regard to Australia's obligations under international law in relation to human rights and whether the particular foreign jurisdiction is similarly compliant.

These measures in the bill will assist in keeping our community safe and promote cooperation between overseas corrections authorities where appropriate.

Use of reasonable force — no liability clauses

The Corrections Act authorises the use of reasonable force by various officers in specified circumstances. Some provisions provide that these officers cannot be sued for any injury or damage caused by the use of reasonable force. However, the exemption does not apply uniformly in all cases where reasonable force can be used under the Corrections Act.

This may cause potential uncertainty in the legal protections for corrections staff. The bill fixes this anomaly and extends the exemption from liability uniformly throughout the Corrections Act. This will ensure that persons who lawfully exercise reasonable force on safety grounds can do so without fear of liability. This bill adopts the approach taken in the Serious Sex Offenders (Detention and Supervision) Amendment (Community Safety) Act 2016, which exempts from liability corrections officers and police officers who use reasonable force in exercise of their official duties.

This bill represents further action this government is taking to strengthen the corrections system and to protect our community.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 18 October.

CROWN LAND LEGISLATION AMENDMENT BILL 2016

Second reading

Debate resumed from 1 September; motion of Ms PULFORD (Minister for Agriculture).

Mr DAVIS (Southern Metropolitan) — I am pleased to rise and make a contribution to the Crown Land Legislation Amendment Bill 2016. The opposition will not oppose this bill, but we do have some reservations. I note that this seems not to have been debated in the Assembly, and I think that that in itself is of concern.

This bill increases the maximum penalty for the contravention of regulations made under a series of acts — the Conservation, Forests and Lands Act 1987, the Crown Land (Reserves) Act 1978, the Land Act 1958 and the Land Conservation (Vehicle Control) Act 1972 — to 20 penalty units. This is a significant increase, from 5 to 20 units, for offences on private land where the government has entered into an agreement with the landowner to allow public access.

The bill amends the regulation-making power under the Crown Land (Reserves) Act to provide managers with certain additional capacities. They are, one, to set aside areas in a reserve to permit, restrict or prohibit specific activities; two, to set fees for land authorised by a permit; three, to provide the ability to exempt, reduce, waive or refund fees, tools, rent or other charges imposed; and four, to increase the maximum penalty, as I said, for offences from a range of 2 to 5 penalty units to 20 penalty units. Under the Land Act it also provides the ability to exempt, reduce, waive or refund fees, tools, rent or other charges. It again increases the penalty units, this time under the Land Act, from 0.2 penalty units to 20 penalty units. An example of an offence under that act would be an offence impacting on water frontages. It is claimed that the extent of the number of unit points charged is conditional on damage. The Land Conservation (Vehicle Control) Act 1972 is also amended, where the maximum penalty for contravention of regulations and offences related to erosion hazards is changed from $500 to 20 penalty units.

I note that there is not opposition from Four Wheel Drive Victoria on this particular amendment, although I think there is some caution from a number of individual four-wheel drive groups.

There are additional amendments. The definition of public land is amended for the Land Conservation (Vehicle Control) Act by removing outdated references to land under the control of Melbourne Parks and Waterways, which was obviously abolished in the early 2000s as a result of the Water Industry (Amendment) Act 2000. The bill makes a number of statute law revisions. It clarifies which authorised officers may bring proceedings. Authorised officers are appointed under the Conservation, Forests and Lands Act 1987 and no longer appointed under the National Parks Act 1975.

The bill effectively standardises the penalties across the board for contravention of regulations made under the respective different acts that have been outlined. The legislation can act to deter members of the public who deliberately fail to comply with regulations that protect the environment. The legislation does provide some assurance to private landowners who have entered into an agreement with government to allow public access to their land. That land will be protected to equivalent standards of public land. However, I think the substantial increase in penalty in the absence of a schedule covering infringements is something that needs to be looked at closely.

On the impact of recreational drivers on public land, the four-wheel drive association has not opposed these changes and has endorsed them, but some individual four-wheel drivers have certainly made points about this.

The increase in penalties is substantial, and I think it is probably worth putting this in a broader context. This is a government that went to the election with a promise not to increase taxes, charges, fines or levies — a very long list. The now Premier, the then opposition leader, was questioned closely and repeatedly before the election.

Ms Shing interjected.

Mr DAVIS — No, I have said we do not oppose this. I am laying out some strengths, and I am laying out some concerns. Do you support increasing charges way above indexation? That is a question — —

Ms Shing interjected.

Mr DAVIS — Well, I am just saying this is not — —

Ms Shing interjected.

Mr DAVIS — He certainly did not flag this before the election, I have got to tell you. He did not flag this before the election; in fact he said the opposite, and he said it repeatedly under close questioning. For example, in the Sky News broadcast from Frankston in the election he was closely asked by David Speers, and he said he would not increase fees, taxes, charges, levies — all of those. He said he would not increase them above indexation. Well, I have got to say this is not what the Premier has done, and we have seen other examples in the planning and environment area.

We have just recently seen massive increases in charges for levies and fees for planning permits and massive increases to many hundreds of fines. I have got to say there have been huge increases in those fees that will hit families and will hit developers, and consequently family costs will be passed through. This is yet another example of a government that is a high-taxing, high-fining, high impact on local families and communities type of government.

As I said, we are not opposing this, but I think it is important to put on the record the government's solemn promises — repeated promises — including under close questioning before the election about what it would do on taxes, charges, fees and levies, and all of those fall into this area. This is another clear breach of those commitments before the election.

As I say, this does also insert some greater powers for regulations. I will lay out again my ongoing concern about the drift in the government's approach here, where it is using more and more regulation approaches rather than enshrining key points in the actual legislation. It is building itself heads of power for more regulation, because that is easier to do. It is easier for ministers and government departments to change regulation. It is less transparent to the community. It is less open in the process that operates.

We know now that this chamber did the first disallowance of a regulation since 1994 just recently in terms of clause 38 of the Local Government (Electoral) Regulations 2016. That shows you how difficult and how rare it is for regulations to be disallowed. I think there is an ongoing issue with this government's choice to use regulatory instruments rather than having things in clear, understandable legislation that enables the community to fully and completely understand what is going on. It is much easier for government to jack up charges if it is done in this regulatory way.

I think what we will see is charges that go forward, and I will be seeking from the minister some indication as to what he and the government intend to do in the future with these charges, whether there are further rises on the horizon and whether he will give a commitment, such as it is worth given what the Premier's commitments were before the election — that he would not increase taxes, charges, levies, fines, any of them, beyond indexation. I will seek some clear information from the government, and the minister may wish to make some statement about that in the process, or perhaps a government member may wish to make some statement about what the government's intention is going forward. Does the government intend to jack up these regulatory charges or these fines further into the future? What will happen next year? Will this be a single hit where the increases are passed through or will this become a regular pattern?

Now, I do not mind the fact that there is a signal to people that they have got to behave on Crown land and indeed the associated private land. I think that is a worthwhile signal and there is some upside in that. But if the government is going to make solemn promises before the election, it ought to stick to those promises rather than breach them repeatedly, as we have seen in recent times. Whether it be council rates or whether it be the new charges and levies that are being hit on subdivision fees and on planning amendments of various types, they will hit developers and consequently housing affordability and families very hard indeed into the future.

It is very clear that our land use focus is an important one for our community. This bill relates to certain Crown land and some private land as well, and in that sense I think the bill plays a very important part. A number of our key Crown land reserves are captured by this particular bill, whether it be in the metropolitan area, in and around our large regional cities or indeed into further areas of the state. I think the government at the moment is intent on a particular model of looking at the future of land use in this state. It is a model that sees densification in metropolitan Melbourne and some of our key regional centres. It has been outlined in the government's statements since the election and it has been outlined most clearly in the Infrastructure Victoria set of statements that were made last week. It is clear from those Infrastructure Victoria statements that the government intends to pursue as one of its key aims a densification strategy. So I want to see when *Plan Melbourne* refresh comes back — —

Mr Barber — What has that got to do with this?

Mr DAVIS — It is all about land use, Mr Barber, as I carefully laid out: government land use in a number of contexts, including public land. This also deals, as I have outlined, with private land. I have also, as Mr Barber knows, outlined the issues about the future of land use in our state.

Mr Barber — Did Mary Drost write this speech?

Mr DAVIS — Mary Drost has very clear views about the government's proposals for densification of land. I know that Mr Barber is a slavish supporter of the government's densification project and very much determined to see more and more density packed into our suburbs, and I say that I do not agree with that without the consent of local communities. We have had this debate many times before, most spectacularly in the week before the election, the last sitting week of this chamber in 2010. You remember there was an attempt by me and Mr Guy, now in the Legislative Assembly, to disallow the then VC67 amendment. The time ran out and I sought the support of the house to extend that debating time to allow the full debate of that amendment in the dying hours of the Parliament prior to 2010. I note, Mr Barber, that at that point, you voted with the Labor Party to block the — —

Mr Barber — Why didn't you fix it when you got into government?

Mr DAVIS — Well, we did in many areas, Mr Barber. We actually did put protections in place, and they are the neighbourhood residential zones. Those neighbourhood residential zones were put in place by Mr Guy to protect them.

Mr Dalidakis interjected.

Mr DAVIS — They relate to significant protections both in Mr Barber's area, but also, Mr Dalidakis, in your area and my area and Ms Fitzherbert's area, where those protections are absolutely critical to future land use in our metropolitan area. Without those land use protections the government's policy of forced densification and the government's policy of forcing local communities to have high-rise and high-density development against their consent will go forward without resistance.

I draw the chamber's attention again, as I did before, to the indications that are in the Infrastructure Victoria report, and they say, 'This rebalancing is unlikely to occur without intervention'. Well, I do not think you could get a clearer signal of where the government is going, and nobody should for a moment believe Infrastructure Victoria is an independent body. I mean, goodness, it has got three secretaries — or is it four? — sitting on the — —

Mr Dalidakis — Are you attacking the public service?

Mr DAVIS — No, I am not. I am just saying — —

Mr Dalidakis — The public service that served you — you're attacking it.

Mr DAVIS — Absolutely, and I am very respectful. But let me be quite clear: I would take advice from those public servants, but in the end governments make the decisions, Mr Dalidakis. They make the decisions and they instruct the bureaucracy on where to head. That is what I did when I was minister. I took fearless advice from them, but then I instructed them on where the government wanted to head. That is what is occurring with these reports too.

This is the government's template in many respects — make no mistake about that. The cat is out of the bag on this densification. The cat is out of the bag on the trashing of our suburbs. The cat is out of the bag on the forced process that is operating here, and the Minister for Planning has already begun this process. He has torn up the mandatory height protections in places like Mentone — four-storey mandatory height controls put in place by former Minister Guy and torn up by Minister Wynne. The sky is now the limit in Mentone. The sky is the limit. The only limitation on development in Mentone now is the air flight path from

Moorabbin, and that might actually put some cap on what can fly through there.

But let me go further. In areas like Boroondara along the major roads the C255 amendment, which has been promulgated by Minister Wynne now, strips out the protections of four-storey mandatory heights that were all through that area. Now it is discretionary. The sky is the limit under Minister Wynne and this is the densification project that is underway. The same is happening in the City of Knox. I could go on and on, and this happening all over metropolitan Melbourne. It is also going to happen in some of the major regional centres.

The loss of the amenity and the livability of our city is absolutely something that is at the fore of the minds of many people who are concerned about Melbourne's history, about its livability, about heritage and about vegetation protection. This government is determined to tear out trees and strip the vegetation out of the so-called green leafy suburbs. They do not want green leafy suburbs under Premier Andrews and Minister Wynne. What they want is to have enforced densification, and they are going to use the powers that the Minister for Planning has to force this densification on suburb after suburb.

The PRESIDENT — Order! Mr Davis's contribution has caused me to look at the bill before the house. There is a slight relevance issue in your line of debate in that I cannot find that any of this bill refers to the metropolitan area, including Boroondara, which is very much in the metropolitan area, and areas such as Moorabbin and so forth. What I would suggest is that you conclude — in fact I would hope you have already concluded — that line of argument and that you actually return to the bill and the provisions of the bill, which refer to Crown lands.

Mr DAVIS — I thank you for your guidance, President, but I do note that I was responding to interjections from the chamber, which clearly struck a chord with me, and I felt the need to place on record a series of points that related to future land use in the state. Land use is of course comprised of many aspects, including the protection of key Crown lands, and this bill certainly focuses on that, but it also focuses on private land, and the balance between our public and private land is very much at the heart, I think, of this bill.

As I have also said, the bill does permit the process of jacking up the charges and penalty units to be imposed on people who misuse public access. It is a very big increase. Let me give you some examples. Under the Crown Land (Reserves) Act the penalty, as I said, goes from within the range of 2 to 5 units to 20 units — that is, from $310.92 to $3109.20. That is a massive increase. In the Conservation, Forests and Lands Act the penalty unit again goes up to 20 penalty units to $3109, and in the Land Act the increase goes from $31, or 0.2 penalty units, again to 20 penalty units, which is $3109.20. That is a gigantic increase that we are seeing here, again from a Premier who promised he would not increase taxes, would not increase charges, would not increase fines and would not increase penalties beyond indexation — that was his phrase. Whatever the worthy signal that is sent by certain aspects of this and whatever is sent in terms of a signal to discourage people misusing their access to public land, it is another clear breach of the Premier's election commitments, just like the points I have made about the Planning and Environment Act and a number of other key charges and imposts that have been put on families and communities.

With those comments, I indicate the coalition does not oppose this bill but we do have certain reservations about the bill, which we will be monitoring very closely. Again I reiterate my ongoing concern about the model the government is adopting for its bills. No longer is most of the activity in bills being specified clearly in the legislation but more is being dumped into regulatory steps, which are less visible to the community and easier for the government to slip through.

Finally, I will conclude on the point that I will seek from the minister some indication as to whether this will be the end of it or whether the government proposes to jack up these charges again and again and again and by what margin they will seek to increase these fines.

Ms SHING (Eastern Victoria) — It was with a great degree of relief that I watched the previous speaker sit down at the end of his contribution, having heard his views on so many things from densification through to planning decisions through to metropolitan issues and so many other matters which bear no relationship whatsoever to the subject matter at hand.

After having indicated at the outset that, as with the Legislative Assembly debate — which Mr Davis appears not to have understood occurred on 30 August and in which his colleagues in the other place confirmed they did not oppose the bill — the opposition does not oppose the bill, Mr Davis then went on to in fact do everything he possibly could to cast doubt on the rationale for increasing fees that have in fact in a number of cases remained static since 1972.

In this regard we used the starting point of deterrence as being a good principle by which to improve public behaviour. It is actually of significant public interest to make sure that fines are designed to discourage people from acting in a certain way, in particular as it relates in this case to the use and enjoyment of Crown land, and to keep pace with the general deterrents that are set out in other parts of the statute book. This is to make sure that when people are enjoying our parks and our open spaces in Victoria throughout our alpine, coastal and riparian areas, they in fact take the care that is necessary and important as part of safeguarding those resources for future generations.

There are so many reasons to continue to monitor the way in which deterrents are effective, and there are so many good reasons as to why we need to make sure that those who use that space are in fact held to account in a meaningful and substantive way in the event of a breach of these acts. Amending those acts relating to Crown land will in fact improve the effectiveness of enforcement for contravention of regulations made under the Conservation, Forests and Lands Act 1987, the Crown Land (Reserves) Act 1978, the Land Act 1958 and the Land Conservation (Vehicle Control) Act 1972 and will in fact — and this may be something which the coalition is somewhat allergic to — improve and modernise the regulation-making power in the Crown Land (Reserves) Act to enable better management of reserves, improve the regulation-making power in the Land Act relating to fees and make other minor or consequential amendments or corrections. In effect we have a bill that is overwhelmingly administrative in nature, that rectifies outdated penalties, fees and regulations and that delivers improvements that create a better synergy with community expectations.

It is unfortunate that Mr Davis sought to make this into a political exercise where in fact what we see is an increasing awareness of the need to take better care of Crown land when enjoying it. I note that Mr Davis, before he was pulled up by interjection, indicated that Four Wheel Drive Victoria does not object to the bill. In fact this is something which has garnered widespread support. It may come as a consequence of a significant amount of engagement that this government has undertaken with Four Wheel Drive Victoria. It is an industry which brings $100 million into our economy every year, which has been considered as part of the rationale for awarding Four Wheel Drive Victoria a grant of $750 000, which was announced by Minister D'Ambrosio earlier this year.

Four-wheel drivers make a really important contribution to the use of public land. They are overwhelmingly responsible. They are overwhelmingly conservationist in nature. They are overwhelmingly people who like to get out, to enjoy the outdoors and to provide the same privilege to others who may come after them. This includes minimising damage to flora and fauna in the way in which they access Crown land as well as making sure that they remove any waste created when they are out enjoying that Crown land.

What we are doing in relation to this particular bill is making sure that we have a series of deterrents in place to send a very strong message to people who might otherwise not think twice, with fees or fines calculated at rates that go back to a time before I was born — that is, in relation to the last increases — and bring them up to date.

Mr Davis — That's not so long ago, Ms Shing, is it?

Ms SHING — No, I turn 40 next week, Mr Davis. I cannot say that it is something that bothers me, but it does bring to mind the fact that it will then be 44 years since the last adjustment to these fees. That is a really significant period of time. Decades have elapsed since the calculation of these fees was last changed and increases were last introduced. It is timely that as part of this particular administrative bill we are taking the steps to modernise the way in which the deterrent effect is realised.

Making sure that we impose that type of fee for the use of reserves is something which those opposite, Mr Davis in particular, may wish to take issue with for the purposes of pure and bald political pointscoring. It is not something that I would put past him in that regard. I note that the contribution he made did go some way to talking about matters that were not related to the bill. I do not intend to follow his lead in that regard, but what we are doing is making sure that the addressing of low penalties for drivers will be for vehicles that are of a four-wheel drive nature and that we are supporting communities through which four-wheel drivers travel and use as thoroughfares, as well as making sure that they are better able to contribute to the state's economic wealth.

As I indicated earlier in my contribution, over $1 million annually is spent in our communities, including in Gippsland, which I am unashamedly very happy to promote as being some of the best outdoor activity land that anyone will find anywhere in the world and a gorgeous part of the world in which to enjoy four-wheel driving as well. We are making sure that we can include encouragements for people to access the great natural beauty in and around Victoria and the landscapes that include a remarkable cultural

heritage. Not only do we have our flora and fauna emblems amply represented on our Crown land, but there are also sites of phenomenal Aboriginal heritage and significance. Again it is important to recognise when setting fees and fines that they are set in a contemporary way and in a way that recognises stewardship, ownership and custodianship by Aboriginal landholders.

Making sure that we arrest to the best extent possible damage caused by illegal off-road driving is another part of the objective behind this particular administrative bill. We are making sure that driving off-road, including driving or riding on walking, cycling or informal tracks as well as roads not open to the public, is curtailed. In this regard off-road driving poses a really significant danger, particularly in my part of the world and down throughout Central Gippsland and the east up through to the High Country, whereby other road users can often face considerable danger or risk where drivers come out from the off-road tracks straight onto the main roads, often at very high speed. We know that regional and rural drivers are overrepresented in serious injuries, near misses and fatalities on our state's roads. Where these increases in fines and fees result in any better behaviour by people who are driving off-road, then in fact it will have achieved a significant part of its objective around deterrence.

Riding and driving off-road is very detrimental to the environment, as I indicated. It can also cause serious soil erosion and damage to native vegetation growing on and around illegal tracks. In this regard it is important again to send a clear message that off-road driving is in fact something to be encouraged but is something to be done responsibly to make sure that, when and as drivers and riders are accessing our remarkable Crown land environments, they are doing so in a way that does not cause avoidable damage to the natural environment.

Off-road trail bike and four-wheel drive activity requires regular rehabilitation and revegetation of damaged areas, and that is something which is of a significant challenge to our agencies and departments in making sure that damage is understood and acted upon, but again people cannot be there every hour of every day to take action against inappropriate behaviour and the creation of illegal off-road tracks.

Making sure that we are cracking down on that through off-road vehicle movements, such as circle work at camping sites and picnic areas, and making sure that damage to ground surface and problems caused for other visitors is minimised is a key part of these particular changes.

In addition to that, looking at the way in which seasonal road closures can affect access is another part of what underpins this bill. Tracks are often closed to vehicles for visitor safety, to maintain water quality as well at particular times of the year and to prevent erosion during the winter months as rain and snow softens the tracks, often making them very vulnerable to damage. There is also a significant component of personal safety that may become involved in these instances. We have seen most recently that flooding and inundation have been of enormous concern in parts of our state that include parcels of Crown land and it is, in this regard, so important to make sure that people are not putting themselves at risk of any undue harm or other risks, particularly where they are not perhaps familiar with the natural landscape or they are in a circumstance which is highly unusual such as very high water levels, flash flooding and other natural occurrences that cannot reasonably be expected to occur when someone might simply be out for a day trip.

Four Wheel Drive Victoria, as I indicated, has been consulted in relation to the bill. They have indicated their support, not just not opposing it, as Mr Davis would have us believe, but rather their support for an increase to the maximum penalty for offences under the Land Conservation (Vehicle Control) Act 1972 and regulations related to off-road driving. This is an important consideration. What it says is that Four Wheel Drive Victoria is just as interested in making sure that we maintain, to the best extent possible, a pristine natural resource for people to enjoy and enjoy responsibly, and that inappropriate or illegal behaviour should not be tolerated, because not only does it present a very real risk to the driver's safety and could potentially create emergency situations that are avoidable, but it also ruins the landscape from the vegetation perspective, increases the likelihood of soil erosion and in many cases it poses an environmental danger to flora and fauna in the area. On that basis Four Wheel Drive Victoria's promotion of driving in a sustainable environment and protecting the land on which drivers travel is a very good starting point for understanding the broad community support which this bill enjoys.

Four Wheel Drive Victoria maintains excellent ongoing relationships with Crown land managers and in this regard is involved in a stakeholder engagement that is proactive, regular and consultative, and part of ongoing better stewardship of Crown lands is at the very heart of these reforms. Making sure that off-road tracks are used in a way that minimises the negative impact on the

environment is just as much a priority for Four Wheel Drive Victoria as it is for the Andrews Labor government. I look forward to this bill passing in the house and making sure that we are sending a very clear message that our natural resources are to be valued, not just for us to enjoy here and now, but also for future generations, and in this regard making sure that we are encouraging young family members who may be driving off-road with their families for the first time to see model behaviour around the use of tracks, around the use of public land and around the way in which vehicles make their way through the landscape.

This bill forms part of a number of significant steps we have taken to make sure that we are improving water quality and reducing health and wellbeing risks to the community. This is throughout riparian areas, coastal wetlands, the High Country and mountainous regions and the north-west of our state. Making sure that we are equipping our Department of Environment, Land, Water and Planning regional managers with the relevant tools and resources to undertake inspections to make sure that our Crown land remains in the best state possible will also mean that over time the government will be in the best position possible to take further action to stamp out inappropriate behaviour and misuse of Crown land when and as it may occur. With those few words, I commend the bill to the house.

Mr BARBER (Northern Metropolitan) — This bill, among other things, increases penalties for offences like driving off-road, damaging or destroying vegetation, damaging or destroying natural features, damaging or destroying native fauna, and polluting. If only someone could enforce these laws in relation to the Andrews government's destructive environmental practices in the native forests of Victoria! I wish somewhere there was some kind of global police officer who could come down here and actually enforce on the Andrews government massive fines for the exact practices that are talked about in this bill.

I was in East Gippsland on the weekend. I was visiting various places and regions that I have visited many times in the past, including a number of half-logged logging coupes where the destruction is the worst I have ever seen, and I have lost count of the number of logging coupes that I have inspected over decades. Whatever there used to be in relation to the code of forest practice has been tossed out of the window in the absolute desperation of the government-owned logging company, which knows its days are numbered, to tear through that bush and get out what it can. Endangered plants are missed in the surveys and destroyed by logging. Entire gullies are taken out by bulldozers, leaving bare earth with slash thrown down into those gullies. The vast majority of the material, by the way, is left there to be burnt because even Japanese woodchip companies these days have developed a bigger environmental conscience than Ms Shing over here, and they have actually turned up their noses at the product; and there is a massive dollar subsidy going into the East Gippsland logging operation just to keep it alive. If only Ms Shing or somebody in her party could apply those same nice rhetorical flourishes we heard from her before and actually look at what is happening down there and say enough is enough.

Ms Shing interjected.

Mr BARBER — If Ms Shing has not yet been down into these same bush tracks to see what I have seen, I will happily make an appointment for her and she can visit the exact same sites that I did on the weekend. Species like the rough tree fern, for which it took citizen scientists — —

Ms Shing interjected.

Mr BARBER — Well, Ms Shing is the last Labor MP between the Dandenongs and New Zealand, so if there is anybody that we can hold accountable for this matter, it is her. But there are many citizen scientists down there who have been doing the government's job for them, and they would be very happy to take Ms Shing or any other MP from this Parliament on the same tour that I got on the weekend to see these threatened species that apparently, despite the fact they are just tree ferns standing there and pretty easy to identify, the government's own inspectors, who we are constantly assured here by the Minister for Agriculture are on the job, somehow missed. A bunch of citizen scientists found it with a 100-yard walk into the nearest gully.

Ms Shing — So you oppose the bill?

Mr BARBER — Well, what I oppose, Ms Shing, as I have in the life of the governments of Cain, Kirner, Kennett, Bracks, Brumby, Baillieu —

Mr Davis — Napthine.

Mr BARBER — Napthine — thank you — and now this current mob, is the continued subsidised destructive woodchipping of Victoria's forests. The scenes that you would see there look like something out of Indonesia or Borneo, but they are actually being licensed and promoted by this so-called progressive government. We keep hearing about the progressive Andrews government. Well, you show someone a picture of that logging coupe that I visited and you ask

them if there is anything progressive about the destruction of old-growth forest.

Ms Shing interjected.

Mr BARBER — Well, bring a bill before the parliament, Ms Shing — through you, Acting President — to end this destruction, and of course you will have my vote. But you will not.

It is a publicly funded make-work scheme. If somebody was making a bazillion dollars out of this, I could understand why it was continuing, but you are propping it up with public subsidies. In fact you are cross-subsidising logging operations from West Gippsland and feeding that money into keeping up the same destruction in East Gippsland just as some kind of ideological position that your party has always had. The destruction that is happening there pales in significance against anything that this bill might seek to regulate, including approving administrative functions of land managers caring for reserves, including being able to set aside areas for revegetation — —

Ms Shing interjected.

Mr BARBER — Ms Shing, you have established yourself as an effective haranguer and noisemaker in this chamber in a much faster time than anyone else has — through you, Acting President, just responding to that barrage over there — but as a local member that has been able to deliver anything for the environment or the community, I would say the jury is out.

The bill also regulates being able to set aside areas for revegetation or other management purposes and allows setting of fees for permit-authorised land use and reduces, waives or refunds some tolls, fees and rent charges imposed by regulations. The bill seeks to make it easier or cheaper to issue riparian management licences. Well, if they can just keep their own bulldozers out of the creeks, that would be a massive improvement compared to anything that is being put forward in this bill.

It is a disgrace. Their environmental credentials are an absolute joke. The public are twigging to it. The Premier has not got a green bone in his body, and his entire party are cowering behind him. They cannot face up to the level of government-sponsored environmental destruction that is ongoing and that would not actually be happening without government support, and here we are dealing with this fiddling around with increasing the penalties on a few matters in relation to private citizens. The Greens will support the bill.

Mr RAMSAY (Western Victoria) — It seems ironic that every time I get to speak on a bill relating to the environment invariably Mr Barber has been the previous speaker, which allows me the opportunity to take up some of the points in his contributions. But I must say he has left nothing to chance. He has done a perfect spray of the Andrews government, which I am more than happy to support. But in relation to the detail of the bill there is probably not a lot I can actually refer to either in agreement or not, because I think he only referred to the bill in detail once or maybe twice. So there is little for me to make reference to in relation to this particular contribution from Mr Barber, but I am sure there will be others in the future that I can look forward to following him on in the speakers list.

Mr Davis, as the lead speaker on this side of the chamber, indicated that we will not oppose the bill. That is certainly the position that I take in my contribution. Really this bill is about regulating behaviour — the behaviour of private citizens using our beautiful Crown land, parks and reserves right across Victoria, and they are beautiful. We are really blessed with many opportunities for Victorian communities as well as interstate and international visitors to be able to take advantage of our parks. I say that given I have recently travelled overseas, and I make a point whenever I do so to put on the runners and run around the parks that I am able to access fairly easily and look at what other countries have to offer in relation to providing a unique space of getting away from cement, bricks and mortar and other things to actually enjoy some of the environmental attributes, regardless of where they might be, that parks and gardens have to offer. As I said, I have certainly seen as much as I can up to this point of what we in Australia have to offer, and we certainly need to safeguard those attributes and the values that they offer into the future.

That is all I see this bill really doing — that is, that those who wantonly destroy or impact our environmental values of our parks be fined appropriately. It is a pity that we actually have to put in regulations in relation to increasing fines — Mr Davis covered this in his contribution and it is referred to in the second-reading speech — to 20 penalty units, which from the quick calculation I did equates to around a 300 per cent increase in fines and penalties for those that wantonly disregard the beauty of our parks and in doing so create some environmental damage.

In my own Western Victoria Region we have a number of significant Crown land reserves and parks, particularly the Otways. I live at the foot of the Otways and have enjoyed being able to walk through them with my children on many occasions over the last 20 years. I

enjoy the beauty of the Otways. The Otway Fly is a fantastic investment by private entrepreneurs. They get millions of visitors each year who enjoy the canopies of the forest in the Otways. It is a unique experience, which I know has been copied around the world.

Likewise through the Grampians, through the Halls Gap and Grampians trails, which we invested a significant amount of money in as a state government in the last Parliament, particularly after the fires had ravaged the Grampians, to enable new walking tracks and infrastructure so the many thousands of visitors that frequent the Grampians and Halls Gap can enjoy that wonderful experience. I really support the bill on the basis that what it is trying to do is safeguard those assets, allow people to enjoy the experience of using our Crown lands and parks, but also to provide an increase in penalties for those who wantonly injure or destroy the habitats and the values that those parks provide.

It is a sad fact that many people use Crown land as a dumping ground for their rubbish. I have seen this on many occasions. You can go up through the parks and see people dumping old couches, mattresses, refuse, domestic waste and all manner of things — —

Ms Shing — Cars.

Mr RAMSAY — Cars, true. If I can refer to cars, I note in the *Geelong Advertiser* just this week that carjacking is up by 29 per cent. We do have a crime wave in the Geelong region, Ms Shing, and thank you for drawing me to that particular point, because if you go along the Geelong Ring Road you will see any numbers of cars abandoned and burnt out as a result of them being stolen. And as I said, it is not only 29 per cent in the Greater Geelong region but in fact there has been a 32 per cent increase in car thefts on the Bellarine Peninsula, which is almost unheard of in history — unprecedented. There is no doubt that the lack of more frontline police, which the government committed to, is having a significant impact on the crime wave that we are seeing right across Victoria. But before Mr Shing jumps up to claim irrelevance in relation to my — —

Ms Shing — Ms Shing. You said Mr Shing.

Mr RAMSAY — No, I said Ms Shing. I would never call you Mr Shing, Ms Shing.

Ms Shing — It has happened before.

Mr RAMSAY — Unlike the President, who has some trouble at some stages in getting names muddled up, you will always be Ms Shing to me — but I am digressing.

I do want to make the point that while this bill basically tries to regulate behaviour, I think the onus is on us as a Victorian community to take some responsibility not only for ourselves but for the people we are in charge of to actually look after the parks. It is disappointing to think that we have to start increasing penalties and fines to change a behaviour when, certainly in my time, we were brought up to respect the environment we lived in. That means not throwing rubbish out of cars, not throwing our cigarette butts on the pavement and not throwing our rubbish into areas where it is hidden or less public and trying to evade the costs of disposing of it. It is a disgrace. Sadly, this bill is here to try and change that behaviour. Having said that though, it is not always those who live in this country; it is those who visit this country who perhaps do not have the same sort of care and responsibilities that we like to think that we have in relation to our environment, particularly our parks.

There are a number of stakeholder groups that use our Crown lands. Some are responsible; some are not. Some of our four-wheel drive groups have over the past certainly been less responsible in relation to how they have used our Crown lands and it is pleasing to see now the four-wheel drive motoring groups being much more proactive within their membership to educate and promote the importance of the preservation of our pristine environment. Field and Game Australia has been vigilant in relation to how its members use our parks for recreational hunting and there is no doubt there can be coexistence between those that use the parks for recreational use for walking, health or lifestyle and our recreational hunter groups.

I just want to make the point that it was important in the days of the forestry commission when a lot of work was done in providing tracks through our Crown lands. Principally that was for easy access and we have seen over time many of those tracks that were made by the commission now being overgrown and out of sight. I think this has caused some significant problems. We saw this in the Wye River fires last December, which I might add were the catalyst for federal legislation and the change to the Fair Work Act 2009. We are now providing under that legislation protection for our Country Fire Authority (CFA) volunteers by the removal of any clauses that might inhibit volunteerism, whether it is through our CFA or through our other emergency services.

The Wye River fire certainly was a catalyst. The Prime Minister met with our local fire brigades, particularly at Wye River, where Roy Moriarty is the CFA captain. Certainly through that process he had a better understanding of the importance of the work CFA

volunteers and the brigades do in some of the firefighting and fuel-reduction work, the tracks and other tools that reduce the fire risk in those areas.

Certainly through that discussion no doubt the Prime Minister had a much better understanding of the important role of CFA volunteers and the ability they have in their flexibility and autonomy in managing a fire response. I am really pleased to see that the Senate last night actually agreed to the Fair Work Act amendment bill, and we will hopefully see that play out in the discussions around the current United Firefighters Union-CFA enterprise bargaining agreement and the current proposed power of veto clauses and the impact that will have under the new legislation. But once again I am digressing from this bill. Needless to say, though, I did want to highlight the importance of maintaining a good track network through our Crown land so we can have easy access to potential fire and other emergency work, even in safety issues regarding people that might be stranded or injured through their walking or travelling experiences through our Crown land.

On that note can I finish by saying it is of concern within the bill that Parks Victoria does have the capacity to provide reserves within Crown land and management decisions in relation to biodiversity. That is not really spelt out in detail. I am not sure if this bill is going through the committee stage, but if it is, that would be an opportunity to explore exactly what is meant by particular clauses in relation to preservation of parts of Crown land that Parks Victoria as the land manager can make under the regulations. But if not, I guess at some point the regulations might well come under greater scrutiny in future.

In summary, I think it is a shame that this bill has come before the chamber to try to regulate behaviour and better use of our parks, but we do not oppose it on the basis that hopefully the increase in penalties, which is really what the detail is about, might give people an opportunity to take a breath in relation to how they treat very important and pristine Crown lands.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

NATIONAL DOMESTIC VIOLENCE ORDER SCHEME BILL 2016

Second reading

Debate resumed from 13 September; 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 briefly on the National Domestic Violence Order Scheme Bill 2016. The coalition parties are not opposing this piece of legislation, which seeks to amend the Family Violence Protection Act 2008 with respect to providing for national recognition of various domestic violence orders (DVOs).

Currently the suite of legislation in Victoria — but also the suite of legislation across Australia in different jurisdictions — provides that where a domestic violence order is granted in another state, or indeed is granted in an international jurisdiction that is recognised in Australia, recognition of that order in Victoria requires an application to the court in the relevant jurisdiction to have that order recognised. The purpose of this bill before the house today is to actually remove the requirement for the person who has obtained a domestic violence order to seek recognition of that order in a different jurisdiction. If somebody has obtained an order in New South Wales against a third party, currently they need to seek the endorsement of the Victorian court for that order to be recognised in Victoria. With the passage of this legislation that will not be necessary; an order made in New South Wales would automatically be valid in Victoria and provide the same protections to the applicant in Victoria as it does in New South Wales, where it was issued. This seems on the face of it a reasonable step forward to ensure that there is mutual recognition of these orders from other jurisdictions around Australia and indeed, as I said, certain international jurisdictions.

The background of this piece of legislation comes from the Victorian government's endorsement of the second stage of the *National Plan to Reduce Violence against Women and their Children 2010–2022* and subsequent Council of Australian Governments agreements. It is interesting just to reflect on the language used in that particular agreement, which limits its reference to violence against women and their children. I am always troubled by the use of this language, which excludes so many other sorts of domestic violence. Of course the principal legislation we are talking about applies to all domestic violence, as do the amendments that this bill seeks to make. The application will come from DVOs

being applied across jurisdictions, which will be given effect by this legislation, but in referring only to domestic violence against women and their children, so many forms of domestic violence are being excluded.

We hear increasing cases of elder abuse as a form of domestic violence, where adult children effectively abuse their elderly parents. We see instances of children, particularly teenage children or young adult children, perpetrating violence against their parents and other family members. We see violence in same-sex relationships, and we see instances of violence from women against men. When the rhetoric around domestic violence is confined to violence against women and children, so many forms of violence are ignored.

The reality is that all domestic violence is abhorrent. All domestic violence should be opposed, and we as legislators and government entities should not be using language which suggests that dealing with certain forms of domestic violence is somehow more important than other forms of domestic violence which can be ignored. We need to send a very clear message that all domestic violence, irrespective of who the perpetrator is and irrespective of who the victim is, is abhorrent and should be seen that way by the community. I just make that reference in passing, given the commonwealth plan which was the genesis of this piece of legislation and which does refer only to a narrow set of domestic violence.

Arising from that plan in 2010 was the COAG agreement at the end of last year to actually deliver mutual recognition of domestic violence orders through the mechanism we are seeing today. The coalition is pleased to see this mechanism come forward and accordingly does not seek to oppose it. We do have concerns about the time frame in which this piece of legislation will take effect. Today the government has not indicated when this legislation will be proclaimed, and our understanding is that is due to yet-to-be-resolved questions around the funding of IT systems necessary to support the mutual recognition of domestic violence orders across jurisdictions and the resolution of that funding question.

We are concerned that the proclamation of this legislation will be delayed until that funding agreement is reached between the states and territories. While there is obviously going to be a cost associated with this legislation and putting in place the necessary IT systems to give effect to it, we have heard repeatedly from this government — from the Treasurer today in question time in the other place — how the government received $9.7 billion from the sale of the port of Melbourne and how it has substantial financial resources available to it. It would be, in our view, a matter for concern if this piece of legislation, which facilitates the mutual recognition of domestic violence orders, is delayed because of a spat between federal and state bureaucrats over how the IT system is going to be funded.

We do not oppose this legislation. We think mutual recognition of DVOs is a good step forward. The bill sets out the way in which they will apply in Victoria, the way in which subsequent orders will take precedence and the way in which family violence safety notices issued by Victoria Police will take precedence over DVOs from other jurisdictions, and that mechanism seems a reasonable one. But our concern is with the timing and with the fact that the government has indicated this legislation will not come into effect until there is a funding agreement between the commonwealth and the other state jurisdictions. We are concerned that that is not the appropriate approach to take with this. The amount of funds involved in such an agreement is comparatively minor in the context of the massive windfall the Treasurer is now talking about and minor in the context of the potential for this legislation to provide further relief in the domestic violence environment by mutual recognition, and it should not be delayed simply because federal and state bureaucrats cannot resolve a funding issue.

Ms TIERNEY (Western Victoria) — I rise to speak on the National Domestic Violence Order Scheme Bill 2016, and as the previous speaker has outlined and indeed the contributions in the other house have outlined, it is to provide a national recognition scheme for family violence intervention orders, family violence safety notices and other domestic violence orders. It also makes consequential amendments to the Family Violence Protection Act 2008 and other acts.

I will not go over the structure of the bill in any intensive way, and I will not go into too much of the structural detail, but what I would like to do is take the opportunity to talk about the issue of family violence and the reasons this bill is before us today and how it will enable victims of family violence to spend less time in court as well as have national coverage to the order that applies, which is important of course for those who are needing to shift from state to state to get away, essentially, from perpetrators or indeed to just try to start a new life. What I will touch on is the profound and devastating impact that family violence has.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Barwon Prison

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Corrections. Minister, three prison officers at the maximum security Barwon Prison were recently assaulted and hospitalised as a result of an attack by a prisoner. How was this able to occur when Barwon is supposedly one of the most secure prisons in the corrections system?

Mr HERBERT (Minister for Corrections) — I thank Mr O'Donohue for his question. Of course it needs to be said that prisons are pretty tough and challenging workplaces. I can also say — and I am sure he would agree with me — that I have the utmost respect for our prison officers and the jobs they do, and they are excellent at the work they do. I have said many times that what has surprised me since I have been the minister is the positive attitude and actually the love of the job that many officers have in circumstances and in a workplace that most people would find incredibly confronting.

It is not acceptable that any officers are attacked. The health and safety of any workforce needs to be a priority. However, they are in prisons, and they do occur and have occurred. What we have to do is to ensure that whenever it does occur it is referred to the police, there is an investigation and we find out why, how and how we can stop it.

I could go into a lot of detail of legislation which we passed for emergency services about body-worn cameras, new CCTV and a whole range of things. I could also point out that when it comes to actual serious staff assaults the rate has reduced from 0.08 per hundred prisoners in 2014–15 to 0.05, but I will take that question on notice.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for his answer and his preparedness to take the question on notice. I ask by way of supplementary: Minister, this shocking assault on the hardworking prison officers comes just a few weeks after the Barwon prisoners went on strike and refused to work. When coupled with the increased deaths in custody, the flood of contraband into the prison system and all the other issues that the prison system has seen in recent times, is this not further evidence that your government has lost control of the prison system in Victoria?

Mr HERBERT (Minister for Corrections) — It certainly is not, no. It probably is a bit of evidence about the lack of investment put into our prison system by the previous government, which we are turning around, but I take all these matters seriously. We know the corrections system is a complex system with multiple types of incarceration modes and multiple approaches to try to stop recidivism or to keep both staff and prisoners safe and active. I will take that question on notice.

Beechworth Correctional Centre

Ms LOVELL (Northern Victoria) — My question is for the Minister for Corrections. Rodney Brooke escaped from the Beechworth Prison in late June this year. He was reportedly a prisoner at some risk as he had given information to police regarding a drug dealer. According to reports, within hours of arriving at Beechworth he was targeted with threats. Minister, given that Beechworth is a minimum security facility, does not his placement at Beechworth, where there is no management unit and limited ability to securely segregate at-risk prisoners, demonstrate a significant failure in the placement of at-risk prisoners?

Mr HERBERT (Minister for Corrections) — I would certainly not comment on or seek to intervene in the operational matters of our prison system, and quite frankly we have a corrections system with very highly talented people who work very hard and do as much as they can and the best they can. In regard to the question asked, of course there have been 10 prison escapes this financial year, 5 of these in the first half of 2016. Any escape is unacceptable. However, there are strong requirements, we have improved our contract system for private prisons and we are investigating every one that occurs. I will take that on notice.

Supplementary question

Ms LOVELL (Northern Victoria) — Minister, does not this case again call into question your decision to redirect funding for the upgrade of necessary infrastructure at Beechworth, given that such high-risk prisoners are being placed at the facility?

Mr HERBERT (Minister for Corrections) — The answer is no, but I will take that on notice.

Right to farm

Ms BATH (Eastern Victoria) — My question is to the Minister for Agriculture. On 16 August, eight weeks ago, you were asked in Parliament when you would release the long-awaited report into right-to-farm issues. Your response was: in the not-too-distant future.

This report was supposed to have been delivered in December 2015. Minister, reportedly you yourself have had this report since April. Why did you not publicly release the report when you received it and then set a time frame for a government response, as you did with John Brumby's regional Victoria review last year?

Ms PULFORD (Minister for Agriculture) — I thank Ms Bath for her question and her interest in this matter. Ms Bath does not have very long to wait at all now.

Supplementary question

Ms BATH (Eastern Victoria) — I thank the minister for her brief response. Minister, why have you refused to come out but said 'Very soon' and 'We don't have long to wait'? Why have you delayed the public release of these recommendations and so denied farmers a say in shaping the government's response?

Ms PULFORD (Minister for Agriculture) — I thank Ms Bath for her supplementary question. It is a nonsense to suggest that Victorian farmers have not had a say in shaping this response. One of the things that has been occurring since the committee provided the report to the government is lots and lots of discussions with affected industries, so I can assure Ms Bath that she can look forward to hearing about this in great detail any day now.

Regional and rural roads

Mr DAVIS (Southern Metropolitan) — My question is for the Minister for Regional Development. The minister administers the Regional Development Victoria Act 2002, and I note that the powers of that act include to facilitate the coordinated delivery of government programs, services and resources in rural and regional Victoria. I therefore ask what steps the minister has taken to ensure that country roads damaged in the recent flooding are repaired swiftly and councils compensated in full for the costs in doing so?

Ms PULFORD (Minister for Regional Development) — I thank Mr Davis for his question and his interest in the condition of roads across regional Victoria. I suspect I have probably seen more of them up close in the last week than Mr Davis has. I look forward to providing him with a detailed written response.

Supplementary question

Mr DAVIS (Southern Metropolitan) — That is very disappointing. The minister clearly knows this is an important topic and refuses to answer. I therefore ask: will you please inform the house of any estimates of the scale of costs and the road repair bill in regional Victoria as a result of these recent floods?

Ms Pulford interjected.

Mr DAVIS — It is disappointing, but what I am asking is for the minister to inform the house of any estimates of the scale and costs of the road repair bill in regional Victoria as a result of the recent floods of which she is aware.

Ms PULFORD (Minister for Regional Development) — I thank Mr Davis for his supplementary question. I would advise Mr Davis that Minister Merlino is currently undertaking an audit of roads affected, but anecdotally the roads from Ballarat to Horsham and from Horsham to Port Fairy and back to Ballarat again that I travelled on last week, including a side trip to Lake Toolondo, have certainly seen their share of wild weather. But in terms of assessing the damages from recent flooding I think Mr Davis would probably understand, like people in regional Victoria do, that we are in the very earliest days of assessment and some communities are still dealing with the threat of water incursion.

Ordered that answer be considered next day on motion of Mr Davis (Southern Metropolitan).

StartCon

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, earlier this year you were embarrassed into admitting that you failed to secure StartCon 2016 in Melbourne. It is now in Randwick. Now you have been publicly humiliated by Freelancer in failed negotiations regarding StartCon 2017. To quote CEO Matt Barrie:

> The reason StartCon … didn't go to Melbourne this year is because Philip Dalidakis and his team couldn't deliver on what they agreed upon in a signed letter. The minister and his team tried to retrade on multiple points, including marketing support, and his department were unable to turn around a basic sponsorship agreement in five months despite repeated prodding to the point of absurdity.

Documents made public show your office even personally intervened. Minister, do you take full responsibility for this absolute dog's breakfast of negotiation and mismanagement with Freelancer?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Thank you, President, for the opportunity to answer what is a truly bizarre question. It is a truly bizarre question because there is no

embarrassment on behalf of myself or the government for walking away from an agreement when the company that Mr Ondarchie mentioned refused to agree to diversity targets and diversity metrics. We have an opposition that takes lectures from John Howard about women's place being best in the kitchen. So this government aims to include diversity metrics in an industry, I might add, that sadly suffers from a lack of gender diversity, where most companies in it operate with somewhere between 13 to 23 per cent at the lowest and an upper level of about 27 per cent female participation. So as a result we believe absolutely how important it is to ensure that women are represented in equal numbers across the dynamics of the conference, either on panels or in fact representing and giving speeches.

This is obviously in keeping with the government's long-held position since coming to government to ensure that those types of diversity metrics are included in paid professional boards across government and in the judiciary. I am very proud to say that in fact we as of March last year have exceeded that target of 50 per cent that the Premier set from opposition, and we have carried that through.

I have chosen within the tech sector very specifically to adopt these diversity metrics, given the failure of the industry to adopt gender diverse workforces. So we make no apologies for walking away from this opportunity. May I just say that from the outset when we signed the agreement with Freelancer we did so in good faith, but as Mr Ondarchie has enunciated, we did not sign the contract at that point in time, but it was rather an opportunity to engage in a contract. It was an exciting opportunity that we pursued, but unfortunately and sadly we were not able to get discussions with Freelancer about those metrics that we wanted to include.

Can I just say also, President, that as you are well aware and as is ordinarily my practice, I take these questions on notice and provide a written response, but given that the practice is to do that within one day and given that I will not be here tomorrow because of Yom Kippur I do want to provide a full answer so that the house does get that information rather than not get it. I do not think that diversity targets are something that the opposition really wish to play politics with, and I am saddened that rather than actually applauding the government for being prepared to walk away from the negotiation because Freelancer were not prepared to meet those diversity targets, and rather than support the government for our desire to see those gender diverse targets included, they should choose to play politics with that instance.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — Minister, Matt Barrie continued his take-down of you, where it was revealed that between December 2015 and January 2016:

> Zero progress was made over months of frequent contact — the Dalidakis team were even incapable of using the 'track changes' function in Microsoft Word.
>
> …
>
> Since Dalidakis never managed to deliver on what he originally promised (in fact, the last time he responded to an email was in February 2016) negotiations never went forward.

Despite this, Minister, in March 2016 you told this Parliament that it was the fault of LaunchVic. Given Matt Barrie said that you were the problem as early as December 2015 and that you told the Parliament three months later it was LaunchVic, did you politically use LaunchVic as a scapegoat or, as Mr Barrie calls it, 'arse covering'?

The PRESIDENT — Order! I obviously do not like to hear that sort of language. Unfortunately in this case it is a direct quote, as I understand it, and even in recent weeks I have allowed another rather unpalatable description to be incorporated into *Hansard* on the basis that that was also a quote, but hopefully we will avoid some of these areas of quotes that do not really reflect well on anybody, including the people who use them without perhaps using a wider vocabulary.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Thank you, President, and I will resist quoting my colleague Mr Leane about Mr Ondarchie's conduct, because that would be unparliamentary. But what I will say is that there is no desire to apportion blame to anyone. What I have said previously is that initially — —

Honourable members interjecting.

Mr DALIDAKIS — As I was saying, initially LaunchVic did not actually begin until late January or February, and as a result there was a crossover period between initial discussions with the department that were then taken over by LaunchVic, so in fact I do not see any, I guess, incongruous conduct from the department, me or LaunchVic because of those time lines.

StartCon

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, after the news was made public that you broke your promise to bring StartCon to Victoria, StartupSmart reported your reasoning for the decision was due to, and I quote:

> … StartCon's lack of desire to negotiate with the government and to implement diversity metrics for the conference.

Minister, at what stage after your signed letter to Matt Barrie on 29 October 2015 agreeing to provide sponsorship of up to $200 000 per annum for up to five years to support StartCon in Victoria did you demand a 50-50 gender representation requirement for panel members, keynote speakers and guests?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Ondarchie for his question. The fact of the matter remains that these issues of diversity metrics were not able to be discussed because, as I am advised, Mr Barrie and Freelancer did not respond to any communications post the dates that Mr Ondarchie raised. These issues were raised in communications with Mr Barrie, and the document that Mr Ondarchie continues to refer to was actually not a contract. As Mr Ondarchie, who claims to have a professional background in commerce, would understand, until contracts are signed, at that stage they do not include obviously final undertakings, of which we wanted to include diversity metrics.

Ms Wooldridge interjected.

Mr DALIDAKIS — So again, rather than getting attacked by Ms Wooldridge for including diversity metrics, which I find very surprising — —

Ms Crozier interjected.

Mr DALIDAKIS — And also Ms Crozier is attacking a government for including gender diversity metrics. I find this almost as a twilight parallel zone — that on this side of the chamber we walk away from a contract with a company — —

Mr Ondarchie — On a point of order, President, which goes to relevance, this is a very narrow question. It simply asked when after his letter that talked about agreeing to the sponsorship did he then introduce the question around gender diversity. It was a very narrow question, and I ask you to bring him back to it.

The PRESIDENT — Order! One of the difficulties for the minister in responding is he is actually being subjected to quite a bit of interjection. I actually think that that encourages him perhaps to go in different directions and not to perhaps satisfy what Mr Ondarchie sees as the key point of his question. Indeed, while without the actual date, the rest of the minister's answer has certainly been responsive to the question and the issue itself. Whether or not the date will be forthcoming, we will find out. The minister, to continue.

Mr DALIDAKIS — The date in question, 30 October 2015, was the date that the government entered into a negotiation process with Freelancer and Mr Barrie. We chose to then undertake, I guess, negotiations/discussions to finalise that funding agreement. The funding agreement was not able to be finalised, because communications between LaunchVic and Mr Barrie went unanswered when we raised the issue of diversity metrics with him, which can only lead me to believe that Mr Barrie and his company were not interested in meeting the metrics as per our request.

Be that as it may, the opposition referred to an article that published this. In that article I did nothing other than wish Mr Barrie and Freelancer well, noting that we were not able to reach finalisation in that agreement. I wish to iterate — both for your benefit, President, and the benefit of those opposite — that it was the government that walked away from this contract because we could not agree to those diversity metrics not being included because of the radio silence that was provided by Freelancer in our attempt to discuss them. It came at a critical point where we had other opportunities to bring other wonderfully diverse conferences and grow them — two of our homegrown conferences, Pause Festival and Above All Human.

And of course I am very pleased to tell you, President, and the chamber that while I was recently overseas in the United States we announced that Girls in Tech will bring their Catalyst Conference exclusively to Melbourne, the first time in the Southern Hemisphere. The Catalyst Conference is an amazing conference that is held to wide acclaim across North America. In fact there is only one other city that they are talking of taking it to prior to bringing it to Melbourne, and that is London. The Girls in Tech conference was one that we had an opportunity to bring to the Melbourne ecosystem to increase that gender diversity for our young women — and our women of all ages, in fact. I think rather than try and be critical, the opposition hopefully will support us, including those diversity metrics.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — I note in your letter, Minister, you say to Matt Barrie, 'Welcome to Victoria, the best of everything'. Well, clearly he is not coming. But I ask you in relation to the draft contract that you sent to Freelancer after your letter of 29 October: Minister, in that draft contract does it refer to the diversity metrics that you require?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Again, Mr Ondarchie likes to take the opportunity to advise anybody that will listen that he has an extensive commercial background, so Mr Ondarchie will understand that until a contract is signed, sealed, delivered and finalised, you have the ability to include different parts of that contract.

Honourable members interjecting.

Mr DALIDAKIS — We have one, two, three men across the chamber attacking me for supporting greater diversity metrics for female participation in a conference. In previous questions we had Ms Wooldridge and Ms Crozier attack me for trying to increase the gender diversity metrics — —

Mr Ondarchie — On a point of order, President, that goes to relevance, it was a simple question: were the diversity metrics in the draft contract you sent to him or not? A simple question.

The PRESIDENT — Order! The minister, to continue.

Mr DALIDAKIS — President, I acknowledge that you did not uphold that point of order, because I have already answered that in the earlier part of the supplementary question. I reiterate that we on this side of the chamber do not resile from the fact that we want gender equity across the tech system.

Latrobe Valley employment

Mr BOURMAN (Eastern Victoria) — My question without notice today is for the Minister for Agriculture and Minister for Regional Development, Minister Pulford. The recent announcement that may see the Hazelwood power station closing down in the future casts a shadow over the Latrobe Valley. The potential loss of up to 1000 jobs will deeply hurt a rural economy already suffering. So my question is: given the potential job losses on the horizon at Hazelwood, it would be insane to risk the timber industry jobs at a place like Maryvale, so what is the government doing to futureproof these jobs?

Ms PULFORD (Minister for Agriculture) — I thank Mr Bourman for his question and for his interest in employment in the Latrobe Valley. At the outset I make the observation that whilst Mr Bourman referred to media reports about the future of Hazelwood as a potential announcement, the government is advised that no decision has been made. We are working hard to support the communities of the Latrobe Valley in a number of different ways and understand that the media report that Mr Bourman referred to of course raised some significant concerns and anxieties for this community, but the operator has not made any final decision. The government is in any event providing significant support to the communities of the Latrobe Valley to diversify and strengthen their economy and to support their communities with a number of challenges, including many that they have been enduring for a very long time.

I note Mr Davis's observations about my administration of the Regional Development Victoria Act 2002 and how there is a role there in coordinating and supporting an across-government effort. So with your forbearance, President, I advise that in my own portfolios there are a number of initiatives that the government is supporting in the Latrobe Valley, including the Gippsland logistics precinct and the Latrobe dental prosthetics lab project, which is a fantastic one that has been many years in the planning and is finally a construction site. It is a terrific thing to see work underway there, creating high-tech jobs that will be great jobs for the future of the Latrobe Valley.

Up the road the West Gippsland performing arts centre of course has a great deal of work going on. Ms Bath is very interested in intensive animal industries, and we will have a little bit more to say about that in the next few days. In addition to that, the Horticulture Innovation Fund is supporting horticultural innovation, again to create and strengthen economic diversity by having greater numbers of employers strong and vibrant in a greater spread of industries. Of course that is something that I think any community in regional Victoria and even parts of metropolitan Melbourne would welcome.

In addition to this, and with your forbearance, President, more broadly the government is providing support to the communities of the Latrobe Valley in a number of other ways. New spending initiatives are now to the tune of $220 million, which includes $130 million for infrastructure for many projects — more than I have time to list, but in schools, in hospitals and in roads. Of course there is the $51 million package of support to implement the recommendations of the Hazelwood mine fire inquiry — an inquiry that our

government committed to before the election — to reopen and to provide support to that community.

In relation to Mr Bourman's specific question about Australian Paper, it is a very significant employer providing a great many jobs as well, and one I am sure that has a very strong future in Victoria. It provides a range of products, including for agricultural industries and other manufacturing industries, as well as paper, as Ms Dunn likes to talk about in here from time to time.

Supplementary question

Mr BOURMAN (Eastern Victoria) — I thank the minister for her answer. My supplementary question is: the Great Forest National Park is a huge threat to the economy in Gippsland with the effect it would have on timber jobs. Will the government shelve the plans to implement the park to protect these jobs, given the potential for the loss of the power jobs in Hazelwood?

Ms PULFORD (Minister for Agriculture) — I thank Mr Bourman for his supplementary question. Mr Bourman's supplementary question made quite a number of suggestions and assumptions that I think invite a response confirming or denying some of the assertions that Mr Bourman has made. On the work of the task force, as members here would be entirely familiar with, the government is supporting the task force in its work. They have provided an interim report, which is publicly available. They are continuing their work, with the support of the government, seeking to establish a consensus that will provide a strong future for the forestry industry in Victoria but also, in doing so, preserve our natural assets. Those matters are subject to the ongoing work of the task force. But I can certainly assure Mr Bourman again, as I did in responding to his substantive question, that the government is absolutely committed to supporting the Latrobe Valley to strengthen and diversify its economy now and into the future.

Grand Final Friday

Ms PATTEN (Northern Metropolitan) — My question is for the Minister for Small Business, Innovation and Trade, Mr Dalidakis. The Victorian Chamber of Commerce and Industry (VCCI) found that just 12 per cent of the businesses that opened on the grand final holiday turned a profit. The Australian Industry Group (AIG) estimates that the cost to Victorian businesses in lost production and wages was almost a billion dollars. South Australia, the ACT, Queensland and New South Wales all had public holidays on the Monday after the grand final, which is vastly preferable for businesses, particularly in hospitality. If you look at the businesses that deal with interstate custom, that weekend meant that they had to deal with two public holidays. So my question is — and I know we have discussed this before: will the government admit now that Monday would be a preferable day to Friday for the public holiday?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Ms Patten for her question. Whilst I am fighting the urge to just simply say no and limit my contribution to that, I would like to point out to Ms Patten that in 2011 the then opposition leader, now Premier, made a commitment that, should we be elected, we would introduce Grand Final Friday as a public holiday. You do not need to take my word for it, Ms Patten, but the estimated nearly 200 000 people that enjoyed Friday's grand final parade — the largest attendance at the parade in its history — are testament to the fact that Victorians have taken to the public holiday like no other. In fact the only people who oppose the public holiday are those opposite, and I believe that finally Victorians are now aware that they wish to abolish Grand Final Friday, just as Jeffrey Kennett abolished the Royal Melbourne Show Day back in his term in the 1990s.

We on this side of the chamber believe that the public holiday is a good one. We support it. I acknowledge that we will never agree with the VCCI or with the AIG. They are business chambers of commerce, and they are absolutely going to support their members, who obviously oppose the introduction of the public holiday.

Mr Ondarchie interjected.

Mr DALIDAKIS — Can I also just point out, Ms Patten, that this year, 2016 — a tremendous year of achievement for diversity metrics and other issues as well, despite those opposite wanting to attack us, amazingly, for supporting women actually working and being included in festivals and the like — we have 14 public holidays. Let me tell you that the number of public holidays in New South Wales is — guess what — 14. The AIG and VCCI always seem to miss the statistic that Victoria has the same number of public holidays this year as its northern neighbours. I acknowledge that they are not on the same days and that we celebrate different things on different days, and that is one of the things that draws Victorians to our great state.

By the way, we have had 11 consecutive years of population growth, so we are outstripping the rest of the country with people coming here to live. Obviously there is a reason for that, and obviously the ability to

work to live rather than to live to work is one of those aspects. We are some of the hardest working people globally. Our economic numbers are amazing. When we inherited this state from those opposite, unemployment was at nearly 7 per cent. Right now it is around 5.5 to 5.6 per cent. There has been a tremendous amount of work done by this government in terms of supporting employment and our economy, and the VCCI and AIG have acknowledged the significant work that we have done in that area. We will not agree in terms of the public holiday, but what I suggest, Ms Patten, is that you jump on board with the rest of Victoria and support the public holiday.

I may just finish by responding to an interjection by Mr Ondarchie about small business. I had a small business man come up to me and applaud the government for the public holiday. He claimed that it meant his staff could have a break and that it was the only break between June and Melbourne Cup Day, which falls on a Tuesday, so is not a long weekend.

Supplementary question

Ms PATTEN (Northern Metropolitan) — I thank the minister for that contribution. I go back to the main point of my initial question, which was about having a public holiday on a Friday. For some businesses, particularly in Northern Metropolitan Region, 50 per cent of their turnover occurs on a Friday. On Monday that does not occur. So while, yes, New South Wales and Victoria may have the same number of holidays, having a holiday on Monday is far preferable to not only small business but, I would probably say, the Bulldogs fans in this state today.

However, my supplementary question to the minister is: given we have two years of data, we have got the information from the VCCI and we have got the information from the AIG, will the government consider at least reviewing the data, reviewing the situation and reconsidering changing the day from Friday to Monday for the grand final holiday?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Ms Patten for her supplementary question. We undertook a limited review after the public holiday in its first instance last year, and in that review we deemed that the holiday was, not surprisingly, a massive success and supported overwhelmingly by the Victorian public. The simple answer to your supplementary question is no. Just to remind those opposite — because they usually, as does Mr Ondarchie, fail to do their homework — the public holiday was gazetted in perpetuity. We are not going back to gazette the public holidays again and again. The only way that those holidays will be removed is if the Victorian public vote in a Liberal-Nationals government which will steal that public holiday away from Victorians just as Jeffrey Kennett did with the Royal Melbourne Show Day.

Ivory and rhinoceros horn trade

Ms PENNICUIK (Southern Metropolitan) — My question is for the Minister for Small Business, Innovation and Trade, representing the Minister for Consumer Affairs, Gaming and Liquor Regulation. Last month the International Fund for Animal Welfare (IFAW) released a report entitled *Under the Hammer — Are Auction Houses in Australia and New Zealand Contributing to the Demise of Elephants and Rhinos?* Across a nine-month period IFAW found 2772 ivory items for sale at 175 auctions in 21 auction houses in Australia and New Zealand, 5 of which are in Victoria; and 13 rhino horn items were also found, including raw and carved rhino horn, jewellery and wax seals. Seventy-eight per cent of those items were sold — where the auction results were available. I have been told ivory has been seen in Melbourne shops. Minister, is the government aware of this report and of the scale of the sale of ivory and rhino horn in Victoria?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Ms Pennicuik for her question. As Ms Pennicuik would be aware, obviously I represent the minister in the other place, and I will take the substantive part of that question on notice. Can I just say for the record that I am not sure that anybody would be comfortable with those beautiful animals being used in such a way for commercial gain, especially when they are threatened species, and so I look forward to providing you with that written response from the Minister for Consumer Affairs, Gaming and Liquor Regulation in the other place.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — Thank you, Minister, for that response. While the federal laws under the Environment Protection and Biodiversity Conservation Act 1999 are quite strict regarding importation of ivory and rhino horn, there is no specific state or territory regulation of trade in non-live elephant or rhinoceros specimens. Under federal law elephant specimens may be imported under what is called a pre-Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) certificate, which is meant to prove that the specimen predates the 1975 listing of elephants on CITES. But the IFAW report found that of the 21 auction houses and the 5 that I said are in

Victoria — 4 of those are in Melbourne — only 7 had written policies on their websites regarding rules and regulations; only 2 of these made specific mention of trade in endangered species, even though they were selling it; and only 8 per cent of ivory items for sale were accompanied by provenance documentation. Minister, can you advise also whether Consumer Affairs Victoria monitors auction houses to ensure that ivory or rhino horn for sale in Victoria is not illegal?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Again, Ms Pennicuik, I thank you for your question, and I will again seek a response from the minister in the other place.

QUESTIONS ON NOTICE

Answers

Ms PULFORD (Minister for Agriculture) — I have answers to the following question on notice: 4739, 5056–8, 5137, 5339, 5343, 5836, 6294, 6298–9, 6314–443, 6445–646, 7012–15, 7025, 7027, 7030–1, 7033–9, 7041–3, 7047–9, 7053–62, 7064–6, 7077–123, 7126–34, 7142–6, 7161–6, 7168–73, 7178–87, 7189–99, 7202–22, 7226–33, 7235, 7259–71, 7285–382, 7456–63, 7467, 7472–7, 7480–4, 7607, 7611, 7613, 7615–17, 7619–23, 7625–8.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of today's questions I would indicate that regarding Mr O'Donohue's question to Mr Herbert — the first question of the day — the minister has undertaken to provide a response on both the substantive and supplementary questions. I actually thought he went pretty close to having covered the issue on his supplementary question.

In regard to Ms Lovell's question to Mr Herbert, I would ask that the substantive question have a written response, as the minister volunteered, but I am absolutely certain that 'No' was sufficient to discharge the supplementary question, so I do not seek a written response on that. In both those cases for Mr Herbert they are one-day responses.

On Ms Bath's question to Ms Pulford, the substantive and supplementary questions, the minister has indicated she would be prepared to provide a written response, and that is one day.

On Mr Davis's question to Ms Pulford, Ms Pulford has also indicated a preparedness to provide a response to both the substantive and supplementary questions. However, that does involve a minister in another place, and therefore that is two days.

On Mr Ondarchie's second question to Mr Dalidakis, both the substantive and supplementary were quite specific in seeking information on time frames. I think the minister did explain the process, and I certainly accept that in contract negotiations things can change in terms of discussions over a contract, but the questions were specific about time frames, and I would invite the minister to actually provide a response on both the substantive and supplementary questions. This is Mr Ondarchie's second question of the day. Given the minister's unavailability to the house tomorrow, that is two days. I do wish you well for Yom Kippur.

In respect of Ms Pennicuik's question to Mr Dalidakis, both the substantive and supplementary questions, the minister has indicated a preparedness to provide a written answer to that, and that is certainly what I would be expecting. Again, it is a minister in another place, so that is two days.

Mr Davis — On a point of order, President, I asked a question in the last sitting week regarding the Great Forest National Park and the impact on small business employment of Minister Dalidakis. I received a response today which rejects the point that I made. The minister says, for example, in his supplementary response, 'The Great Forest National Park is not a matter related to my portfolio'. President, you made a ruling in the period when this question was being discussed in the chamber, and you said that the point I raised was consistent with the minister's capability or jurisdiction to actually indicate whether he or his department intends to take studies of impacts of various things, whether or not that is the practice the department would have:

> I do not see that that is necessarily contingent upon … the jurisdiction of another minister —

and it goes on. The point is that you made a ruling that the impact of a government policy on his portfolio is something that he could examine. He has failed to do that. I will provide you with a copy.

The PRESIDENT — Order! Essentially I am not in a position to direct a minister on exactly how they should answer a question. The minister did on that occasion indicate that it was not part of his portfolio, as you have rightly said, Mr Davis. My point was that, yes, the small business ministry might well take a view on a range of matters outside its direct responsibility if it thought there were implications for or impacts on small business and might well seek to voice any

concerns, proposals or recommendations in respect of matters under consideration of another minister. I note the questions, and I do have the questions in front of me. I note that the minister has chosen to indicate in his answers to both the substantive and supplementary questions that he does not have any information to provide you, on the basis that it is not part of his portfolio. I think that you can basically take your answer from the minister as a no.

Mr Davis — But, President, he doesn't actually say that in answering the question.

The PRESIDENT — Order! Whether the minister expresses himself in a form that is acceptable to a member of the house is not a matter for me to determine. The minister has provided a response, and I think you can reflect on the response as regards the questions asked.

JOINT SITTING OF PARLIAMENT

Legislative Council vacancy and Senate vacancy

The PRESIDENT — Order! I have received the following message from the Legislative Assembly in respect of a joint sitting for Council and Senate vacancies:

> The Legislative Assembly has agreed to the following resolution:
>
> > That this house meets the Legislative Council for the purpose of sitting and voting together —
> >
> > (1) to choose a person to hold the place in the Council rendered vacant by the resignation of Damian Drum and proposes that the time and place of such meeting be the Legislative Assembly chamber on Wednesday, 12 October 2016, at 6.45 p.m.; and
> >
> > (2) to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Stephen Conroy and proposes that the time and place of such meeting be the Legislative Assembly chamber on Tuesday, 25 October 2016, at 6.45 p.m.

It is presented for the agreement of the Legislative Council, signed by the Speaker on this day, 11 October.

I might just make the comment that in a formal document such as this it might have been much more preferable to have the former member described as the Honourable Damian Drum, which is his honorific.

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

> That this house meets with the Legislative Assembly for the purpose of sitting and voting together to —
>
> (1) choose a person to hold the place in the Legislative Council rendered vacant by the resignation of the Honourable Damian Drum and, as proposed by the Assembly, that the time and place of such meeting be the Legislative Assembly chamber on Wednesday, 12 October 2016, at 6.45 p.m.;
>
> (2) choose a person to hold the place in the Senate rendered vacant by the resignation of Senator Stephen Conroy and, as proposed by the Assembly, that the place and time of such meeting be the Legislative Assembly chamber on Tuesday, 25 October 2016, at 6.45 p.m.;
>
> and that standing and sessional orders be suspended to the extent necessary to —
>
> (1) provide that on Wednesday, 12 October 2016, the order of business will be —
>
> > Messages
> >
> > Formal business
> >
> > Members statements (up to 15 members)
> >
> > General business
> >
> > At 12 noon, questions
> >
> > Answers to questions on notice
> >
> > General business (continues)
> >
> > At 5.00 p.m. statements on reports and papers
> >
> > At 6.00 p.m. adjournment (maximum 30 minutes);
>
> (2) provide that on Tuesday, 25 October 2016, the order of business will be —
>
> > Messages
> >
> > Formal business
> >
> > Ministers statements (up to 5 ministers)
> >
> > Members statements (up to 15 members)
> >
> > Government business
> >
> > At 2.00 p.m. questions
> >
> > Answers to questions on notice
> >
> > Constituency questions
> >
> > Government business (continues)
> >
> > At 6.00 p.m. adjournment (maximum 30 minutes).

Ms WOOLDRIDGE (Eastern Metropolitan) — I am very pleased to have the opportunity to speak on a motion put forward by the Deputy Leader of the Government. The good news is that it was not so hard after all for the Deputy Leader of the Government to move that motion. We have had repeated claims over the many weeks that we have been seeking to have a joint sitting that the deputy leader could not possibly move that motion, that in fact that motion could only be moved by the Leader of the Government, that the Leader of the Government needed to be in the chamber to move the motion and that the Leader of the Government needed to attend the joint sitting. What we have seen, in fact, with quite some ease, is the capacity of the Deputy Leader of the Government to move that motion and in doing so to demonstrate a massive backflip by this government.

It should come as no surprise to anyone in this chamber or those beyond listening to the proceedings that the coalition will strongly support this motion to hold the joint sitting to swear in Luke O'Sullivan to replace the Honourable Damian Drum as The Nationals representative in Northern Victoria Region, as well as to fill the Senate vacancy following the resignation of Senator Stephen Conroy.

Mr Leane interjected.

The PRESIDENT — Order! Mr Leane, thank you!

Mr Leane interjected.

The PRESIDENT — Order! As a kid I had a crystal set, and you sound a lot like it. Stop. I will explain that to you and all you young people later. It was before the transistor radio, and you had to attach it to a piece of metal to actually listen to the cricket from England.

Mr Ondarchie — That was before Bluetooth.

The PRESIDENT — Order! It was just before Bluetooth — by about 60 years . The Leader of the Opposition, to continue without response.

Ms WOOLDRIDGE — Thank you, President. I am glad you brought the house to order, because I am just about to quote you. It was actually eight weeks ago, on 16 August, that the President read out this message:

> In accordance with section 27A(4) of the constitution, The Nationals for regional Victoria nominate Mr Luke O'Sullivan … to fill the vacancy.
>
> Mr O'Sullivan has been duly elected by The Nationals for this vacancy and is qualified to sit as a member of the Legislative Council.
>
> I would be most appreciative if you could advise our office of the timing of the joint sitting once it has been arranged.

What has happened over the last eight weeks? What we have seen from the Victorian Labor Party is a trashing of our constitution, a trashing of our standing orders and the significant contravention of the processes and procedures of this chamber. We have witnessed the need to bring into this chamber repeated measures, there has been a very strong message from every non-government member in this chamber that a joint sitting was required as soon as possible as the first order of business and we have debated that each and every week. It has not occurred, and it has been a reflection on the Labor government as a result. We have even seen this messy saga caused by the Labor government hit the law courts.

We see in this motion the extreme paranoia of those opposite in needing to group the vacant Labor Party Senate vacancy with Mr O'Sullivan's swearing in, because somewhere in their thinking was that this chamber would attempt to go ahead and block the Labor Party's appointment, when what we have been very clear about all along is that we believe the process to get a member sworn in as a member of Parliament is a primary responsibility of the Parliament and it should not be held up for party-political measures, which is exactly what we have seen from the Labor Party. They may choose to do it; we would not, and we have been very clear about the processes all along, but that is primarily what has happened.

We have had the Deputy Leader of the Government — and I must say it was a little bit sheepishly — moving that we get on and have this joint sitting, which is absolutely what is required. The fact is that this house does require some cooperation to function. What we see because of the failure of the government to have that joint sitting is that we now have 20 bills on the notice paper, and this chamber very clearly and loudly said just last sitting week and in the sitting weeks before that the joint sitting is the chamber's priority. Many bills were not dealt with because of the absence of that joint sitting, and I think the government has now reflected on that capacity. We have been very clear all along that the joint sitting was our primary responsibility and that not holding the joint sitting was in absolute contravention of all the standing orders of this house.

I am pleased that we are able to move forward and will be able to support the ongoing operation of this chamber in its normal processes now that we are able to have this joint sitting and have the duly nominated member of The Nationals in his place to represent his

constituency. The last eight weeks have given us an insight into the Andrews Labor government as one that does choose to play politics at the most bizarre times rather than governing and providing representation for Victorians. It is unfortunate, but it is probably also the reality that Victorians are waking up to this as being how this government acts. We did warn at the time that this process, which has been used previously when eight members have been sworn into this chamber through joint sittings to replace retiring members — and they have been from the Labor Party, the Liberal Party and The Nationals — could also happen for their members in the Senate, and what do we see but Senator Conroy resigning and the need for those opposite to hold a joint sitting for that replacement. What was predicted has come to bear, and now I am pleased to say we are able to get on with it because of that interest.

There has been an interesting tweet today from a resident in northern Victoria who said, 'Amazing how quickly you can move to fill a Labor Senate vacancy when they've been so undemocratic re Mr O'Sullivan'. I do want to repeat the words of a former Labor Leader of the Government in this place, John Lenders, when he spoke on clause 9 of the Constitution (Parliamentary Reform) Bill 2003, a clause to establish the joint sittings when a casual vacancy has occurred in the Legislative Council. He said at the time, and I quote it again — we have had this quote each week — that:

> … a government that refused to convene a joint sitting would deservedly be held in contempt by the Victorian public.

It has taken eight weeks to get to this point, and the Victorian public knows that that is the case.

What we have seen in the media and what we have seen from community feedback throughout Victoria has been overwhelming support over the last two months to have this joint sitting and to get on with the appointment of Luke O'Sullivan. From our perspective it has really been quite naive of the government, because such has been the focus on the failure of the Labor government to have this joint sitting that Mr O'Sullivan now has a higher profile in Northern Victoria Region than practically any Northern Victoria Region representative from the government side of things. It is very clear that he will do an excellent job when he is enabled to represent his constituency. The media throughout the region has been condemning Mr Andrews and the Andrews government, and rightly so.

I said at the time that the failure of the Victorian Labor Party to support the motion was a very dark day in this chamber's history. Today I am very pleased that we are able to right that wrong. I have to say very clearly that a government should never use party politics with the sole purpose of denying a member of Parliament their ability to become a member of Parliament and to be able to represent their constituency. That is a dark day from Labor, and I am pleased that we are able to move beyond that.

The Victorian coalition strongly supports the motion before the house, and I encourage everyone to do so. Importantly it will enable Mr O'Sullivan to represent half a million Victorians across Northern Victoria Region as the fifth member of the upper house team there. They have always had an entitlement to have five members, and now they have a member they will be able to enjoy and appreciate. So I support this motion and recommend it to the house.

Mr BARBER (Northern Metropolitan) — Well, how about that? Labor finally get around to doing the right thing, and they are still doing it for entirely the wrong reasons. There has not been some great change of heart. There has not been some reconsideration. There has not been some overwhelming public opinion. Like so many other things that Labor does, it is due to some sort of internal factional power play. Even from his post-politics career former Senator Conroy is still lobbing bombs into the Victorian factional system, with zero consideration for the decisions that were made by his Labor colleagues down here, but putting them straight into a trap of their own making. Because if they are short one vote in the federal Senate with so much being at stake there and often hanging on one vote — —

Mr Dalidakis — They've got five automatic pairs. That's what they do.

Mr BARBER — Oh! Mr Dalidakis has got his own intelligence on the operations of the Senate — —

Mr Dalidakis interjected.

Mr BARBER — That is right; you worked for Senator Conroy, Mr Dalidakis. The pairing system has broken down in relation to the House of Representatives. Who knows how long Labor was going to keep this game going down here, and who knows how long it would have been before the federal coalition tried the same thing in tit-for-tat manner. Unfortunately what that means is that we are now correcting the error, but the bad precedent that established it remains. There has been no change of heart from the members of the gangster government over there. Ninety-nine per cent of all of their politics is the internal politics of the Labor Party, and they wonder

why when the effects are felt out here in the broader world it leaves the population cold.

The Greens welcome this motion. We have moved and supported motions similar to it, and now oddly we are getting the reverse motion from the reverse backflip from the lower house. I do not imagine members will pipe up in support of this motion here, but members down there certainly had to speak out of the other side of their faces. Unfortunately there has been no change of heart and no change of behaviour in the way this government operates. They are doing the right thing for entirely the wrong reasons, and the damage has been done, because some future government will come along and pick up this bad precedent and drag us further down the slippery slope.

Ms PULFORD (Minister for Agriculture) — Well, what an extraordinary lack of grace we have seen just now. We got through nearly 3 hours today without the sort of childish and petulant behaviour that we have been enduring in this place since May. If I could just respond briefly, we are proceeding in this way in spite of Ms Wooldridge's efforts and those of her party. Our priorities are our legislative program: the domestic violence order scheme, which we commenced debate on just before question time, and the carjacking and home invasion legislation. Our priority is the priority of the Victorian community and ensuring their safety.

In response to the comments of Ms Wooldridge, I would just remind her that 123 days passed between when Mr Drum indicated his desire to check out of here and the preselection by The Nationals of Mr O'Sullivan. To suggest that the coalition had any great urgency in filling this vacancy is just fundamentally dishonest.

I would also indicate to the house that Mr Jennings will be joining us for the joint sitting tomorrow, and I certainly look forward to sitting with him in the Assembly chamber on that occasion. I point out to members opposite again, for what feels like the umpteenth time, their extraordinary hypocrisy here where they cry crocodile tears for The Nationals — in fact a candidate who is not a resident of Northern Victoria Region, unlike the resident that Ms Wooldridge referred to in her contribution. Mr Jennings's constituents in South Eastern Metropolitan Region have been denied their full representation in this chamber for six months.

There are five weeks to go on this extraordinary and unprecedented suspension. I know Mr Barber likes to make an argument to suit his coalition arrangements as it suits him, and we have heard no shortage of that in this Parliament or indeed in the previous two. But Mr Jennings will be joining us. Our focus is on our legislative program, and really we would have expected a little more style and grace from the member opposite. I know that she does not want to be here; the rest of us do, and we are interested in getting on with our legislative program.

Motion agreed to.

The PRESIDENT — Order! Can I just make one point, and I do not want to go over all the sorts of issues that we have been over before. I just want to make one point in terms of our standing orders, and that is that several times in the debate it has come up that it is necessary for the Leader of the Government to move this motion to seek a joint sitting. That is not the case. By the rules, by our standing orders, there is no requirement for the Leader of the Government to propose such a motion. Indeed it would be open to any member of this chamber to propose such a motion and for the chamber to then determine the outcome of that motion.

I accept, and perhaps this is what was meant in terms of the prosecution of that view in a number of debates, that it has been a convention of this house. But conventions, whilst I believe that they do have an importance in our consideration, do not preclude the opportunity for another member to move this motion in this house under our standing orders. That is the case.

CONSTITUENCY QUESTIONS

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My constituency question is for the Minister for Health and it is regarding the ongoing issue of unacceptable waiting times at the Goulburn Valley Health (GV Health) emergency department. I have recently been contacted by a constituent who is very upset that her 88-year-old father, who collapsed in Euroa and was taken to GV Health, was seen on arrival but then put in a wheelchair and left waiting in the waiting room for 7.5 hours before being treated and admitted. The constituent said that they were not advised of how long they would be waiting and that staff were extremely busy and highly stressed. She said there really needs to be further funding from the government to allow this hospital to run more efficiently and for emergency patients to have access to medical staff without an unacceptable wait. She said that the morale problem within the hospital also needs to be addressed but that maybe without the extreme stress they are under things would improve.

My question is: what interim measures will the minister put in place to immediately improve wait times for patients of Goulburn Valley Health's Shepparton emergency department while we wait for the redevelopment of the hospital to be completed?

Western Victoria Region

Ms TIERNEY (Western Victoria) — My question is for the Minister for Emergency Services in the other place. The minister is more than aware of the impact that the floods are having on a significant number of assets in western Victoria and in particular the damage to and destruction of our roads. My question to the minister is: what exercise will be undertaken to audit the damage to roads in western Victoria due to the extreme wet weather conditions and flooding?

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My question is for the Minister for Planning, Mr Wynne. The proposed east–west alignment of a third runway at Melbourne Airport will greatly expand the number of dwellings in the western suburbs whose amenity will be affected by aircraft noise. How will the minister be consulting with residents in affected suburbs on any expansion or amendment of the Melbourne Airport environs overlay, including the provision of any compensation required to ensure dwellings are suitably soundproofed?

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My question is for the Minister for Education, Mr Merlino. Recently I, along with other MPs, was contacted by a resident of Docklands who, like others, is deeply concerned by what they described as the education department's discrimination against residents by waiving their right to attend their nearest state secondary school. Instead they have created a discontinuous zone, effectively leapfrogging over the University High School zone, to assign them to Mount Alexander College in Flemington. This means the primary and high schools for that area are on opposite sides of the city. Long travel times in opposite directions do not facilitate attendance, support working parents or forge community ties. Given the government's 2016–17 budget delivers the largest ever investment in Victorian schools, when can the residents of Docklands expect the government to identify suitable land for either a new primary school or a new high school to meet the needs of the inner city?

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is directed to the Minister for Emergency Services. Western Victoria has experienced significant rainfall, resulting in flooding of significant areas. I would like to record my thanks to the State Emergency Service volunteers for their dedication and hard work in serving and keeping Victoria safe during this difficult time. However, a further impact of these significant rain events will be the increased fuel load in the upcoming fire season. Emergency Management Victoria has already released a report indicating that western Victoria will experience higher than average fire danger this coming fire season, and this will only increase with the recent rains. Despite this, the government has made a decision to take western Victoria's skycrane away, which is absolutely absurd.

My question to the minister is: will the minister commit to ensuring that western Victoria's skycrane remains based in Ballarat to keep all western Victorians safe?

Western Metropolitan Region

Mr MELHEM (Western Metropolitan) — My constituency question is directed to the Minister for Health, Jill Hennessy. In light of the recent tragic events in the Victorian health system the Andrews Labor government has made a commitment to strengthen maternity services in Victoria. Using the words of the Minister for Health:

> It's crucial that hospitals continue to train and develop their staff so they have the skills they need to better monitor women and their babies before giving birth.

Considering that $1.4 million in funding has been recently provided to 46 Victorian public hospitals to share, I ask the minister to outline what additional funding was delivered to Western Health for its foetal monitoring systems and how this funding will benefit the women of Western Metropolitan Region.

Eastern Metropolitan Region

Ms DUNN (Eastern Metropolitan) — My constituency question is for the Minister for Public Transport. Transdev, the bus operator contracted to Public Transport Victoria, runs several bus routes through Manningham city. In late 2014 Transdev conducted consultation on proposed changes to their network to commence in 2015. The proposed changes were greeted with disdain from Transdev's passengers in Manningham during the public consultation process. The changes were deferred at the request of the Minister for Public Transport, Jacinta Allan. Does the

minister have an update on the status of the deferred changes and whether Transdev plans to alter the timetables or routes in Manningham in the near future?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question today is for the Minister for Public Transport, Jacinta Allan. A constituent contacted my office in relation to a bus service from Aireys Inlet to Torquay. He has indicated that he is sending children to the secondary school in Torquay using the school bus service. But with 20 more Aireys Inlet children expected to take the bus next year, he is concerned there will not be enough room for them all without a larger service.

His suggestion is that the Public Transport Victoria (PTV) bus could stop at the Surf Coast shire office so that Aireys Inlet children are able to take it to the nearby Surf Coast Secondary College. There is already a bus stop there on one side of the road, but the service from Aireys Inlet does not recognise it as an official pick-up place, so the overcrowded school bus remains the only option for these children. So I ask: will the minister request a PTV review to add a bus stop in order to cater for the growth of Aireys Inlet and the increasing number of students commuting to Torquay?

Eastern Metropolitan Region

Mr LEANE (Eastern Metropolitan) — My constituency question is directed to the Minister for Public Transport, Jacinta Allan. Last week I was at the site of the new Bayswater station, where the grade separation is happening at Mountain Highway and Scoresby Road, with a stakeholder group that represents constituents around the particular Bayswater area. Many of them could not believe that the previous government had a plan to grade separate Mountain Highway but leave a boom gate for the maintenance depot to be accessed. The maintenance trains travel through that particular intersection a lot more slowly than passenger trains, so it was a bizarre plan the previous government had. Also, the constituents were more surprised that the member for Bayswater at the time was a minister in that government. So the question I ask is: can the minister confirm this was the previous government's flawed plan?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Roads and Road Safety. The minister will recall my advocacy for the removal of a roundabout at the intersection of Gap Road and Horne Street in Sunbury and its replacement with traffic lights. I am delighted that the minister has listened to me and has announced the change for the intersection, but my concern is that, despite his recent announcement, the roundabout will remain. Will the minister assure me and the Sunbury community that the necessary funding has been allocated to make this intersection safe for motorists and pedestrians alike?

Southern Metropolitan Region

Ms CROZIER (Southern Metropolitan) — In an answer to a question I asked the Minister for Public Transport — and my question is directed to her again — about value capture land sites in Bentleigh, the minister in her answer outlined no plans for any development at McKinnon Road or Centre Road. However, at North Road, Ormond, there are plans for a mix of both commercial and residential use. Labor's 13-storey sky tower, which is not in keeping with local amenity, is of great concern to a number of my constituents within the area. The minister in her answer said that the plans would be on public exhibition later this year for public consultation in relation to this mix of commercial and residential development in this area at Ormond station. My question to the minister is: exactly when will these plans be exhibited and how long will the public have to comment on them?

NATIONAL DOMESTIC VIOLENCE ORDER SCHEME BILL 2016

Second reading

Debate resumed.

Ms TIERNEY (Western Victoria) — Just prior to question time I began my contribution on the National Domestic Violence Order Scheme Bill 2016, and I was talking about the profound and devastating impact family violence has on everyone and why a bill such as this, while it may seem minor in the grand scheme for the prevention of family violence, is also quite critical — because across Australia many of us know now that a woman is killed every week by a male partner or ex-partner and that thousands are injured every year.

It is estimated that one in three women has been a victim of partner crime and that one in four children has witnessed partner violence. Without even touching on the impact on the mental health of victims, these are horrifying statistics. While they are damning statistics, what needs to be driven home is that victims are more than statistics. They are mostly women — women with family, women with friends and children and careers

and aspirations for the future. They are indeed our neighbours, colleagues, friends and family. To do nothing to stop family violence would be to fail those who have experienced this horror in the past.

While this bill is not a magic key that will end family violence once and for all, it is an important part of the government's plan. It is something more than what is currently available, and step by step, with more and more protection for victims made available, we can reduce the number of women killed and physically or mentally damaged by family violence. The bill creates a new act to provide for a national recognition scheme for Victorian family violence safety notices, family violence intervention orders and domestic violence orders made in other states and territories and New Zealand.

The benefits of a national scheme cannot be underestimated. Currently each state and territory, as well as New Zealand, has its own form of domestic violence orders, or DVOs. They are civil restraining orders that forbid a person from committing family violence against a victim. They are known as family violence safety notices, or FVSNs, in Victoria. Currently if a victim was to move interstate or to New Zealand, they would have to reregister their DVO in their new jurisdiction. That means extra time spent away from family. It means going into an uncomfortable place and possibly reliving the horrific experience that they went through just to ensure that they receive the same protection in a new state or country, and it means that if they are unable to reregister, their protection by way of a DVO is unenforceable in the new jurisdiction. We simply should not have to make victims of family violence relive their experiences just to maintain protection under the law, and this is why this bill will help Victorians.

In December 2015 the Council of Australian Governments agreed to introduce a national domestic violence scheme, with this legislation fulfilling that agreement. Under this legislation, once victims receive protection in the form of a DVO, they will be covered across the country. This of course means less time before the courts. Furthermore, all current safety notices and intervention orders will be incorporated into the new scheme, so Victorians with current family violence safety notices will be automatically included in the new national scheme, ensuring that they will be protected nationwide.

The Victorian government conducted extensive consultation with Victoria Police, the Magistrates Court and the Children's Court. Broader family violence stakeholders were also consulted extensively, and I echo the statements of my colleague in the lower house the member for Geelong, Christine Couzens. Those comments were in regard to the work done by community services in the Geelong region that tackle family violence. They are a fundamental part of Geelong society, and they deserve all the support they can get from the Victorian government.

One of the more insidious aspects of family violence is the role that isolation plays in exacerbating it. Women in rural and remote areas are more likely to experience higher rates of male violence, so community services and organisations in my electorate of Western Victoria Region that are dedicated to helping victims of family violence are very important — organisations such as Emma House Domestic Violence Services in Warrnambool, in the south-west, that provide outreach, court support, accommodation and supporting counselling, amongst other important services, for a wide area.

At a local government level we have the Great South Coast Strategy to Prevent Violence against Women and Children. It is a joint development by five councils of the Great South Coast and includes over 50 organisations in the South West Coast region to prevent family violence and address the impact of violence against women and children. Their contributions towards keeping families safe are vital to the community, and this bill will complement their work.

Family violence is Australia's no. 1 law and order issue. Family violence is the no. 1 health issue for Victorian women aged between 15 and 44. Blood pressure, obesity, smoking — we all agree that these three issues are serious health risks, and they need addressing, but the reality is that those three risk factors are overall less damaging to the health of women aged 15 to 44 than family violence. We need to do everything we can to reduce the risk, and this bill is one way of doing so. While stopping family violence should not need to be argued from an economic point of view, the reality is that violence against women and children cost the Victorian economy $3.4 billion in 2009, with most of this cost concentrated in local and regional services, as well as law and order.

Family violence is not something that is going to be fixed overnight. We knew this when we established Australia's first Royal Commission into Family Violence. We accepted all 227 recommendations and committed $572 million as a first step towards implementing those recommendations. We have made a commitment to tackle family violence head on. This

bill cannot guarantee 100 per cent protection to everyone, but as I stated earlier, at the very least it is something more than victims currently have, and it is a step in the right direction. It is with these steps that we will make our state a safer place to live for everyone. It is a small step in a very long road towards ending family violence, but it is an important step and one that I am proud to lend my support to. I definitely commend this bill to the house.

Ms CROZIER (Southern Metropolitan) — I am also pleased to rise this afternoon and speak to the National Domestic Violence Order Scheme Bill 2016. As other members in their contributions have said, this is a serious issue that we all collectively have concerns with and have a bipartisan approach to dealing with. Successive governments have undertaken and looked at various issues around domestic violence or family violence. As other speakers have said, this current government established the royal commission, which resulted in 227 recommendations. I would like to take this opportunity of congratulating and acknowledging Tim Cartwright in the position that he is now undertaking as implementation monitor to oversee and look at the implementation of those recommendations. I note that that has occurred after the Minister for the Prevention of Family Violence, who was co-chairing that important task, was sidelined by the Premier — unfortunately, I believe. Nevertheless, I think Mr Cartwright will do an excellent job in that role.

This bill is to provide for a national recognition scheme for family violence intervention orders, family violence safety notices and other domestic violence orders (DVOs). As I said, subsequent governments have been looking at this issue, and I note that the federal government, which has been working across the nation and working with all levels of government in addressing this very big issue, had this on the agenda for the Council of Australian Governments (COAG) early last year. I think at the time the federal minister was hoping that a national domestic violence order scheme would be complete around the end of 2016. There was no certainty around that, but there was the intention that there be a national domestic violence order scheme in place and that that would enable various jurisdictions to share that information.

As others have said, this is really about ensuring that a victim of family violence — whether that is a woman fleeing a family violence situation or someone who has a DVO out in one particular state or territory and who travels to another state or territory — does not have to reapply to the courts to get that order reinstated. As my colleague Mr Rich-Phillips highlighted, it is not about just women and children. We know victims of family violence suffer financial abuse, and that is certainly a form of family violence. We have people in same-sex relationships — and this is very underreported — that are also fleeing domestic violence situations. We have the complexities of a whole range of different issues around family violence or domestic violence situations and even some males who are fleeing violent female partners. I have heard many stories of males fleeing violent female partners perhaps because they are under the influence of drugs and alcohol and also have very aggressive behaviour.

We are talking about anyone who needs to have that protection in place. Yes, there is a big focus on women and children, and, yes, it is true to say that more women are seriously maimed and even tragically killed far too often at the hands of male perpetrators, but I think we need to be looking at all victims of family violence when we are talking about legislation such as this. It is incredibly important.

As I said, I am very pleased that there is an approach at all levels of government to look at the very serious issue of domestic or family violence, and much is being done at the federal level. Of course various aspects are happening at the state level but also at the local government level as well. There are programs and also organisations who have programs in place doing a huge amount of work to assist in this endeavour. As I mentioned previously, COAG firmly looked at this situation and agreed to introduce a national domestic violence order scheme, and all leaders agreed to introduce laws to facilitate this in the first half of next year. I am referring to a report at the end of last year, in 2015, and I note that it was introduced towards the end of the first half of this year, and we are debating it now. COAG, together with the advisory panel that the federal government put together with former Australian of the Year Rosie Batty and former police commissioner Ken Lay, have undertaken a significant amount of work in this area too, and it is very heartening for the public to know this.

One of the areas that I want to draw attention to is the area in the bill that talks about the commencement date, and this comes into operation on a day or days to be proclaimed. As my colleague Mr Pesutto pointed out, we do not know when that might be, and the government needs to make that as clear as possible because, yes, we are relying on some IT systems, but I remind members that the CrimTrac agency actually has an ability to share data, and I will refer to what it says in a moment, but we also had national schemes before the information technology came into being that did occur across the various jurisdictions in Australia, so it is not

as if we have not done this before, where national schemes are put in place.

I will return to CrimTrac. CrimTrac, in partnership with all Australian police agencies, continues to work collaboratively to provide essential information services to police and law enforcement agencies for a safer community and safer Australia. In 2015–16 the CrimTrac agency referred to what they were going to do, and that included things such as continuing to operate, maintain and enhance existing systems and services, including the following national systems and services: automated fingerprint identification system, criminal investigation DNA database, child protection services, police reference systems, police checking service, national firearms services, national ballistics identification, missing persons and victims system, and the cybercrime online reporting network. Importantly, in relation to what we are discussing here this afternoon, it also included implementing a national domestic violence order information sharing system prototype.

So this is something that CrimTrac — that is, the police agencies — are already doing and looking at and tracking. They have a strategy that recognises, and I quote:

> … that CrimTrac is responsible for providing national information-sharing solutions for our partners …

This actually fits in relation to what we are discussing here, so I do see that the government needs to take this into consideration and not use the excuse of the federal government and what they are trying to achieve at a national level without undertaking its responsibility in relation to this very important area surrounding a national domestic violence order scheme and allowing those people who are subject to orders in one jurisdiction and one part of the country to be able to have them applied in another jurisdiction.

I note that Tasmania, I think I am correct in saying, has undertaken its responsibilities and has legislation in place, as do a number of other jurisdictions around the country. This government talks about the work it has done in relation to family violence, and I am not taking away from any of that, but I do not want the federal government to be used in the situation of this particular piece of legislation to delay having an order scheme like this up and running when there are clearly other avenues for that to be achieved.

Can I say again, as Mr Rich-Phillips has already indicated, the opposition will not be opposing the bill. Great work is being done at all levels of government on this very serious issue for all people who are in terrible and unfortunate circumstances of being the victims of family violence or domestic violence or fleeing such a situation. With those few words I conclude my contribution but reiterate to the government that it must move on this as soon as possible.

Ms SPRINGLE (South Eastern Metropolitan) — The Greens unambiguously support a national domestic violence order scheme. The Greens are amongst those many groups and individuals who have been calling for a national domestic violence order scheme for some time now, and it is very, very pleasing to see that the Council of Australian Governments (COAG) process is capable of producing these kinds of outcomes.

The intervention order system is at the core of our collective response to family violence and to violence against women. The central importance of intervention orders was re-emphasised by the royal commissioners in their report earlier this year. Many of the recommendations made by the commissioners are aimed at standardising and strengthening the intervention order scheme — for instance, by improving police responses to family violence call-outs and by improving the application process for intervention orders in Magistrates Courts. We know the reported and recorded numbers of family violence incidents are on the rise, and we also know that there are more applications for intervention orders at Magistrates Courts.

We all hope this reflects an increased willingness to report incidents when they occur and an increased willingness to apply for orders, rather than an increase in the number of incidents per se, though of course we cannot be sure. We know that the proportion of applications for intervention orders which are successful has also been on the rise. We all hope this reflects improved awareness and consciousness on the part of police, courts and lawyers about the importance of granting orders, rather than an increase in the severity of the incidents which give rise to the applications, though of course we cannot be sure of that either. Because past behaviour is the best predictor of future behaviour, many family violence incidents are an indication of future incidents which may be even more severe.

It is difficult to assess with absolute certainty the effectiveness of the intervention order system, but we do have some clues. While family violence incidents and applications for intervention orders have been on the rise, the number of patients presenting to clinics and hospitals with injuries caused by family members has actually been falling since the Family Violence Protection Act 2008 came into effect after it was

enacted. Over the last decade the vast majority of family violence perpetrators, more than 63 per cent, did not record a second family violence incident. This data suggests that in very many cases intervention orders are having a positive effect on preventing future incidents of violence.

On the other hand, the proportion of family violence perpetrators who committed more than one incident per year has unfortunately increased since 2005. In 2005 the proportion of unique perpetrators who committed only one family violence incident per year was 82 per cent. By 2014 the proportion of unique perpetrators who committed only one family violence incident per year had decreased to 75 per cent, which means that the proportion of those who committed more than one incident per year increased. Data like this demonstrates the need, as the royal commissioners identified, to improve our existing family violence intervention order scheme.

A meta-analysis of available literature on the effectiveness of intervention orders, which was published in September 2010 in the *Journal of the American Academy of Psychiatry and the Law* found that the effectiveness of intervention orders depends in part on the system within which they operate in practice. One of the biggest and most egregious gaps in the intervention order system is that it does not extend beyond state boundaries. It is unacceptable that a person who has successfully applied for an intervention order, say, in Queensland or New South Wales can then move to Victoria, or perhaps just come here on a holiday, and find that she is not protected by that intervention order while she is here, and it is unacceptable that a person who has successfully taken the difficult and courageous step to apply for an intervention order here is no longer protected by that order when they travel or move interstate. So we welcome the COAG process that has resulted in this and the other equivalent pieces of legislation around the country, and we thank the government for bringing it to this chamber.

The way the national domestic violence order scheme will work has been adequately canvassed by other members, so I will not go over the same ground. This bill will enact a well-overdue reform. It will provide people who successfully apply for interstate equivalents of family violence intervention orders with the knowledge that the orders will continue to protect them when they come to Victoria.

The bill will also facilitate the transfer of information that will be necessary to ensure that people who successfully apply for family violence intervention orders in Victoria will be able to move or travel interstate without needing to register those orders in an interstate court. However, we do have one reservation, and that is that the bill has no commencement date, as Ms Crozier has pointed out. This means that even if we all vote in favour of the bill — and I strongly urge that we do — and even though the bill has also made its way through the lower house, nothing will change in practice right now. Women, children and men who move or holiday interstate will continue to be required to formally register their intervention orders with an interstate court if they want to avail themselves of its protection. The long title says the bill will provide for a national recognition scheme for domestic violence orders, but without a commencement date the bill does not actually do that at all.

The Attorney-General has explained that the government has concerns about the workability of the national database, which will underpin the national recognition scheme. I have to say I remain quite in the dark about the reason for the lack of a commencement date, notwithstanding the explanations provided by the Attorney-General and his department.

Here is what I understand to be the case, to put it on the record. In December 2015 COAG issued a communiqué which announced the national scheme. This communiqué recognised that it would be some time — perhaps even years — before a national database of intervention orders becomes fully operational. So the communiqué envisaged interim arrangements.

Those interim arrangements involve the use of the existing CrimTrac database, which the COAG communiqué admitted would be less than ideal. For instance, the database might be able to allow a Victoria Police officer to determine whether an interstate intervention order exists between two individuals, but the database will not be able to let the officer see the particular conditions attached to that order. So in practice, when a VicPol officer is called to an alleged domestic violence incident and one of the people involved in that incident alleges there is an interstate order in place, it may be practically impossible for the officer to determine whether the alleged offender is in breach of the order. For this reason it seems the Victorian government and most other states and territories have decided to delay the operation of the national recognition scheme, but the Victorian government has cited its concerns about the workability of the database to depart from the model laws adopted by COAG.

This bill departs from the COAG laws, as I understand it, in two ways. Firstly, this bill would authorise a police officer to issue a family violence safety notice, regardless of whether an interstate domestic violence order is in place; and secondly, this bill would ensure that such a safety notice would prevail over an interstate order where it is not possible for the respondent to comply with both the notice and the order. It seems to me that this departure largely gets around the problem.

If a VicPol officer attends a family violence incident, the officer can issue a safety notice, which is a very short-term instrument that protects the victim for no longer than 72 hours or until an application for a family violence intervention order can be made to a court. This 72-hour period would then allow the officer to go back to the station and make an interstate call to determine what the conditions of the interstate order are and therefore whether the order has been breached. If the order has in fact been breached, the officer would issue appropriate charges. Given this is a very sensible departure from the model laws, which the government has explained is necessary to address the limitations of the interim period before the national database is built, we just cannot see why this bill would not give a commencement date.

The department has explained that there are a number of very onerous tasks which need to be performed before the national scheme becomes operational. Those tasks include training police officers, Magistrates Court staff and other things of that nature, but surely these are tasks which need to be undertaken before almost any bill that is passed by this chamber comes into effect. Whenever Parliament changes a law, there is a likelihood that government departments, agencies and indeed industries and businesses need to adapt. This can take time, so Parliament often sets a commencement date for legislation that is months or occasionally years into the future. This is usually done in collaboration with the affected departments, agencies, businesses and industries. But the point is that Parliament does ultimately set a commencement date, which effectively then becomes a deadline towards which adaptive efforts are directed.

I cannot see that the need to retrain police, magistrates and court staff is a valid reason as to why there is no commencement date to this legislation. I also cannot see that the concerns around the workability of the interim arrangements are valid reasons, given that those concerns were referred to in the COAG communiqué and given that the government has departed from the model laws in order to address those concerns. Now, just because I cannot see the reasons does not mean there are no valid reasons, but it simply does mean that the government has not explained them properly. I do understand that the New South Wales Parliament did not include a commencement date in their own legislation either when it passed it earlier this year, but I also note that some non-government members, including members of the Labor opposition up there, expressed concern about the lack of a commencement date.

Was the decision not to include a commencement date in enabling the legislation part of the COAG agreement, or was this a decision of the Victorian government that came about completely independently? I think it is incumbent on the government to explain in more detail than it has given so far why there is no commencement date, and I would greatly appreciate it if the minister could offer this information in summing up today. Perhaps it might also be beneficial, especially in the absence of a commencement date, for the government to give some indication as to its expected time line for when the national scheme will commence.

This is an extremely important piece of legislation — one of the most important and significant pieces of legislation, I think, that this Parliament will consider. A national recognition scheme for family violence intervention orders has been a long time coming. It has been five years since COAG began its first work on a national scheme, and it has been a full six years since the Australian and New South Wales law reform commissions jointly reported on the issue, in 2010, but because there is no commencement date we in the Greens are concerned that we still will not be seeing a national recognition scheme for some time.

I understand that the lack of a commencement date is not uncommon in some types of bills, but the big difference here is that people are dying, and overwhelmingly they are women. Across the country more than one woman is killed every week by her partner or former partner. This year 54 women have already lost their lives, and it is only October. The longer we delay on preventative action, the more women will die. Intervention orders are a vital part of the protective framework for women who experience family violence. While we delay the implementation of a national scheme the situation simply will not change for those people who cross state and territory boundaries. Given what we know now, it is very difficult to understand why we in Victoria and the other jurisdictions would not be all systems go on a national scheme.

Of course our powers as policymakers and legislators are limited in this area. We may never be able to prevent every single death and every single incident of

family violence, but where we can improve preventative measures we absolutely should, and without delay. It is incumbent on all of us to ensure that we are doing everything we can to keep people safe from the scourge of family violence.

Mr ELASMAR (Northern Metropolitan) — I rise to contribute to the National Domestic Violence Order Scheme Bill 2016. The bill provides a workable and practical mechanism for tackling domestic violence. A major plank to the bill is that it authorises our police force, via holding powers, to physically detain people who are suspected of being a recipient of or party to a domestic violence order.

This bill seeks to establish a national database that is available to police personnel across the country. In future, interstate perpetrators of domestic violence will no longer be able to hide their previous crimes. They will not be able to skip interstate and restart their reigns of terror. This is a new era of policing that is long overdue — a new national scheme for domestic violence orders.

We in Victoria have just finalised a royal commission into domestic and family violence. We are more than ever committed to ensuring that this cowardly and brutal behaviour is diminished as much as is humanly possible. Because family violence is now formally recognised as a national epidemic, it is necessary for Victoria to institute laws that are compliant and in line with a Council of Australian Governments agreement to establish a national domestic violence order scheme. The national scheme will provide critical and timely information to police called out to family disturbances. The bill before the house demonstrates and accomplishes this commitment.

The extent of family violence is horrendous. It was once considered to be a blue-collar problem arising out of an individual's inability to reason or rationalise their frustration and anger, but we now know that this curse infects all stratas of society. Out-of-control hostility seems to be rife these days. Too many people have a short fuse, whether it is road rage or domestic violence. We as a Parliament and as part of the community cannot sit idly by and allow it to continue unabated. We have demonstrated our total commitment to modifying this unacceptable behaviour by allocating $572 million in the 2016–17 budget arising out of the recommendations brought down by the recent Victorian royal commission.

As it stands today, our police are hindered in their efforts to obtain reliable and timely information from other jurisdictions. Under the proposed new scheme a serious and sustainable effort can be made to stop serial offenders from continuing their devastating behaviour. A lot has been said and a lot has been done to highlight this nasty characteristic in humankind. Now it is time to put a stop to mindless and destructive violence against the weak and defenceless in our community. I commend the bill to the house.

Ms FITZHERBERT (Southern Metropolitan) — It is appropriate that we debate this bill on 11 October, which is the International Day of the Girl Child, as auspiced by the United Nations. There are 1.1 billion girls in the world today, and their chances in life depend in large part on where they were born. If, like me, you were born a girl in Australia, then you won the lottery of life. Your life chances are greater than those of most. As a girl in Australia you are more likely than most to have enough food to eat and clothes to wear. You will have the opportunity for education, and at less cost than most countries. You will have access to outstanding health care, again at less cost than most countries elsewhere.

You will also have the benefit of a range of important legal protections. One focus of the International Day of the Girl Child is that of child marriage. This is of course illegal in Australia, but it is an issue we have to confront because of migration and the blend of different cultures that we have in our country.

One in three girls in developing countries, except China, marries before they are 18. The awful impacts of this are fairly obvious, but I would like to spell some of them out. Girls who are forced to marry young miss out on education, they bear children before their young bodies are ready and well before they are emotionally prepared to do so and they are more vulnerable to sexual violence and assaults, especially by their partners. Often child marriage means a cycle of violence that begins in girlhood, continues when these young girls grow up and become women and then echoes down the generations in a predictable and depressing pattern.

To mark the International Day of the Girl Child two not-for-profit organisations — Plan International Australia and Our Watch — released the results of a study which captured the attitudes of 600 girls and young women aged 15 to 19 across Australia. This study is called *Everyday Sexism*, and it has some somewhat depressing results.

The study concluded that only 14 per cent of girls and young women believe they are given the same opportunities in life as boys. Only 16 per cent felt they were always valued for their brains and ability.

One-third said it would be easier to get their dream job if they were male. This one I found particularly sad: almost half said they did not feel safe on the way to school, which certainly never crossed my mind when I was cycling to my school.

The comments made by US presidential candidate Donald Trump in 2005, and which were aired only in the last few days as an October surprise before the election in November, have triggered another round of the debate around the fact that it is indeed attitudes and words that lead to actions and assaults. It is remarkable to see that in response to the comments made by Mr Trump thousands of American women took to Twitter and elsewhere to say when and how they had been subjected to unwanted sexual advances and sexual attack and how old they were when this first happened. Many were very young, and the horrible events that they described happened everywhere. For many these experiences occurred with someone they knew well, possibly a family member, and often in their own home.

When this bill was in the other place the Attorney-General gave some figures on family violence which are truly sobering. He commented that:

> Family violence is the no. 1 law and order issue in our state.
>
> The number of family incidents recorded by Victoria Police increased by 82.7 per cent from 35 666 incidents in the 2009–10 financial year to 65 154 in 2013–14.

There was a flow-on effect in terms of applications heard in the Magistrates Court, which increased by nearly 35 per cent over a similar period, and increases in applications heard by the Children's Court were up by 33 per cent. These are awful figures and they are figures that we simply cannot ignore.

We have also seen more recently crime figures released for the financial year ending 2016. They showed that overall crime figures are up by 13.4 per cent in Victoria. Sexual offences have risen across all local government areas. They have increased by around 10 per cent over the last year. In 2012 there were 8394 sexual offences recorded in all local government areas. In the financial year ending June 2016 that had risen to 12 537. We could discuss whether there is a growing incidence of offences or simply a growing number in reports. That is possibly another discussion for another day, and we will not get to the bottom of that here. But what is clear is that we have many more women and girls — because, as Ms Springle said, it is predominantly women and girls — who are coming before the courts in relation to sexual assaults.

The issue at the heart of this bill of course is domestic violence and the national domestic violence order scheme. There is a very long history, and Ms Springle went through this, I think, very thoroughly when she talked about how it had been, if I could paraphrase, on the books for a long time. During the course of the previous government and under the previous Premier, Denis Napthine, steps were taken for the Victorian government to sign up to the second action plan of the National Plan to Reduce Violence Against Women and Their Children 2010–2022. One of the issues that has continued to take shape while that was being discussed, and further in other Council of Australian Governments conversations, is finding a way that we can create a national system where we can keep track of domestic violence orders and ensure that it is less onerous for those who seek them and are subject to them, and when I say those who are subject to them I am thinking particularly of children.

I think we are all familiar with the situation where someone takes legal action against a partner and then moves, and they move because even though they have obtained possibly some kind of order against a former partner they do not feel safe. When they move to another location, often they are followed. Typically people often move between states. What has often happened is that someone gets an order in, say, Western Australia, but when they move to South Australia they find that they have to go through the same process all over again, which has a lot of obvious problems and stresses for those who are involved. It means that there is an even more onerous aspect to this, which is that people have to take steps to secure the protection of an interstate order as well; there is a separate process that needs to be gone through there, as I understand it.

Another issue that Ms Springle addressed in great detail, which I am also wanting to emphasise, is that as I understand it there is no commencement date for this bill despite the importance the government says it has. The government is looking to the commonwealth for funding, and I infer that from the comments that were made in the other place during the second-reading process. This has to do with the implementation and application of the IT system which is needed to underpin a national domestic violence order scheme. I look at this excuse with some frustration. I have gone through some of the many examples — very, very recent examples — given by people of the breadth of this problem, and it is something that we have been talking about for a very long time. It is frustrating to me to see a government fall back on a claim against a federal government of another political persuasion as an excuse for inaction.

I note that the government boasts of $572 million in the budget for domestic violence, and particularly given the availability of these funds it is not clear to me why some of it cannot be utilised in providing the sort of IT infrastructure that is evidently very much needed. The minister in the other place has also flagged additional cost issues as well, and there have been comments made about training of court officers and so on. As Ms Springle said, these are issues that are common to a variety of bills that we consider. I do not see it as a deal breaker in terms of preventing a start date and indeed implementation of this bill.

The opposition does not oppose this bill, but like Mr Pesutto in the Legislative Assembly I caution that we do not want this bill to be simply more talk but no action about a problem that is not only very well known but indeed a national shame. In particular the government should not hide behind claims of change and progress made in a media release if it is not going to fund what this bill seeks to establish. The litany of recent examples of violence against women means that there is simply no good excuse for failing to implement change now. I look forward to hearing some comments from the minister responsible for this bill in this place as to what will be done about commencement and funding. I look forward to that update from the minister.

Ms PATTEN (Northern Metropolitan) — I rise to speak briefly to the National Domestic Violence Order Scheme Bill 2016. As we have heard, this bill gives effect in Victoria to a national domestic violence order (DVO) scheme, which will provide automatic mutual recognition of an enforcement of domestic violence orders no matter where they are issued.

This replaces that existing and onerous situation where someone who has sought protection by obtaining a domestic violence order in one state and has moved to another state to try to start again and escape a lot of the effects and the memories of that domestic violence by bringing their family to a safer-feeling space has to go through the whole process again. This was something the Council of Australian Governments agreed to do. We have actually been having this conversation for quite a few years. We have been talking about this for a long time. We have had the Victorian Law Reform Commission say, 'We need to do this; it must be done', and Victoria is now moving ahead to join that scheme alongside other states like New South Wales, Tasmania and, I think, Queensland, which have already done this.

However, let us remember that DVOs are reactive. They are reactive tools that we use. It is a way of somehow protecting those that have been harmed by family violence, but still it does not affect the scourge of family violence. I do not think that introducing this database is going to go anywhere close to stopping and preventing family violence.

When we look at the statistics — and Ms Fitzherbert and others have mentioned those statistics so I will not repeat them here — we know that most of the people who commit family violence have a history of committing family violence. Having this national database goes some way to assist in keeping and sharing that information between states.

We have made lots of real legal changes to reduce the excuses that men make when they are violent against women, but we keep seeing, time and time again, that these legislative changes are actually having little effect on how the courts deal with family violence. We are still presented with excuses like 'The partner just lost it', 'It was unusual behaviour for him' or 'Well, of course he was upset because she left him' and similar excuses. I think these are some of the real seismic shifts we need to make, and I welcome Ms Springle and Ms Fitzherbert mentioning the instructions that we need to be continually giving to courts and to juries to start curbing this.

Sometimes it is about curbing what is sexist thinking. Obviously we saw this weekend's announcement about the Republican candidate for the US presidency and the outpouring that occurred because of that incredibly sexist, appalling, violent and vile material that came from the presidential candidate. I would like to correct Ms Fitzherbert's statement about this outpouring on Twitter under the hashtag #notokay. It was not thousands of women; it was millions of women who reported their experiences of violence, of sexual assault and of family violence in response to the attitude of — I do not know what to call the man; let us just call him a celebrity — the Republican presidential candidate, who barely even apologised for the appalling behaviour. These are the issues that I think are still embedded in our society and in some ways are still embedded in our justice system.

Monash University's report into the statistics on the killing of domestic partners shows that when women have killed their male domestic partners and it has been found that those women have obviously been subjected to domestic violence from the partner, they still have problems in raising that as self-defence in trials. I think we really need to acknowledge that there is a whole bunch of systemic changes that we need to make. I acknowledge that this government has put its money where its mouth is on this and has been investing in domestic violence schemes and putting a lot of

resources into reducing and preventing domestic violence. Hopefully we will be the last generation and this will be the last decade when we see weekly murders from domestic violence.

This bill provides the legal framework for introducing a national database, but as others have said, there is still no commencement date. As I have mentioned, the conversation about a national scheme has been going on for years. Sure, getting the database right is critical, but we really need to do it, and I am concerned, as others are, that there is no commencement date for this. I am somewhat encouraged that today it appears the marriage equality plebiscite is off the table, so that leaves the federal government with an extra $160 million to $200 million to spend on this very worthwhile task of getting the national database introduced and implemented.

That would go a long way. Rather than just seeing advertising campaigns from the federal government, let us see that money put into the domestic violence order scheme and into creating this national database. It is not difficult, and it can be done. It will, as I said, in a reactive way go some way to protect people from domestic violence and family violence. But we continue to have a problem. We need to continue to address the underlying issues of gender inequality, the lack of support and the need for early and rehabilitative interventions. This scheme is, yes, a step going forward, but I think we should be stopping family violence. I support this bill, and I hope that the commonwealth and other states move quickly to facilitate and ensure that the systems are in place as soon as possible.

Mr HERBERT (Minister for Corrections) — It is my pleasure to sum up on this bill. I thank people for their passion about this bill and about the issues of addressing domestic violence in the broader term and certainly in terms of the use of protection orders to protect people who have been victims of domestic violence. As has been said, this National Domestic Violence Order Scheme Bill 2016 comes out of a Council of Australian Governments (COAG) process. The decision was taken on 11 December 2015 to create a national scheme whereby family violence orders are recognised across all states and territories, including New Zealand. Currently the situation is that each state and territory operates independently, and it is difficult to enforce domestic violence orders (DVOs) across states as people move across states and territories.

What we have before us are model laws to be implemented across the nation in each state parliament to bring about a truly national jurisdiction. The orders recognise the need for police or courts to have enforceable domestic violence orders in place. The new recognised domestic violence orders will supersede other ones. A new DVO made by a police officer, however, will not supersede or cancel an earlier one made by the courts.

A few other important parts which have been commented on and which need to be outlined are that there will be penalties for contravention of DVOs across other states. They can be varied or revoked nationally at the discretion of a court, but a court will not be able to vary or revoke a recognised DVO if it is a kind that cannot be varied or revoked in that particular state or territory. Essentially an order made in a Victorian court could not be contravened or revoked in another state. There are clauses which restrict access to firearms and weapons that will be recognised nationally. There are a range of other things in place to guarantee the integrity of the scheme and to guarantee that domestic violence orders, no matter where they are made, are robust and enforceable.

There have been a number of comments made about the commencement date and about the costs, which are obviously of concern to different people and to everybody, of course. I just want to spend a little bit of time commenting on those. States and territories often have different computer systems and different databases. Whether you are in the corrections or the police system, the integrity of those databases and that information is absolutely crucial in terms of police actions. When we go to a national system for domestic violence orders and we need to ensure that we have robust information sharing across the states, basically that means that the technology — the database system — needs to be in place for easy sharing of information. This will take some time. It will be worked on. It needs to be worked on. It is being done through a national body — the national government — and that will take some time. In the meantime we have a scheme in place whereby information can be shared, but a lot of the information has to be input manually, of course.

There are other areas in terms of requirements for the starting of this bill. As well as making sure that the computer database sharing system is appropriate and can be used while we are building the longer term process, we need to ensure that the courts and the police are well aware of and have procedures in place for the enforcement of DVOs. As I said, we have to update our IT systems and change practices, procedures and forms. There is the training of police officers, core staff, the judiciary et cetera.

I think everybody wants to make sure this happens quickly, and I would not want anyone to think that this

government is not acting to get this done as quickly as possible, but it is a national scheme and does require each state and territory to pass legislation. If it passes through this Parliament, we will still have the Northern Territory and Western Australia to enact the legislation. We have to have all states enact it. We have to have the computer systems in place. We have to have the judiciary and the police trained and ready to implement the system.

In terms of this work and when it will commence there has been a working group established through the COAG process to establish a time when we can switch on the scheme, when we know it will work, when we know the data-sharing systems are robust, when we know the courts and the police are ready and when we know that all states and territories have passed the model legislation. That will be the commencement date. We are keen to commence it as quickly as possible, but we will wait on that working group to ensure that those steps are in place to start the system. Meanwhile, we, along with other states, are passing the model laws so that we can ensure that on the legislative side of the equation, as opposed to the implementation side of the equation, we are ready to be part of the national domestic violence order system.

On the issue of costs, which Ms Fitzherbert raised — and it is a very good point — it is fair to say that the costs have not been determined at this point. Part of it will be when those involved are ready to put out the tender for the major computer system, remembering it has to match various state systems. We have the law enforcement assistance program system here. We have other court systems in place. It is quite a complex tender. The commonwealth and state working party is not in a position to determine the actual costs at this point. When it is, there will obviously be a sharing situation and discussion around the states paying their fair share of the system and the commonwealth, which will host the national database, paying its share. At that point, when the tender is out, we will know the cost, we will have the IT system in place and we will have the training in place, and hopefully as of today Victoria will play its part in passing the model laws with this legislation so that we are ready to take the next step.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

POLICE AND JUSTICE LEGISLATION AMENDMENT (MISCELLANEOUS) BILL 2016

Second reading

Debate resumed from 13 September; motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr O'DONOHUE (Eastern Victoria) — I am pleased to speak on the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016. Let me indicate at the outset that the opposition will not be opposing this bill. I am indeed pleased that this bill has come on for debate today, because it has been some time in the gestation process through the Parliament. Whilst the reforms that are implemented as part of this bill are relatively modest in scope, they are nonetheless important.

I think it would be remiss of me not to give some context to this bill beyond the actual scope of the provisions that are before us. In the policing space more broadly we saw the very concerning crime statistics recently released by the Crime Statistics Agency that showed that crime in Victoria was up 13.4 per cent to the end of the financial year — so in the last financial year — to more than half a million individual offences.

There was mention in the other place today during question time that behind every crime there is a victim and that the toll on the victim can be enormous. I think sometimes when we throw around statistics and figures, we can fail to give appropriate time to and reflection on the impact on victims. For that reason and many others we must redouble our efforts to address the shocking law and order crisis that we see in Victoria today, with crimes spiralling out of control — up by 13.4 per cent, as I said, and up by significantly more in some growth corridors. I think of my own electorate of Eastern Victoria Region, with growth areas like Clyde, where crime is up by over 50 per cent. There are enormous percentage increases in crime and no real focus and no apparent solutions from this government. The 300 frontline police that are being put through the academy this financial year are a drop in the ocean of what is required.

While the opposition has been saying this for some time, I read with interest the comments of Police Association Victoria last week in the media that 3300 extra police are needed and that there are 115 fewer front-line first-responder police in Victoria today compared to 2014 — an indictment of Daniel Andrews, Lisa Neville and this government and their

wrong priorities and their lack of attention to community safety. Despite the population being up by over 200 000 people, despite crime surging out of control by 13.4 per cent and despite almost daily occurrences of shocking crimes like home invasion, carjacking and gang violence that the Premier promised after the Moomba riots to crush but has not, we see no real strategic vision from the government and no long-term plan to address this issue. It is cold comfort for those victims of crime. It is cold comfort for those members of the community who are living in fear. As the brave Ms Lisa Stark said this afternoon, following a home invasion she has made her house like Fort Knox. It is a tragedy that this is where we have got to in Victoria.

As I said, while the opposition will not oppose this bill, we welcome the reforms that it seeks to implement. They are modest in the scheme of the law and order crisis that we are seeing in Victoria, and the issues across law and order and community safety are right across all the relevant portfolios, from youth justice for Minister Mikakos, Ms Crozier and Ms Springle, where we are seeing riots at Parkville and there is intimidation of the hardworking staff at Malmsbury and Parkville, to the adult system where prisoners are not being presented to court. We have had increased escapes, with the first escape from a walled prison since 2001; a prisoner caught keeping a pet snake in his cell; prisoners growing drugs in the prison garden; prisoners going on strike at Barwon Prison because they did not want to work; prisoners playing tennis at Port Phillip Prison receiving drugs, mobile phones and other contraband; drones being used reportedly to, again, ferry contraband into prisons; and increased numbers of prisoners in police cells.

When the coalition left office in November 2014, consistently and regularly there were fewer than 100 prisoners in cells. Under the government now since the worst prison riot in Victoria's history there have been consistently several hundred prisoners in police cells. The cost of repairs to the Metropolitan Remand Centre has gone from $12 million to $95 million, and completion has gone from 12 to 18 months from December last year now through to 30 months to mid-2018.

Any way you cut it, any way you look at it, right across the justice system this government is a mess. It is failing Victorians. The justice system is in crisis under Daniel Andrews, and it is an absolute disgrace that he has not given it the focus that it deserves. As I said on the day when the reshuffle was announced, I cannot believe that Minister Neville has water and police, that Minister Herbert has higher education and corrections and that the only full-time justice minister, besides Minister Kairouz, is the Attorney-General. The justice portfolios have been fragmented across so many ministers with other distinct and separate responsibilities that it is no wonder that the justice system in Victoria is in crisis. At the end of the day, the community is extremely concerned and extremely apprehensive about what has gone on in the last 12 to 18 months. While Minister Neville keeps spinning her way around the stats and the facts, the police association figures are there for all to see: cuts to frontline first-responder police and cuts to police on the beat.

When I had the privilege of going out with the police in Cranbourne on their night shift a couple of weeks ago I could feel it. Job after job was being rung through on the radio. The police were absolutely fantastic, and let me commend their professionalism, their dedication, their patience, their capacity and their compassion. It really was a privilege to be there, but you could see that the police are under enormous pressure. The 406 extra police, or the 300 that are going to the front line, are literally a drop in the ocean of what is required on any analysis, whether it is taking into account population growth or whether it is taking into account the growth in crime or the implications of legitimate policy decisions of the chief commissioner, such as the two-up policy. Why have extra police not been provided to backfill and make up for the reduction in highway patrols following the two-up policy? Highway patrols are down around a third, when you analyse the stats, at a time when the road toll is up. It is most concerning.

So, as I say, on virtually any measure you look at we have a number of very serious issues. Some of those perhaps less front-of-mind issues for the broader community but important issues for members of the police are being addressed by this bill. The main purposes of this bill are: to implement a commitment that was made by both the then opposition and the then government before the last election to clarify state liability for tortious conduct of police; to make a range of amendments to improve the operation, governance, equity and accountability of the Police Registration and Services Board (PRSB); to amend references to CrimTrac in five Victorian acts to references to the Australian Crime Commission, which began operation on 1 July this year under the name the Australian Criminal Intelligence Commission; and to make some minor and technical amendments to the Victoria Police Act 2013 which, after more than a decade in the making, the previous government was very pleased to, first of all, draft and settle, after failed attempts by the previous Labor government, and then to see that pass through this place.

It is interesting to hear the language of the now Minister for Police when she talks about 'operational independence', as is referred to in the police act, because the police minister did not talk about operational independence when she made commitments in relation to police station opening hours in her own electorate, a promise that she has walked away from. She went to the election with a very clear promise that the police stations at Portarlington, Drysdale and Queenscliff would be open 16 hours a day, and she has failed. She has failed to deliver on that promise. She needs to be clear with her own constituents, now that she is the police minister with those responsibilities, as to why she has failed to honour the clear and unequivocal pledge and promise that she made to her constituents prior to the last election, a promise that she reaffirmed in the Parliament as a minister of the Crown in this government. Now that she is the Minister for Police, she has failed to honour that clear and unequivocal promise that those three police stations in her electorate would be open 16 hours a day. She needs to explain why she has failed or why she misled her electorate prior to the election and indeed since the election. She needs to come clean on that issue.

Returning to the bill, it will clarify the operation of the police and public servant liability scheme for tortious acts by inserting notes in the Crown Proceedings Act 1958 and the Victoria Police Act. I thank the minister for facilitating the bill briefing with the department, and I thank the departmental officials for the briefing they provided. Their advice is that this amendment is really for clarification purposes only. It is a pre-emptive action, if you will, to make sure there is no misunderstanding about the rights of police and public servants and which legislative scheme applies to each respectively. Whilst the current arrangements could be interpreted in the way that this bill seeks to clarify, providing that clarification can do no harm and is really a risk mitigation measure, if I could use those words. So I thank the department for providing that explanation to me and my colleagues, who were part of that bill briefing, and I think it is a sensible clarification of the legislative scheme for police and public servants respectively.

The bill, as I have foreshadowed, makes a range of changes to the police act to improve the operation of the Police Registration and Services Board by requiring the PRSB not to publish its decisions identifying information on informants or those making a complaint or raising concerns about those who have been adversely affected by an applicant's conduct unless it is in the public interest to do so, and prohibiting reporting, other publication or disclosure of such information. I think this picks up on some of the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) commentary and recommendations.

I have noted with interest the comments of the Chief Commissioner of Police. I think Victoria Police is doing some very important work to drive cultural change within the organisation. The chief commissioner and his predecessors, then Acting Chief Commissioner Tim Cartwright and then Chief Commissioner Ken Lay in particular, need some acknowledgement for the work they have done. The first step in fixing the problem is to admit you have a problem. They have been very clear and explicit about some of the challenges that need to be addressed by the organisation, and I commend them for that. I would implore the government, where necessary, to provide resourcing to help implement the recommendations of the VEOHRC report and also to address some of the mental health issues that members of Victoria Police have been found to have.

Again, the operational environment is incredibly challenging at this particular time, with real and credible risk. We have seen some very high-profile situations in particular. The increase in the ramming of police vehicles by offenders is alarming and indicative of some of the behaviour that members of Victoria Police have to confront on a daily basis. I think the least the government can do, and the least the Parliament can do, is to provide the resources to help police do their job so there are enough police on the beat but also to address some of the challenges that flow from working in that operational environment on a day in, day out basis and the cumulative impact that can have on some people — the pressure and the stress. Police need to be provided with assistance to deal with those issues.

The bill improves the operation of the PRSB by providing that participation in PRSB hearings can be by non-physical means — that is, by audiolink or audiovisual link, which is a time saver and a stress saver. The courts are doing it more and more. The resolution of that technology has improved significantly to make the experience real and tangible, and I think that is a sensible development particularly for country members.

The bill also requires the PRSB to prepare an annual report to be tabled in Parliament, which I think we as a house would welcome as a good transparency measure. It provides the president of the PRSB with the power to make practice directions, statements, notes and forms in relation to appeals and reviews generally. It provides that a former or existing professional staff member of a tertiary institution and a former academic staff member can also qualify for membership of the professional

standards division or registration division of the PRSB, and again we were advised that this is to broaden the pool of potential members, which on its face appears to be sensible.

The bill requires the PRSB to consider capabilities instead of aptitude and efficiency for the purposes of registration of former police officers who wish to be reappointed to Victoria Police, which is a subtle but important language change. The bill makes other minor and technical amendments to the Victoria Police Act 2013 (VPA), including providing for the reappointment on a one-off basis of an acting assistant commissioner and technical changes to fix drafting irregularities, which for a bill of the size and breadth of the VPA is not surprising. Clearly these amendments have been worked through by Victoria Police and the department of justice in collaboration with the police association, and as the most directly impacted stakeholders they therefore appear to have the support of those organisations, which is obviously extremely important.

These amendments relating to the PRSB appear to be in line with modern governance practices for statutory boards and in many ways contemporise the governance practices for the PRSB. The amendment to provide for the reappointment of an acting assistant commissioner for a further period of up to six months we were advised flows from a request from the Chief Commissioner of Police, and it appears to be a sensible amendment. The amendments to the VPA concerning merit-based transfers of general duties constables to positions at country locations clarify and correct drafting irregularities on the recommendation of chief parliamentary counsel.

The opposition, as I said, does not oppose this bill. We are pleased that these sensible, worked-through changes are before the house, and we look forward to their passage, but I do hope that, where appropriate, the government brings forward through this place legislation — and otherwise through executive decision-making — resources and changes to give the police the capacity and the powers they need to protect the community and to bring this crime wave under control. I hope the Andrews government gives to the horrific crime wave that we have been experiencing the attention and the urgency that it desperately needs and that we have not yet seen from the Minister for Police, the Premier or the other members of the cabinet. It is time that this government got its priorities right; made community safety priority no. 1, no. 2 and no. 3 and that restored confidence in the community about community safety. With those words, the opposition will not oppose this bill.

Mr EIDEH (Western Metropolitan) — It gives me pleasure to rise to speak briefly on this very important matter. The safety and security of all Victorians is a priority of the Andrews Labor government, and the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016 is an important part of that process. The good governance of authorities that oversee Victoria Police is expected and demanded by the people of Victoria. Importantly this bill fulfils a commitment this government made to Police Association Victoria before the last state election.

This bill makes several changes to the Victoria Police Act 2013, which are designed to significantly improve the governance of the Police Registration and Services Board (PRSB). The PRSB has a number of important functions, including hearing appeals against promotion and transfer decisions within Victoria Police, hearing reviews of disciplinary decisions and registering former police officers, including those on secondment or leave without pay who wish to be reappointed to Victoria Police.

This bill clarifies the liability scheme for tortious complaints against police, protective services officers (PSOs) and public servants. The state is liable for tortious actions of police and PSOs in the course of their daily duties, so it is essential to ensure that all actions and decisions of the PRSB are undertaken and made within an environment of good governance. For all concerned, including the Victorian people, these measures are necessary.

This bill protects the privacy of some of those involved in PRSB matters. Clause 15 prohibits the PRSB from publishing information which is likely to lead to the identification of informants or those who have made a complaint about, raised a concern about or are adversely affected by the actions of an applicant for review unless the PRSB considers it is in the public interest. This also includes the identification of informants and complainants.

This bill streamlines the process of PRSB hearings by providing options other than the current compulsory physical presence at hearings. These options include innovations such as audiolink or audiovisual link access to PRSB hearings. This will allow fairer access to PRSB hearings, which is important, especially for rural and regional participants, and it will ensure that their right to a fair hearing is not jeopardised by incapacity or geographical access.

There are numerous other minor and technical amendments in this bill that some of my colleagues have mentioned in previous contributions in this place.

All of the measures in this bill will serve to maintain the level of confidence that all Victorians have in the integrity and governance of Victoria Police and especially the authorities that govern and oversee it. I commend this bill to the house.

Ms PENNICUIK (Southern Metropolitan) — I will start by saying the Greens will support the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016. This bill makes a number of amendments to the Victoria Police Act 2013 which are either administrative, procedural, clarifications or corrections to the act. But some, such as the amendments to the Police Registration and Services Board regarding complaints of sexual harassment, will in fact have profound effects on the conduct of the investigation of those complaints and the way that victims and witnesses are handled. The bill also amends several acts, including the Crimes Act 1958 and the Sentencing Act 1991, to update references to CrimTrac and the Australian Crime Commission.

I turn to the key amendments made by the bill. Under clause 4 the bill provides that a person who has been appointed to act as an assistant commissioner is eligible for reappointment and enables a person to act as an assistant commissioner for a maximum of two consecutive terms. Under clauses 3 and 8 the bill aims to clarify the operation of the respective police and public servant liability schemes for tortious acts of sworn police and public servants by inserting a note in the Victoria Police Act 2013 and in the Crown Proceedings Act 1958 to the effect that claims against the state for tortious acts of police officers and protective services officers are to be brought under the Victoria Police Act and that claims for tortious acts of public servants, which include police custody officers, who are public servants, are to be brought under the Crown Proceedings Act.

The bill also provides that where the Chief Commissioner of Police considers that candidates for transfer to a position of constable are equally efficient, the chief commissioner must have regard to their relative seniority. This amendment will only apply to transfers to non-metropolitan positions of constable, and I would ask the minister if in his summing up he could go to the question of why this only applies to transfers of non-metropolitan constables and not to metropolitan constables as well.

Importantly the changes I mentioned earlier under clause 15 to the Police Registration and Services Board — there are a number of changes — are particularly in support of the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) report of December 2015 into sexual discrimination and sexual harassment, including predatory behaviour in Victoria Police.

The bill will prohibit the publication in board decisions of identifying information about informants, complainants or those who have raised concerns about or who have been adversely affected by the actions of the applicant in a hearing, unless it is deemed in the public interest to do so, and nor are any identifying details to be reported or disclosed unless it is deemed to be in the public interest to do so. This will create a greater support for victims and will encourage reporting of inappropriate behaviour by protecting information about those who have been directly affected.

We are very supportive in particular of these reforms to implement recommendations of the VEOHRC report to address the high level of prevalence and high level of tolerance of sexual harassment in Victoria Police that was identified in that report. The report did identify that there was a high level of homophobia; sexually based hostility was widespread in the police force; and there were things like a double standard for women employees, where they are regarded as less competent and feel the need to prove themselves. A culture of victim blaming was widely held about women who experienced and or reported sexual harassment, and there was substantial evidence of a sexist organisational climate in Victoria Police.

I think this has been widely reported in the press. Certainly many members of Parliament, including me and Ms Springle, have made comments about this report and in particular have welcomed the comments of the chief commissioner that the police command will be working to implement the findings of the VEOHRC report. It is worth noting that the report also found that targets of these types of discrimination I have mentioned and witnesses come under some pressure from their colleagues and experience a lot of harm, including psychological harm and exclusion. Some have even had suicidal thoughts et cetera. So very serious issues were identified by the Victorian Equal Opportunity and Human Rights Commission, and we welcome the commitment of Victoria Police to implement the recommendations of that report. One of these is the change I have referred to brought in by this bill.

Other reforms to the Police Registration and Services Board are such things as allowing participation in hearings by audiolink or audiovisual link and the requirement for the production and tabling of an annual report by the board. The bill makes this a statutory requirement and provides the president of the board

with the power to issue practice directions, notes, statements and forms in relation to reviews and appeals. This amendment would enable the president to direct and manage the business conducted by the board at a procedural and practical level. It may sound like not much of an amendment, but it could have very far-reaching effects in terms of the operation of the board, in particular in relation to what I was mentioning before with the implementation of the recommendations regarding the human rights and equal opportunity commission reports.

The bill also changes the qualifications required for membership of the professional standards division and registration division of the board. It does this by ensuring that a person who has been an academic or professional staff member at an institution and who has considerable skills and expertise and has since resigned or retired can be eligible for membership of either the professional standards division or the registration division of the board. The bill also amends the qualifications required for registration with the board by changing the test for former Victorian police officers seeking reappointment to Victoria Police and thereby seeking to register with the board from showing the person's 'aptitude and efficiency' to perform as a police officer to the person's 'capabilities' to perform as a police officer, and as I mentioned, the bill makes a number of administrative changes and terminology changes which result from changes at the commonwealth level with regard to CrimTrac and the Australian Crime Commission and a number of other Australian acts and provisions.

With those comments, the Greens are very supportive of the provisions in the bill, particularly those changes to publication of identifying information with regard to complaints and complaints of sexual harassment in Victoria Police. The Greens are supporting the bill.

Mr MORRIS (Western Victoria) — I do rise to make my contribution to the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016. I certainly concur with many of the statements that have been made by Mr O'Donohue, a previous speaker, with regard to this bill. Indeed this bill does seek to clarify the state liability for tortious conduct of police and to make a range of amendments to improve the operation and governance, equity and accountability of the Police Registration and Services Board, as well as to amend references to CrimTrac in five Victorian acts to references to the Australian Crime Commission, and also to make minor and technical amendments to the Victoria Police Act 2013, being also known as the VPA.

This particular bill does give rise to an opportunity to talk about the state of policing here in Victoria. I think I am certainly not alone in saying that our hardworking police certainly need more support. I am fortunate to have contact with many Victoria Police officers, and I for one, along with my colleagues on this side of the house, certainly thank all police for the important work that they do in ensuring that our community is kept safe. However, since the election of the Andrews government we have seen police not being given the resources that they need. We know that record numbers of police were added under the Baillieu and Napthine governments. We had premiers and ministers who were committed to ensuring the safety of all Victorians, but since then we have seen a cut in the number of frontline police here in the state of Victoria.

Those opposite might shake their heads, but Mr Ron Iddles, the secretary of the Police Association Victoria and a man I have had the good fortune to meet — I certainly find him quite an inspiring detective, and he is known as the best detective in Australia — is a man who has put his heart and soul into policing and a man who is certainly representing the best interests of Victoria Police here in the state of Victoria. His calls for additional police have fallen on deaf ears with this government, and as a result of that we are seeing a rise in crime. It seems quite remarkable that those opposite cannot quite equate the fact that if you cut police, you are going to see a rise in crime. It is quite a simple, logical relationship between those two things. The police are certainly working very hard to keep those criminal elements in our community under control, but it is very difficult to do so without the appropriate numbers to do so.

On just some of the particular areas within western Victoria that have been severely impacted, Moorabool is a local government area that is certainly growing. It is receiving exceptional growth in places like Bacchus Marsh and Ballan, and we are seeing significant rises in crime. Homicides and related offences grew by 100 per cent from June 2015 to June 2016. Sexual offences are up 83.6 per cent. Robbery is up 200 per cent in Moorabool. Dangerous and negligent acts endangering people are up 142.1 per cent, and arson has risen by 59.4 per cent. Drug dealing and trafficking is up 107.7 per cent, and cultivation and manufacture of drugs is up 83.3 per cent, with an overall rise in crime of 15 per cent in Moorabool. These may sound like just numbers to those opposite, but the unfortunate fact of the matter is that these are people's lives which are being impacted. I have certainly had constituents — I have had many constituents — contact me about crimes that they personally or their families have been

impacted by, and I have been very personally challenged by some of the stories that I have heard.

These crimes need to be addressed, and they need to be addressed by additional police numbers to ensure that they can be responded to. In hearing the police association's pleas for additional resources, I heard that priority 1 calls from 000 are having to be prioritised; there are difficult decisions having to be made by officers about whether or not they are going to go to an active robbery. Whether there is a carjacking at play or whether there is a home invasion, police officers are having to make decisions about which of these exceptionally serious violent crimes they are going to respond to, because they simply do not have the resources to attend them all, which is an utterly unacceptable situation to be placed in.

But it is not a surprise that we are in this position when we have a government that is soft on crime, when we have a government that repeals the move-on laws — we hear from police time and time again that they need these types of laws to ensure the safety and wellbeing of our community — and when we have a reduction in the number of frontline police who are keeping our community safe. To think that this is not going to increase crimes across the state of Victoria is just an absurdity.

I heard Mr O'Donohue in his contribution also refer to the Minister for Police and the hypocrisy that she has shown in on the one hand directing police to add additional resources to her own electorate whilst on the other hand, when other members of this house ask about resourcing for their particular electorates, palming it away and saying it is a matter for police command. She cannot have it both ways. Either she is directing police or it is completely a decision of police command. The hypocrisy in picking and choosing when it is that she allocates police resources is something that she should be held responsible for.

There is another council area in western Victoria growing significantly, and that is Melton. We are seeing a significant rise in crime in that area. I have spoken to community leaders, and they are exceptionally concerned about the rising crime in Melton, which is a somewhat socially disadvantaged area. We have seen homicide-related offences increase by 25 per cent, bribery offences increase by 125 per cent, public nuisance offences increase by 156.5 per cent and dangerous and negligent acts endangering people up by 67.6 per cent, with an overall rise in crime of 20.4 per cent.

As I said before, these might sound like just numbers to those opposite, but what we see here is real people, real families, being affected by violent crime in their communities, in their own homes and what response are we seeing from the government? Nothing. In fact we are seeing worse than nothing; we are seeing a reduction in police services to keep our community safe. In Ballarat we are seeing crimes that we have never seen before, crimes that I would not have contemplated happening in my home town. We are seeing 13-year-olds who are on ice causing $450 000 worth of damage in an 18-day rampage. We are seeing ice offenders with axes holding up multiple milk bars and trying to break their way into families' homes where woman are with young children.

We are seeing youth offenders trying to box in undercover police in a state forest in the hope of trying to get their mobile phones. I think those youth offenders probably chose the wrong people to try and box in and steal mobile phones and wallets from; however, these are the types of brazen crimes we are seeing from criminals in Ballarat. So the message needs to be sent loud and clear, and it certainly has been sent by the community, by members on this side of the house and by the police association, about the need for additional police to ensure the safety of our community. Our police officers are working exceptionally hard and putting their hearts and souls into their jobs each and every day; however, they cannot achieve the outcomes we need as a community if they have not got the resources they need.

Therefore I am very pleased we have the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016, but I certainly concur with members on this side of the house who say we need additional police to keep our community safe.

Mr MELHEM (Western Metropolitan) — I also rise to speak on the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016. I was quite amazed at the speakers from the opposition talking about politics and matters which may not relate to the bill. The bill talks about implementing Labor's commitment made to Police Association Victoria before the election to clarify state liability for tortious conduct of police; to make a range of changes to improve the operation, governance, equity and accountability of the Police Registration and Services Board (PRSB); to change references to CrimTrac in five Victorian acts to references to the Australian Crime Commission, now known as the Australian Criminal Intelligence Commission; and to make minor and technical amendments to the Victoria Police Act 2013.

These purposes suggest that the bill is only talking about some technical and workplace changes and streamlining some of the operations of Victoria Police in relation to employment matters and some of the roles and responsibilities of various bodies within Victoria Police. They do not talk about the stuff the opposition members were talking about. I might say they may have the chance to talk about that in the next bill before the house. It will be interesting to hear the opposition's view when we talk about some of the issues in relation to carjacking and so-called recent crime waves in the state of Victoria.

The bill was introduced by the Andrews government to deliver on what we committed to. Improving the governance, accountability and efficiency of the Police Registration Services Board includes things such as prohibiting the PRSB from publishing identifying information about informants who are making complaints unless it is in the public interest to do so and also improving the efficiency of and access to the PRSB hearings by allowing police members and participants to appear by way of audiolink or audiovisual link. Those are some of the changes the bill facilitates. It also requires the PRSB to prepare an annual report and for it to be tabled in Parliament. The bill talks about expanding the pool of candidates that can be appointed to professional standards divisions and also requires the PRSB to consider capability instead of aptitude and efficiency for the purpose of registration of former police officers.

Another change is that the bill now allows the Chief Commissioner of Police to reappoint an acting assistant commissioner for up to six months. This will support the chief commissioner to maintain business continuity while deciding on an acting senior leadership role within Victoria Police. The bill reduces the risk of tortious claims resulting from police conduct being brought under the public servant scheme. The bill does not change the respective tort scheme relating to the police and the public servant conduct scheme, which will ensure that the state is liable for these kinds of torts. Rather, the bill inserts information notes in the Victoria Police Act 2013 and the Crown Proceedings Act 1958 to alert the reader to the respective schemes.

Finally, the bill ensures that criminal intelligence will continue to be lawfully shared between Victoria Police, law enforcement agencies and other jurisdictions. That was required after the commonwealth merged CrimTrac and the Australian Crime Commission on 1 July 2016. So we can see these changes in the bill are just technical changes, trying to streamline the operation of Victoria Police and address some of the commitments we gave before the election. It has nothing to do with police numbers or with policing, but if the opposition wants to talk about those issues, I am more than happy to address them. I know we will have plenty of opportunity to do so when debating the carjacking bill. I make the point that in the four years of the Napthine and Baillieu governments there was a zero net increase in police numbers. They hired not a single police officer. That is separate from natural attrition and replacement of people who actually left the system. I am talking about a net addition to numbers: in four years it was zero. One thing I will give them credit for is the protective services officers. Credit where credit is due; that is something they have done. But as for increasing operational police numbers in that four-year period, the stats do not lie. The number is zero.

Mr O'Donohue interjected.

Mr MELHEM — Well, the numbers are there. In November 2014 there were 13 151 full-time equivalent police, and in September 2016 there were 13 370 equivalent full-time persons and sworn operational officers. That is a net increase of 162, and a further commitment has been given to increase the actual police numbers. There is no question, and our government have accepted, that we need more police on the road, and we are doing something about it. We are actually delivering on our promises. We actually want to deliver more and more police on the road.

I will finish off by saying this: the last thing we want as a state is the coalition and other political parties playing politics in relation to crime, which drives fear into our community. I think that is an issue, and those sides should be basically looking at how we can make sure that our residents and constituents basically feel they are safe. They should not necessarily drive fear. Yes, sure, the crime statistics are on the increase, but we are doing something to address it. The Premier made a commitment and a public statement that he will give the chief commissioner whatever resources he needs. That was not a shallow commitment; that was a fair dinkum commitment. He will deliver on that. One thing about the Premier of this state, Daniel Andrews, is that he does deliver on his commitments. If he says he is going to do something, he does it. So to me that is good enough. We will deliver to make sure our community is safe in this state. We do not just use words; we actually mean it. We will deliver. I commend the bill to the house.

Mr FINN (Western Metropolitan) — Listening to Mr Melhem there I had to have a quiet chuckle to myself. Clearly he has a smile on his face as well. He knows that he was having a lend of us as well. I appreciate humour as much as anybody else, but when

somebody gets up and says the sorts of things that he just said in this house under the guise of a sensible speech, then I have got to draw the line there, I have to say.

This bill, the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016, is one that we welcome on this side of the house. I must first express my extreme admiration for the members of Victoria Police. I have enormous admiration for the work they do. Indeed just last Saturday I had a great deal to do with them just out the front here, where some thousands of people marched in the annual March for the Babies. The police were marvellous in providing support for not the cause but the protective nature of what we needed on the day. As members will remember, it was only three years ago that we were beaten up rather savagely in the city of Melbourne, and the police have made a commitment to themselves more than anything else that they will not allow that to happen again. I was absolutely delighted to be able to work with those senior officers and the men and women on the front line of Victoria Police at the march and in the lead-up to the march last Saturday. So I put on the public record my thanks and congratulations for the work that they did on that particular project, but I particularly want to express my appreciation of and my thanks and eternal gratitude for the work that Victoria Police do for so many people across the state.

We saw on the weekend on Sunday the 'wind event', as I think they are calling it these days. 'The very, very windy day', I think I would have called it. We saw the number of police that were out directing traffic, making sure that people were safe and doing the sorts of things that the rest of us would not be all that keen on doing, particularly in that sort of weather. So it just goes to show that our police are versatile and they have a whole range of skill sets, and we should just be very, very grateful that we have the sort of police that we do. I certainly am.

Having said that, the police force is suffering, and that causes me some distress. As we discuss the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016 it gives me some distress to bring to the attention of the house that there are many, many police in this state who are in a bad way. Many have told me that they want to leave, that they want to get out and that the support is not there from the government. There are two things that any government needs — —

Mr Herbert — You are making it up as you go along.

Mr FINN — The minister in his own way shakes his head and cackles to himself, but I say to the minister: go out and speak to the police on the front line, and they will tell you.

Mr Herbert — On a point of order, President, on a matter of factuality, my point was that the member was simply making it up, not that I was questioning the police.

The ACTING PRESIDENT (**Mr Morris**) — Order! That is a point of debate, not a point of order.

Mr FINN — I am actually a member of the Liberal Party. I do not make things up, but I understand that over on the other side of the house it is quite common, so I can understand why Mr Herbert would have jumped to the conclusion that he did, because of course it is second nature to him.

I have spoken to a number of police in recent times, probably going back a year, maybe even more, who are very, very distressed about what is going on in the police force, about the lack of support from the government, about the lack of numbers that they have and about the extra work that that causes — the added stress that that brings to them. These are good men and women who have joined the police force to provide protection for our community, and because they do not have the numbers that they should they cannot provide the protection. They cannot do the job properly that they want to do. These people are committed to protecting the people of Victoria. They want to be out there, they want to be making sure that the crooks are locked up and the good people are protected, but unfortunately at the moment in many instances that is just not happening, and it is resulting in communities across Victoria that are suffering.

I will just refer to a few examples in this debate this afternoon. I am delighted to see that Mr Melhem is still in the chamber, because Mr Melhem will recall that he and I attended a very large gathering on a Saturday morning not so long ago in Caroline Springs. That was as a direct result of the fact that the local community there had had enough. As they said to me, 'We've had a gutful. This government just doesn't seem to care'. They gathered in very large numbers to hear Mr Iddles from the Police Association Victoria, me, Mr Melhem and a number of other speakers speak on this particular subject. The locals were very angry, and they were very scared.

One of the speakers we heard there that morning was a young lady who had been the victim of a home invasion. She had been the victim of just being at home,

in her bed, and all of a sudden somebody was in the house running rampant. This is not uncommon, unfortunately. This is something that is happening all too often, and it is relatively new. I recall that in years gone by we would buy little devices which would turn our lights on and off to indicate to people outside that we were home. Well, that does not matter anymore, because these criminals know that the chances of them being caught are negligible because there are just not enough police to do the job. I think that is very sad and a very sad reflection on this government that refuses to provide the numbers for Victoria Police.

Another incident recently occurred in Sunbury. One evening I rose to my feet in this house and suggested that the township of Diggers Rest might go into the Sunbury police region. Why? Because it is only 5 minutes from Sunbury. At the moment Diggers Rest is dependent on police from either Melton or Caroline Springs, and that is a fair hike, particularly given the traffic congestion we have to put up with in the western suburbs these days, so I thought it would make sense that Diggers Rest would go into the Sunbury police region. The police association went spare and made it very clear that the Sunbury police are pushed beyond capacity every day of the week, so there is no way they could provide services for an added area in Diggers Rest. So there we have a situation where people in Sunbury and people in Bulla — I live in Bulla, my home town — just do not have the police numbers and the police support that they need, they expect and they deserve.

I have to say it absolutely shocked me when recent crime figures showed that in my home town the crime rate was up 141 per cent. Apart from police cars travelling between Broadmeadows and Sunbury, I do not think we have seen a police car in Bulla in recent memory. It shocked me to see that my home town seems to have gone to the dogs. That is a sad reflection on our society, but it is also very sad that the police do not have the numbers or the support to do their job.

I think it is a couple of months since Mr O'Donohue and I visited Point Cook. We met with a number of residents there who were feeling very scared because they too have been subject to home invasions, burglaries and car theft. They have been subject to levels of crime that have to be in the crisis category. I do not think there is any other word to describe it. They are feeling that they are in a crisis situation. This particular morning was a weekday morning, and quite a large crowd gathered to speak to Mr O'Donohue and me about this particular problem. I have to say the problem has not gone away; if anything, it has got worse.

It was interesting to see the figures from the police association just last week that show that the City of Wyndham, where Point Cook is situated, is no. 2 on the list of municipalities that are in a crisis situation with the lack of police. It is no. 2, after the City of Casey. That did not come as a surprise to me, because, as Mr O'Donohue and I discovered when we visited the Werribee police station not so long after Point Cook, they were really stretched beyond breaking point. As I say, these police are good, committed, hardworking people, but they are in a situation where they are not able to do the job that they want to do, because there just are not enough people.

It is interesting to note that the police association survey that was released last week shows that every single municipality in the west of Melbourne — and Mr Melhem might be interested in this — is lacking in police. and not just lacking in police numbers but indeed is in that crisis category. This is the area that Labor likes to call its own. If that is the way they treat their own, I am not sure that anybody would want to be their own, I have to say. If this government says, 'Well, that's the western suburbs. They're going to vote for us anyway, so let the crims run wild. We won't put the police resources in there that the people in the western suburbs need', that is appalling, but it is something that we have come to expect from the Labor Party, and not just this government but previous Labor governments, going back to John Cain and even before that, for those who can remember way back when.

The lack of police numbers is an appalling situation that we have in the western suburbs, and that just has to change. The Labor Party are great at playing politics when they are in opposition, but when they get into government they see policing as something that they can use to their advantage. We saw that back in the late 1990s and early noughties, when Steve Bracks was elected Premier. What did they do? The first thing they did was appoint a new Chief Commissioner of Police, Christine Nixon. We know how that ended up, we know what a disaster that was, and indeed Victoria Police is still suffering from the years that Christine Nixon was the disastrous Chief Commissioner of Police here in Victoria.

I say to the government: stop playing politics and get fair dinkum about the safety of Victorians. Give police the resources they need, give police the authority they need and let police in Victoria do their jobs the way they want to do them. People need protection, and police want to protect them; let them do their jobs.

Mr RAMSAY (Western Victoria) — I also am pleased to be able to make a contribution to this bill. In doing so, can I apologise to the government advisors over in the box, because they have sat through a number of contributions that had very little relevance to the bill itself, and sadly I have to say I am going to be no different, although my preamble will have some relevance to the bill. As I understand, no-one is opposing the bill in this chamber, so I suggest you could probably go home right now because the minister will not require your expertise, but you would be safe and sound in the knowledge that this bill will pass. The bill does provide me with an opportunity to identify some issues that my colleagues in their contributions have made, particularly about their local electorates.

At the outset I will say that the coalition supports the bill and supports the endeavours of improving the operation of the Police Registration and Services Board. We support the bill's intention to clarify the operation of the respective police and public service liability schemes for tortious acts of sworn police and public servants. Also, we support the bill's intent to make other minor and technical amendments to the Victoria Police Act 2013 and other justice legislation, and that was well defined in the second-reading speech of the minister. I also would like to make note that the bill requires the production of an annual report by the Police Registration and Services Board and its tabling by the minister in Parliament, so that perhaps does give us an opportunity to refer to the success or otherwise of the amendments in this bill and also the operational nature of the Police Registration and Services Board.

I also note that the president of the board currently has no general power to issue procedural guidance. Under this bill the president is provided with the power to issue practice directions, notes, statements and forms in relation to reviews and appeals. The amendment will also allow the president to direct and manage the business conducted by the board at a procedural and practical level. These are all technicalities in relation to the smooth running of the Police Registration and Services Board.

As well the bill provides fair hearings for the purposes of appeals and review functions and, in relation to clauses 15 and 17, provides the right to a fair hearing. Section 24 of the Charter of Human Rights and Responsibilities Act 2006 requires that all judgements or decisions made by a court or tribunal in a criminal or civil proceeding be made public unless the best interests of a child otherwise requires or a law other than this charter otherwise permits.

I do not intend to go into the details of the bill, because it is technical in nature and, as I said, we on this side of the chamber are not opposing the bill itself, but I would like to have the luxury of identifying some issues associated with police and crime statistics which have recently been announced in the City of Greater Geelong particularly and also on the Bellarine. My friend, colleague and shadow Minister for Police, the Honourable Ed O'Donohue, has already indicated that certain commitments were made by the Minister for Police, who is also the member for Bellarine, in relation to the three police stations in her electorate that fall under her portfolio which are not operating for the hours that the Andrews government committed to pre-election. Both the Premier and the minister have not fulfilled the commitment made prior to the election which they are committing to at this time but still not delivering.

Certainly the Queenscliff, Drysdale and Portarlington police station operating hours are not of the nature promised: to be open 16 hours per day. In fact they are battling to even provide half of the committed hours for the opening hours of those police stations. Also, Police Association Victoria has indicated that it urgently needs a further 68 police now in the City of Greater Geelong and in Bellarine to fulfil the operational requirements of police command coming out of Geelong and Ocean Grove. There is an urgency to provide more frontline police in the City of Greater Geelong and Bellarine, and that need has clearly been identified in other parts of the state as well.

So for government members to stand up and say that they have committed 300 extra frontline police and that all the problems will be solved in relation to operational matters is just a total furphy. They have not supplied one extra police officer at this stage, and they are unlikely to until the lead-up to the election, when they will puff out their chests and pat their backs and say that they have delivered. The fact is that over their four-year term 300 extra is going to be nowhere near enough to fill the gap that the police association has indicated is required — that is, over 3300 police.

I just wanted to share with you some statistics, and my apologies again to the advisors, but you can sit through this and listen to it, and hopefully when we do deal with a matter in relation to operational matters those statistics will come back to roost on the government members when they just sat idle and were not able to address what we see as a significant and urgent problem associated with crime statistics. A few statistics: in the City of Greater Geelong in the last two years theft has gone up 36 per cent, burglary has gone up 37 per cent and deception has gone up 56 per cent. Between the

years 2015 and 2016 homicide and related offences have gone up 50 per cent in the City of Greater Geelong; abduction and related offences are up 39 per cent; robbery is up 24 per cent; stalking, harassment and threatening behaviour is up 26 per cent; and arson has gone up 12 per cent.

Burglary and break and enter are up 37 per cent, and that is quite an important statistic because we certainly know that on the Bellarine we have now got communities setting up Neighbourhood Watches because home invasions are running riot. There is not a meeting that I go to where concerns have not been raised by the community in relation to home invasion and theft. The statistics bear out that there is a significant problem, even in those areas where in the past communities have felt safe because the level of crime and the statistics associated with theft and burglary and home invasion have been very low. But a 37 per cent increase is significant, as is theft at 36 per cent and deception at 57 per cent.

In our justice system in justice procedures there has been a 70 per cent increase in just over two years. In transport regulation offences, even though they are more minor, there has been a 400 per cent increase in the year to June 2016. It was identified in the *Age* three days ago that car thefts in the City of Greater Geelong have increased by 28 per cent, the second highest rate in the whole state of Victoria. I can assure you that anyone who travels from Melbourne on the Geelong Ring Road to the Princes Highway would note now the many abandoned and burnt-out cars that are lying like dying carcasses on the sides of our roads, because obviously car theft has taken place and they have just been dumped, burnt and left for someone else to pick up. There is clear visual evidence around the countryside that these cars have been stripped, dumped and burnt at an alarming rate. Even VicRoads is having trouble in starting to remove these tin carcasses from our carriageways.

As I said, the police association has indicated, as have the local police in the City of Greater Geelong and in Bellarine, that we need more frontline police. We need our police station operating hours to increase at least to the levels that were indicated by the Andrews government pre-election. The Waurn Ponds police station, which was supposed to be a 24-hour police station, is struggling to meet its 16-hour operational day plan. That is a significant police station in the very strong growth area of Waurn Ponds, Grovedale and Armstrong Creek that is being left unattended for 7 hours per day. Communities are not feeling safe, despite what the government might say in relation to crime. They are concerned about the lack of police resources — frontline police and patrols — and the operating hours of our police stations, and they have good reason because the statistics tell us that crime is up and police numbers are down on a per capita basis.

While this bill is not directly related to those statistics, it is important that we acknowledge a significant problem in the crime statistics and the lack of police resources when we have that opportunity in this chamber, and today does present that opportunity for me to indicate to the government, to those in this chamber and to the public at large that we have a significant problem in Western Victoria Region. As my colleague Josh Morris has indicated, in parts of his electorate around Ballarat, Moorabool and Golden Plains crime is up, police resources are down and police station operating hours are reduced. That is not a good combination for us to be able to combat the significant problem of repeat offenders, where the judiciary is not providing the appropriate deterrent in relation to penalties imposed. We are finding many of these offenders are being recycled through the judicial system with very light sentencing, which provides no deterrent.

What it does provide is a total loss of respect for law and order, and that leads to anarchy. That is a very dangerous place to be, particularly with the significant increase in population around our city areas, and it is now moving into our regional and coastal communities, where traditionally people have felt very safe and are now unfortunately having to depend on the Neighbourhood Watch strategy of people looking after each other and reporting any suspicious activity to 000 through Neighbourhood Watch programs.

On the basis of this bill and this legislation we do support the efforts of the government in relation to improving the operation of the Police Registration and Services Board. However, we do highlight a number of inadequacies in relation to the police portfolio, the lack of police resources being committed to by this government and the alarming increase of crime. Communities are starting to feel very unsafe in their local areas, which is not a situation this government should put our communities through for much longer.

Mrs PEULICH (South Eastern Metropolitan) — I rise to say a few words on the Police and Justice Legislation Amendment (Miscellaneous) Bill 2016. I can understand why the police commissioner and police command would want to build some greater flexibilities into the administration of this very important portfolio, because so far the performance outcomes have been decidedly concerning. It is concerning for everyone, I would imagine — the policymakers, the government

and certainly the community — and in terms of South Eastern Metropolitan Region, it is of concern to me.

In just having a look at the most recent statistics in relation to the City of Casey, which covers the Assembly electorates of Narre Warren North, Narre Warren South and Cranbourne, I was dismayed to learn that crime in Casey was up by 18 per cent in a year — that is, up until June 2016 — and up by over 30 per cent since the Labor government was elected. The recent release of the crime statistics revealed that in the year ending June 2016 there was a record in the City of Casey of 22 786 offences reported compared to 19 354 a year ago. That is a 17.7 per cent hike or 3432 more offences in just one year. That is certainly way above the 13.4 per cent statewide average.

The rise follows a 48.1 per cent jump in deception, a 45.5 per cent rise in robbery, a 31.9 per cent hike in stalking, a 29.3 per cent increase in burglary, a 29.2 per cent surge in arson and a 16.6 per cent jump in theft, as well as a 14.9 cent increase in dangerous and negligent acts endangering people and an alarming rise of 12.3 per cent in assaults. That concern is reflected in the recent Casey crime petition, which saw the local council trying to get on the front foot, and indeed a local Facebook page has been set up. The local community is really trying to be proactive, to look out for each other and to share some good information about how they can minimise their own risk and exposure to crime. Of greatest concern of course are home invasions and carjackings, which are regrettably becoming all too prevalent. Certainly in Casey there has been a huge jump under this government.

In Frankston crime is up 12.5 per cent. That is after the former coalition government really pumped in extra police and really got that crime rate down substantially. It has since risen by 12.5 per cent in the past year, including an extraordinary 300 per cent jump in extortion. The figures that were released for the year ending June 2016 show that there were a record 16 117 offences reported in Frankston compared to 14 326 a year ago — a 12.5 cent hike, or 1791 more offences in just one year. The rise follows a 70.57 per cent jump in sexual offences, a 50 per cent rise in homicide, a 43.72 per cent hike in deception, a 29.73 per cent increase in robbery, a 24.74 per cent surge in drug dealing, a 24.6 per cent jump in burglary and an alarming 22.73 per cent increase in abduction, as well as a 20.73 per cent jump in theft.

Once this spirals out of control, it is very, very difficult to get control of our streets. There have obviously been a number of errors that the government has made. One of those is obviously not responding in terms of police numbers, especially in relation to population growth. They also include the cutback in station hours, weaker bail laws and basically just weaker administration of the laws. It is good to see, albeit in a small way, police command trying to do something proactive, although they are certainly a long way behind.

In Monash crime was up 23.1 per cent. The recently released figures show that there was an extraordinary 277.6 per cent jump in deception. Over the past year to June 2016 a record 12 213 offences were reported in Monash compared to 9920 a year ago, a 23.1 per cent hike — that is, 2293 more offences in just one year. This is certainly well above the 13.4 per cent statewide average. The rise follows a 61 per cent jump in arson, a 35.4 per cent rise in robbery, a 28.1 per cent hike in dangerous acts, a 20 per cent increase in blackmail and extortion, a 17.7 per cent surge in assaults and a 17 per cent jump in drug manufacturing, as well as a 15.5 per cent increase in sexual offences and a 15.4 per cent jump in abductions. Crime is up 23.1 per cent in the City of Monash, and certainly the community is crying out for some stronger action in order to regain control of our streets and make our suburbs safer.

In the City of Greater Dandenong crime was up 19 per cent over the year ending June 2016. A record 20 728 offences were reported in Greater Geelong compared to 17 414 a year ago, a 19 per cent hike — that is, 3314 more offences in just one year. That is certainly well above the 13.4 per cent statewide average. The rise follows a 53.46 per cent jump in dangerous acts, a 50.91 per cent rise in drug manufacture, a 42.02 per cent rise in theft, a 32.04 per cent increase in deception, a 20 per cent surge in public nuisance, a 19.38 per cent jump in robbery, an 18.12 per cent increase in disorderly conduct and an alarming 16.67 per cent jump in homicides. For the City of Greater Dandenong crime is up 28.7 per cent since the election of the Andrews government in November 2014, which is horrendous for a city that has been trying very hard to turn its image around.

In Kingston, which covers three marginal seats, one would have thought that the government's performance would have been better because in many instances it is those marginal seats that tend to get a bit more love. It should not be that way. Everyone is entitled to feel safe in their homes and in their neighbourhoods. In Kingston, however, crime has risen by 9.3 per cent. This includes a 150 per cent jump in abductions. The crime statistics released for the year ending June 2016 show that there were a record 11 221 offences reported in Kingston compared to 10 268 a year ago — that is, 953 more offences in just one year. The rise comes on top of an alarming 75.2 per cent surge in sexual

offences, a 23.2 per cent rise in burglary, a 21.3 per cent hike in robbery, an 18.8 per cent increase in dangerous acts and an 18.2 per cent surge in theft. Overall crime in Kingston is up 17.8 per cent since the election of the Andrews government in November 2014.

All of these are remarkably disturbing statistics. I will not labour the point except to stay that all the feedback that I get is that police feel that they are losing control of their streets. That is a cumulative effect as a result of the weakening of bail laws. Many of these reported crimes regrettably have some origin in or link to the south-east area that I represent, and it is certainly something that preoccupies the entire community, young and old alike. They are being forced to turn to their own resources and turn to each other. They are turning to things like having knives at every entry point to their home for fear that they are going to be the next victims of a home invasion. This is not an uncommon story. In Cranbourne it is a very common story. They certainly feel that the weakening of bail laws, especially for underage offenders, sends the wrong message. It sends the message that you can continue offending and that at the end of the day you are just going to get out.

Knowing that a police station is open is comforting, especially if you are involved in a carjacking, because the advice from law enforcement is often to drive to the nearest police station. It is cold comfort if you drive there and the police station is closed. Similarly I am particularly disturbed to hear that the government is thinking of removing protective services officers (PSOs) from railway stations to use them for other duties. That will completely demolish the sense of safety and security that commuters have felt since we introduced PSOs. If you start removing them or making them mobile on the trains or between stations, you will demolish that. One of the reasons we were successful in getting on top of crime was that PSOs actually undertook a lot of the work that otherwise would have fallen on the shoulders of the local police in dealing with bad behaviour at the railway stations, theft from cars, assaults and the like. If you move them, it is going to be another area where police are going to have to monitor, patrol and be responsible.

I for one do not want to see the PSOs moved from the arrangements that we have entered into and have put in place. It is probably one of the most popular policies. Our community, including children, families and older persons, deserve to feel safe on trains, on public transport and certainly on the roads. Many report to me that they see fewer and fewer visible police, whether it is on the beat or in cars, and fewer and fewer traffic offenders are pulled over. Naturally I understand that the police have to prioritise, and clearly there are some very significant challenges that are not helped by the failure to increase police numbers, the cutting back of police station opening hours or the closing of police stations. They are not helped by the weakening of bail laws or by, generally speaking, sending the wrong message to a community that is unfortunately reeling with a sense of insecurity, certainly throughout the south-east.

I call on the government to do more than pass just this bill. Clearly flexibility in administering law and order is necessary, but so much more needs to be done. I think the common view of a person in the south-east is that the government is taking the wrong direction on law and order. With those few words I commend the bill to the house.

Mr HERBERT (Minister for Training and Skills) — I have been waiting to sum up, and I am delighted to sum up. This is a pretty straightforward bill. Many describe it as a tidying up bill. That is a long way from the full-blown rhetoric that we have heard in this debate. If you applied the American fact checker that we have seen in the recent presidential debates to the contributions here, there would be a very high score on bending the truth in terms of the outcomes. Those opposite might even beat Donald Trump's appalling record on factual statements. I will resist, however, going away from the bill, having said how far from reality many of the contributions have been, and I will just talk a little bit about what this bill is.

The bill firstly clarifies schemes very simply that apply to particular acts relevant to Victoria Police and public servants. The issue arose when a police officer brought a WorkCover claim against the state and used the Crown Proceedings Act 1958, which covers public servants but not police officers. There was some confusion, and that has been rectified in this bill.

There are several amendments relating to the Police Registration and Services Board. Importantly, the board publishes its decisions but does not publish any information that identifies an informant or the person who made the complaint, which is very important and an issue that was raised by the Victorian Equal Opportunity and Human Rights Commission in the sexual harassment and predatory behaviour in Victoria Police review. It helps protect people's privacy.

The bill also allows people to appear at hearings via audio and audiovisual link, which is very useful for people living in remote or regional Victoria. It allows former retired professional staff members at tertiary institutes to be members of the board, not just those who are academics at the time of application. It requires

the board to produce an annual report, which it already does, but it enshrines in law that this is what is happening. It makes technical changes to the term 'CrimTrac', because CrimTrac has morphed into the Australian Crime Commission, across five pieces of legislation. We need consistency with that name.

The bill provides for the Chief Commissioner of Police to reappoint an acting assistant commissioner. This was a request of the Chief Commissioner of Police and applies on a one-off basis for up to six months, which helps with continuity.

Finally, the bill makes some technical amendments to correct some minor drafting errors — for example, an issue that was raised by Ms Pennicuik in terms of the issue about why there is a difference between country, metropolitan and non-metropolitan police. That issue appears in clause 7 at page 3. Essentially, the original Victoria Police Amendment (Merit-based Transfer) Bill 2016 did not have the term 'general duties' when it talked about constables, and that is what it does. It is a minor technical error.

It is an important issue, however, in terms of cultural change and in terms of trying to address cultural change. We know it takes time, but the Victorian Equal Opportunity and Human Rights Commission and IBAC reviews into sexual predatory behaviour identified the need for cultural change in country police stations. That is why the police commissioner and the association agreed to merit-based transfers for constables and senior constables in country locations as part of that cultural change. This bill makes a tiny change to the drafting errors in the original bill. Having said that, I commend the bill to the house. I thank everyone who has contributed to it. I wish the bill a speedy passage.

Motion agreed to.

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

Third reading

Motion agreed to.

Read third time.

MELBOURNE AND OLYMPIC PARKS AMENDMENT BILL 2016

Second reading

Debate resumed from 13 September; motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr ONDARCHIE (Northern Metropolitan) — I rise tonight to speak on the Melbourne and Olympic Parks Amendment Bill 2016. The purpose of this bill is to amend the Melbourne and Olympic Parks Act 1985 to provide for the reservation of land and strata land as National Tennis Centre land for the purposes of a bridge across Batman Avenue. Right now there is a pedestrian bridge being built over Batman Avenue which is being named Tanderrum Bridge. This bridge will allow easier access for pedestrians and cyclist from Flinders Street station all the way through to the National Tennis Centre. The land is currently held under section 20B(2)(b) of the Melbourne City Link Act 1995, which will now be added to the National Tennis Centre land.

Two other footbridges that move pedestrians from the MCG to the National Tennis Centre are not owned or managed by either the MCG or the National Tennis Centre. The trouble is, when these walkways are damaged by weather or graffiti or there is rubbish left or there is other damage, there is not really a clear understanding of the body that needs to maintain the bridge. Neither the MCG Trust nor the Melbourne City Council nor the National Tennis Centre take responsibility for the maintenance of those footbridges. Primarily this legislation extends the definition of the National Tennis Centre to include additional land and strata title.

I should say at the outset that the opposition will not be opposing this piece of legislation. The objective of the bill is to facilitate a key element of stage 2 of the redevelopment of Melbourne Park, the new bridge for pedestrians and cyclists over Batman Avenue linking Melbourne Park to Birrarung Marr. The bridge, which as I indicated is to be named Tanderrum Bridge, will be a new front door for Melbourne Park from the city, providing direct access to the precinct from Flinders Street station and Federation Square. This design for the Tanderrum Bridge was unveiled prior to the 2015 Australian Open Tennis Championships, and as people will notice as they travel in that precinct, construction of the bridge is progressing well and should be completed later this year.

The process to select an appropriate name for the new bridge included some public input. The new name means welcome ceremony in the language of the Kulin nations. The new bridge and other improvements being made during stage 2 will ensure that Australia's largest annual event, the Australian Open, will remain in Melbourne until 2036 and will continue to assist our drive for major events and boost the visitor economy. The bill will give the trust legal ownership of the bridge to ensure it can fulfil its responsibilities in maintaining

the bridge as effectively and efficiently as possible, and this will be achieved by adding the land and strata of land containing the new bridge and the related infrastructure to the National Tennis Centre land, for which the trust is responsible in the Melbourne and Olympic Parks Act 1985.

The bill will revoke existing reservations on a number of parcels of land where they intersect with the new bridge, and it will give the trust legal ownership of the bridge to ensure it will fulfil its responsibilities to effectively and efficiently maintain that bridge. Of course the coalition will not be opposing this bill because the coalition has been a tremendous supporter of Melbourne Park and Olympic Park and provided the funds for stage 2 of the redevelopment of Melbourne Park — $338 million that continues to keep the Australian Open tennis championship in the sporting capital of the world and most livable city in the world, and that is going to stay in Melbourne, all things being relevant and equal, until 2036.

The Melbourne and Olympic Parks Trust, as we know it, came into existence in 1995 after the coalition developed a product by joining two distinct sites together: Melbourne Park and Olympic Park. As well as hosting a wide range of events and activities, like the Australian Open — or the grand slam, as it is known around the world — it hosts national and international Rugby Union, football, Rugby League, netball and basketball. It is a very high profile venue for music concerts and family shows and is the administrative and training centre for various sporting organisations and professional clubs as well.

What comprises Melbourne Park is the well-known Rod Laver Arena, which is very important as it is centre court, and Hisense Arena, which of course is home to the Melbourne Vixens. There is also the 18 000-square metre function centre, which I was at just a few weeks ago speaking to the Aquatics and Recreation Victoria conference. There are lots of other activities there, including those at Margaret Court Arena and of course at the outdoor Plexicushion tennis courts — 19 of them, I think. As we know, that broader site is well known as Melbourne's sporting precinct.

Across the road is Olympic Park, and of course there is AAMI Park across the road as well, which is home to the mighty Melbourne City Football Club, which I know Mr Leane is very interested in. This is a club that has grown very quietly over the last few years ahead of another club that had been well established. This club is going very, very well. In fact it played its very first game of the season just on Saturday night against Wellington Phoenix and brought home three points after a wonderful Anthony Caceres goal.

Mr Leane — And the keeper took a hit for the team.

Mr ONDARCHIE — And of course Thomas Sorensen, our keeper, is having a week off due to those activities. But Melbourne City has got off to a great start with three points, whereas Melbourne Victory came home with one solitary point for the round. Of course Melbourne City, which are headquartered at AAMI Park, this year welcomed Tim Cahill to its ranks. Tim is currently serving Socceroos duties, as recently as tonight, but he will be back playing for Melbourne City. We wish them very well. Melbourne City Football Club is a great community club.

It is appropriate at this time that I congratulate the Melbourne City Football Club women's team, which went the whole season last year undefeated. The women's team's great captain, Jess Fishlock, from Wales, decided, 'I can't do any better than this', and she headed home at the end of the season for her retirement. But wait, she is missing it. The good news is Jess Fishlock is coming back to Melbourne to play for the women's side this year. It is fantastic.

That ground, AAMI Park, also has minor tenants like Melbourne Storm and Melbourne Rebels that occasionally turn up there as well, but they pale into insignificance behind the mighty Melbourne City Football Club. Mr Leane supports my view about that. I know about that.

Of course there is the Westpac Centre, Olympic Park Oval and Gosch's Paddock, which are training fields that are part of the overall precinct. All these facilities — —

Mr Finn — Punt Road.

Mr ONDARCHIE — No, not Punt Road, Mr Finn. That is part of the Richmond Football Club, but if they want to hand it over to the trust, I am sure that the trust would look after it effectively. All of these facilities are under the management of the single administration of the Melbourne and Olympic Parks Trust. This trust was established in 1995 in accordance with the Melbourne and Olympic Parks Trust Act 1985 and was created by the merger of the National Tennis Centre and the Olympic Park Committee of Management, which was originally formed in 1909.

As I say, it is home to the Australian Open, which first started in 1905. The tournament was originally known as the Australasian Championships, and it began on the grassroots of the Warehouseman's Cricket Ground in

St Kilda Road. That tennis tournament volleyed from city to city before settling at Kooyong Stadium in Melbourne in 1972. But by the mid-1980s the event had well and truly outgrown Kooyong, and the Melbourne Park tennis centre was built. Melbourne Park was officially opened in 1988, with the first tennis ball hit in January at the Australian Open. It was formerly known as Flinders Park, or the National Tennis Centre. Melbourne Park's primary arena, or centre court, was renamed Rod Laver Arena in 2000 in recognition of the great Rod Laver and his remarkable contribution to tennis across the globe. This venue has brought worldwide recognition and will continue to do so as the iconic Australian Open is beamed across the globe. The courts were resurfaced just prior to the 2008 Australian Open with a new blue Plexicushion surface, giving Melbourne Park a fresh look.

It is appropriate at this time that I talk about that fresh look, because the Andrews government spent $20 million creating a new logo. It was not a very detailed logo; it was essentially an upside-down triangle with the word 'Vic' in the middle. The plan was to put that on the Rod Laver Arena surface for the start of the Australian Open of 2016. And guess what? It could not go on there because it would not fit. The logo would not fit the shape of the court. I have to say: is that not great planning! Is that not a great $20 million spent by this government for a logo that probably could have been created in Microsoft Word that could not fit on its intended venue anyway.

In January 2012 the then Minister for Major Projects, the Honourable Denis Napthine, unveiled a new design for Melbourne Park's western precinct, which included redevelopment of Margaret Court Arena with an openable roof and increased capacity by 1500 seats to a total of 7500 seats. This became known as stage 2 of the redevelopment of Melbourne Park, which included the addition of a new indoor concourse area with improved facilities for the patrons. I remember Premier Napthine told us at the time, and I quote:

> This fantastic new design is focused on people and creating an active and welcoming space. The roof will provide greater shade and rain protection for the public, while the new foyer spaces are light, airy and inviting.

The coalition has always been a strong supporter of healthy Victorians, including by helping them to stay active but at the same time ensuring that Victoria remains the sporting capital of the world. The Australian Open — the tennis — makes a vital contribution to Victoria's economy, generating around 1000 full-time equivalent jobs, and it contributes $164 million annually to the state's economy. That is why the former Victorian coalition government made this substantial investment in Melbourne Park's redevelopment.

Then in January 2014 the coalition announced that Rod Laver Arena would be upgraded and access to Melbourne Park vastly improved under the $338 million second stage of the internationally renowned sports precinct's redevelopment. Premier Denis Napthine at the time announced the funding and unveiled the details of the major project on the eve of the 2014 Australian tennis open. In his press release he said:

> Major events such as the Australian Open deliver more than just great sporting moments — they provide a massive boost to the Victorian economy and create new jobs.

Year round the Melbourne Park precinct hosts more than 2.1 million patrons across 200 events and delivers more than $420 million in economic benefits. The $338 million upgrade by the coalition was critical to continuing to attract sporting, music and other cultural events of course, such as the Australian Open. There is no doubt in anybody's mind in Victoria — and I know Mr Finn is a big advocate for it — that the Australian tennis open is the no. 1 grand slam event in the world. It further cements Victoria as the global sporting capital.

It does much more. Rod Laver Arena does so much more as well. It is known for its concerts. I think Pink in fact owns the record for 18 concerts in a row. I know Mr Finn probably went to many of those. She did 18 concerts in a row, which is probably just a few less than Farnham did actually.

Mr Finn — I have seen John Farnham on a number of occasions.

Mr ONDARCHIE — Yes, I bet you have. It is also home to the *Grand Final Footy Show* at Rod Laver Arena and home, importantly, to the Rock Eisteddfod Challenge by schools as well. It is used for a number of great things.

Mr Finn — I saw *Disney On Ice* there.

Mr ONDARCHIE — As Mr Finn points out, he and his family saw *Disney On Ice*. I am certain that he means *Disney On Ice* and not another issue. We have an ice problem in Victoria right now, but he went and saw *Disney On Ice*.

The new bridge over Batman Avenue from Birrarung Marr to Melbourne Park leading to the new western entrance of the precinct is where this legislation comes in today. Out there thanks to the coalition there is a new media and administration centre, a new central terrace with a state-of-the-art roof and a bigger and better

garden square, which is heavily populated during the tennis open with fans from all around the globe. Mr Finn should get there; it is a great event.

I remember that at the time Premier Napthine said that the Victorian coalition government would contribute $298 million for the stage 2 redevelopment while the Melbourne and Olympic Parks Trust would provide another $40 million. The redevelopment's second stage follows the $366 million first stage, which included the construction of the refurbished Margaret Court Arena, the new National Tennis Centre training facility, the Edwin Flack pedestrian bridge and the new eastern plaza.

At the time, the Minister for Major Projects, David Hodgett, said that the stage 2 project was being managed by Major Projects Victoria and would provide a boost to the construction industry, and it did exactly that. It is another example of a first-class major project for Victoria which needed to be delivered, and the coalition delivered it. Only time will tell if the current government can complete what the coalition started. I wonder if it can do it on time and on budget.

This current legislation relates to the footbridge that will join Birrarung Marr to the Melbourne Park precinct and will certainly make access very much easier for patrons coming out of Flinders Street station or coming straight out of the central business district. It will make it far smoother and a more flowing 5-minute walk for people to come to Melbourne Park. Certainly one of the major beneficiaries will be the CBD, because people will be able to access the CBD for restaurants and dining before travelling down to Melbourne Park events or in fact after events, whether they are going to see concerts, whether they are going to join Mr Finn and his family to watch *Disney On Ice*, whether they are going to the Australian Open or whether they are going to watch the motorbikes riding up and down inside as part of the presentation as well. Those who have been down Batman Avenue recently will have seen that that bridge is almost complete. There is a section just above the road that needs to be built; they are not far from pushing them out to each other.

This is an important piece of legislation because it signifies the concise ownership of that land. It is a bit higgledy-piggledy at the moment; it is a bit all over the place — who owns it and who takes responsibility — so this bit of legislation will in fact consolidate who looks after it, who maintains it and who makes access easier. The coalition commends the bill to the house.

ADJOURNMENT

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

That the house do now adjourn.

Autism programs

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Education, and it concerns the subject of education for children with autism in this state. That is something that I have taken a great deal of interest in for quite some years now. It has concerned me that expectations have been not as high as they should be for children with autism, particularly those children who attend autism-specific schools. It concerns me that some of those children are not reaching their full potential. This is in no way to cast aspersions on or to criticise the staff of the autism-specific schools, because I know for a fact that they do a brilliant job. They are committed, they are dedicated and I cannot speak too highly of them. What I am talking about are the methods that the department dictates to be taught in these schools.

My view is that the applied behaviour analysis methods have worked extraordinarily well over quite some time now. If something is working very, very well and children are benefiting from it in a big way, it seems to me to be negligent if you do not actually use that method for many children, if indeed not all children, on the autism spectrum. I think that is something that we as a community should be very concerned about if they are not receiving the sort of education they deserve.

I am asking the minister to institute an inquiry into applied behaviour analysis to see what evidence there is to prove or otherwise that this is a method which brings great benefit to children with autism. I am asking the minister to do that as a matter of urgency because I think every day is important — for us all, I suppose, but particularly for children with autism, because the older they get the more difficult it can be, and of course the earlier we can get to these children with programs and with new methods, the better the outcomes will be for these kids.

Residential planning zones

Ms DUNN (Eastern Metropolitan) — My adjournment matter is for the Minister for Planning. The reforms to the planning scheme for residential zones introduced by the state government in 2013 provide for the ability to specify mandatory maximum height limits for a category of developments described in the planning scheme as residential. However, the

reforms introduced a loophole in that the definition of residential excludes amongst other uses independent living units and retirement villages. These developments are by their very nature residential, yet in terms of Victoria's planning provisions, applicants can get away with development standards that would not apply to an apartment block, undermining local government's ability to achieve neighbourhood character objectives.

This loophole has the potential to be exploited by developers. An example of this is the recent planning application in Glen Eira City Council for a retirement home of some 19 storeys in the neighbourhood residential zone, a zone which has a maximum height limit of 8 metres for residential developments. I call on the Minister for Planning to act to close this loophole so that mandatory maximum height limits can apply to all buildings in residential zones, not just those that meet the planning scheme definition of a dwelling or residential building.

Living Libraries Infrastructure program

Mr MELHEM (Western Metropolitan) — My adjournment matter tonight is directed to the Minister for Local Government in the other place, the Honourable Natalie Hutchins. It relates to the announcement made by the minister in relation to the Living Libraries Infrastructure program. I agree with the minister's view that 'public libraries are a crucial part of any community, fostering lifelong learning and providing programs for residents of all ages'. It is good that local councils across Victoria can now apply for funding from the Andrews Labor government's $4.5 million Living Libraries Infrastructure program. Applications for this program opened on Wednesday, 28 September, and will close on Friday, 16 December 2016. Successful grants can total up to $750 000 and will fund new, renovated or refurbished libraries, thereby ensuring libraries are providing high-quality facilities to meet the changing needs of the community.

Particularly in my electorate of Western Metropolitan Region, with the population growth in new communities established in recent times, these libraries are very important and play a major part in the community. So as part of the 2016–17 state budget the government announced an $18 million investment in the program over the next four years. This is a fantastic program, and the action I seek is that the minister closely consider applications made by councils in my electorate of Western Metropolitan Region for the reasons I outlined earlier. I believe they will be most in need in comparison with other municipalities around Victoria, so I look forward to the actions of the minister and hope that many councils in my electorate will be successful in obtaining some of these grants.

Levee bank maintenance

Ms LOVELL (Northern Victoria) — I wish to raise a matter with the Minister for Water regarding the ongoing maintenance of and responsibility for levee banks in northern Victoria. The action that I am seeking from the minister is that she resolve the issue of which authority is responsible for each and every levee bank and put in place a framework for the maintenance of levee banks so that in future flood events we can be assured that these structures will have been maintained well before the floodwaters hit communities.

Over the past week communities in my electorate have faced the threat of serious floods, and it is events like these that make us fully appreciate the wonderful community spirit of volunteers. Over the past weekend I have witnessed firsthand volunteers fill more than 50 000 sandbags to protect properties from the threat of floodwaters. I wish to thank each and every volunteer who gave their time to assist in these efforts and also thank members of the Country Women's Association who have fed the volunteers. It is these volunteers who make our community such a wonderful place to live. I would also like to thank the State Emergency Service, Country Fire Authority, Ambulance Victoria, government departments and local councils that have managed the incident control centres and kept communities informed.

One of the biggest issues highlighted during this flood event has been the issue of who is responsible for the maintenance of levee banks. This is an issue that has been around for a very long time and something that needs to be resolved once and for all. Levee banks are vital pieces of infrastructure that are supposed to protect communities, and yet for far too long levee banks have been the hot potato that no authority wishes to own or take responsibility for. This is not good enough.

When the floodwaters were imminent late last week catchment management authority (CMA) officers walked the length of the levee banks to assess their condition and identify low spots, weak spots and boroughs. It is a bit late to be waiting until the last moment to worry about levee bank integrity when floodwaters are imminent. As a comparison, VicRoads would not wait until a bridge was weakened to the point of collapse before they maintained it. Having the CMA out walking the levee banks hours before floodwaters are expected to try to identify low and weak spots is not good enough. There needs to be regular maintenance of

this important infrastructure, and to achieve that it needs to be clear who is responsible for the asset.

Unfortunately in Wangaratta the community were alarmed that the levee bank was close to breaching and it had to be sandbagged at the very last minute. Communities from Strathmerton through to Barmah have not been willing to take that chance, so as floodwaters approached they participated in a massive community effort to shore up the levee banks where necessary. However, the threat has not yet diminished, with water levels expected to remain high for at least a week — and probably several weeks — and there is still a threat of levee banks breaching under that pressure.

I call on the minister to resolve the issue of which authority is responsible for each and every levee bank and to put in place a framework for the maintenance of levee banks so that in future flood events we can be assured that these structures will have been maintained well before the floodwaters hit communities.

Flourish program

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Education, James Merlino, and it concerns the Yarra View Nursery. I was lucky enough to be out there recently to celebrate the launch of the Flourish program, where people, mainly with intellectual disabilities, are put through a training scheme which is aligned with horticulture — obviously, being aligned with a nursery — and which makes these individuals at the end of the course ready for the workforce outside of this particular organisation that employs and trains them. The goal is for these people to go and work in mainstream occupations outside once they have finished their training. The action I seek from the minister is that he schedule — and I know his is a busy schedule, so even if it is in the new year — an attendance at the Yarra View Nursery to witness this program firsthand so he can encourage this program and maybe see if it can be supported and implemented in different locations.

VicRoads relocation

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Treasurer, and the action I seek is that he commit to the relocation of the VicRoads headquarters to Ballarat. It was today that we heard of another manufacturer in Ballarat closing their doors. As a result of that we are going to see 40 jobs lost in the city of Ballarat, with Timken Bearings closing their doors. That really came as a shock to many, as it was just recently that some statements were made insofar as the future of their operations in Ballarat had been secured and that there was an opportunity for Timken to operate well into the future. However, that does not seem to be the case from the announcement today.

I want to go back in time just slightly to 30 April 2015 when this Labor government held a jobs forum at the Provincial Hotel in Ballarat. At this forum they gathered all the city leaders to have a discussion about the need for new jobs in Ballarat — and this is something that you will not hear Labor talk about. The main discussion point and the main takeaway point from this particular forum was that there was a need for additional jobs to come into Ballarat's CBD. The main way that was expressed at this particular forum to achieve that was to relocate a government service or government department to Ballarat.

I was very pleased to be able to join with former Premier Denis Napthine and Simon Ramsay, a member for Western Victoria Region, as well as many others, at the announcement when the former coalition government announced that a re-elected coalition government would relocate VicRoads to the Civic Hall site in Ballarat. That was something that was met with much applause by the people of Ballarat and the wider Ballarat community as well, because they recognise the importance of having those jobs within Ballarat's CBD.

It is unfortunate that we now have a government that is dragging its feet. This government have not said they are not going to do it, but they have not said they will; they have just said they are looking into it. They seem to be looking into a lot of things. I am not sure why it is they are looking into it, because the work was done prior to them coming to government. All they need to do is make the decision and instruct Mr Merritt, the CEO of VicRoads, that the move is happening. So I certainly do encourage the Treasurer to take the advice to commit to moving VicRoads to Ballarat.

Tourism and major events strategy

Mr ELASMAR (Northern Metropolitan) — My adjournment matter is for the Acting Minister for Tourism and Major Events. The mighty Socceroos are currently in the process of seeking to qualify for their fourth direct appearance at the FIFA World Cup, which in 2018 will be hosted by Russia. The FIFA World Cup is the biggest and most popular sporting event in the world, and having the Socceroos represent Australia on the world stage is not only important for international recognition of our football status but also for Australia's economy and our own Victorian economy.

I also know that Victoria has been hosting the 54th Australia-Japan Joint Business Conference. This three-day conference has brought together leading representatives to help address the biggest economic challenges and opportunities facing our region while looking to create more investment and job opportunities in Victoria. The action I seek from the acting minister is that he provide me with information so I can advise my community as to how Victoria's hosting of such important major events as the Socceroos against Japan game and business conferences such as the Australia-Japan business conference helps to generate tourism and economic trade, business, sporting and social opportunities for the people in Northern Metropolitan Region.

Great Ocean Road funding

Mr RAMSAY (Western Victoria) — My adjournment matter tonight is for the Minister for Roads and Road Safety, the Honourable Luke Donnellan, and the action I am seeking from the minister is for him to commit immediately to funding the repair of the Great Ocean Road. The Great Ocean Road, as many of you would know, is an iconic stretch of road running between Torquay and Allenvale that covers about 243 kilometres. It was built between 1919 and 1932 by returned soldiers, and it is an iconic road — perhaps the most visited road in Australia, with tourist destinations like the Twelve Apostles. But over a period of time this iconic road has been suffering considerable landslips both above and below the road. The urgency now is that with the latest rainfall period there have been over 120 landslips on the Great Ocean Road — 80 above the road but, more importantly, 40 below the road, which is causing considerable instability in the road foundation.

The federal government, with the state coalition government in the previous Parliament, committed $50 million for the upgrade of the Great Ocean Road — $25 million from the federal government and $25 million from the state government, at that time the Napthine coalition government. But what we have seen is a degradation of that road over a period of time despite that allocated funding. There have been nets put on some of the cliff faces, which proved useful in the recent rainfall event, but unfortunately there is a lot of cliff face that is unprotected and that does not have the netting to hold the cliff face in place. In fact in the last rainfall event we saw road closures right along the Great Ocean Road, particularly between Wye River — which was affected by the fires last Christmas — and Separation Creek.

The federal government, as part of a $1.5 billion road infrastructure commitment to Victoria, allocated an additional $10 million to the Great Ocean Road, thanks to the efforts of the member for Corangamite. But the state government has put no additional funding into the Great Ocean Road, and we saw just in today's *Geelong Advertiser* past mayor Keith Fagg indicating maybe a toll on the road would be required for the upgrade and stabilisation of that road. Certainly the Great Ocean Road committee have indicated a long-term investment program for the Great Ocean Road and its infrastructure, but right at this time the urgency is for the state government to commit significant funding to stabilise the Great Ocean Road, given the recent heavy rainfall event. So I call on the minister, as an action, to immediately provide additional funding for the stabilisation of this iconic road.

Ferny Creek power outage

Mr O'DONOHUE (Eastern Victoria) — I raise a matter on the adjournment this evening for the Minister for Energy, Environment and Climate Change, and the action I seek is for her to intervene to ensure that power is restored to constituents in Ferny Creek, following contact I have had from a Ms Margaret Gibson of Ferny Creek. As background for the minister, following the significant storms and weather events on the weekend, I was contacted by Ms Gibson yesterday. Her email has gone down because power has been down, and she has been without power, like many other residents of Ferny Creek, since Sunday. She wishes me to express her anger at the lack of communication and support services of AusNet. She believes that Ferny Creek residents are a low priority for the restoration of power by AusNet, and this, regrettably, is no different.

She further advises that the high-voltage power was turned off unnecessarily following the removal of a fallen tree, and she understands that the high-voltage wires now need restoring. She was advised that power would be back on last night at around 11.30, but as of around 3.30 this afternoon I have received further contact from Ms Gibson that no crews have shown up and there has been no indication of when power will be restored. We are now into the third day of being without power, and I ask the minister to intervene to ensure that power is restored as quickly as possible to Ms Gibson and the other residents of Ferny Creek.

Latrobe Valley employment

Mr BOURMAN (Eastern Victoria) — My matter tonight is for the Premier of Victoria, the Honourable Daniel Andrews, and it is very similar to what Mr Morris said. With the possible loss of about

1000 jobs in the Latrobe Valley, if the shutdown of the Hazelwood power station actually does happen, the time has come for details on how the government proposes to deal with this. I hear stuff about green energy jobs and how they will be the saviour, yet no-one can quantify what these jobs will be or exactly what the workers will be doing or what they will sell or make. Fortunately it is within the government's power to do something tangible about it, but it will take some fortitude to pull off.

In New South Wales the Department of Primary Industries is located in Orange and the firearms registry is in Murwillumbah. The government can relocate departments from Melbourne to the Latrobe Valley. It has been done in New South Wales, and it can be done here. After all, there is a great road system leading out as far as Sale and a train link that could use the investment to make it possible to commute from Melbourne and make the whole thing practical.

South Melbourne Park Primary School

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Education in the other place. Today the minister released the Docklands school provision review and stage 2 of the Andrew's government's inner-city schools package in response, which I read with interest. The Labor government has announced plans to build some inner-city schools. Details are very minimal, and there are no time frames. I am very pleased to see that they have announced some additional classrooms for Albert Park College. It is a fantastic school, and the best measure of its success is that so many parents want to send their children there.

The media release that announced these various initiatives spent much time on the Ferrars Street school site, stating, as previously announced, that the principal of the school, the new vertical school at South Melbourne, will be appointed in 12 months. This is not news. It has been on the education department website for ages, and it is standard practice for these sorts of developments. This is the only school that is anywhere near close to completion in the inner-city area that the government was boasting about. The site was bought by the last government and cleared, and it funded $5 million towards site remediation. The current government has sat on its hands for quite some time before realising that this site is its best opportunity to provide a new school for students in this area any time soon.

But I note that the government says that under stage 2 of the inner-city schools package the government will also deliver the remaining funding for South Melbourne Park Primary School, and I am very interested in how and when this might be likely to happen. The government has allocated around $7 million to this site, but almost all of it is going towards getting Orchestra Victoria and Parks Victoria out of the site. It is education department money, but it is not going to be spent on actually building a school, and they are now onto their third deadline. Earlier this year Mr Jennings told us that they were going to move out in November. They were originally supposed to move out more than a year ago, and of course no building work can happen until they leave. Mr Jennings also told us earlier this year that the master plan for the school would be put out for public comment in June, but that did not happen.

Today I checked the education department website regarding this school, and it says that the architects are still conducting a detailed feasibility study on the site and a review and so on and that that will inform the school's master plan phase. It also says that the master planning process will be facilitated by the department and incorporate work and so on and feedback from the new school planning group and that, when completed, plans will be available on the website. It is yet another delay. The member for Albert Park in the Assembly promised this school would be prioritised in the first budget after the election, and it was not. Many deadlines have come and gone.

The action I am seeking from the minister is to provide a full update, including all time frames for the master plan, for building work and for when the two current tenants of the building are going to leave — in other words, a full update on time frames on the progress for the troubled South Melbourne Park Primary School site.

Responses

Ms MIKAKOS (Minister for Families and Children) — This evening I have received adjournment matters from the following members: from Mr Finn to the Minister for Education, from Ms Dunn to the Minister for Planning, from Mr Melhem to the Minister for Local Government, from Ms Lovell to the Minister for Water, from Mr Leane to the Minister for Education, from Mr Morris to the Treasurer, from Mr Elasmar to the Acting Minister for Tourism and Major Events, from Mr Ramsay to the Minister for Roads and Road Safety, from Mr O'Donohue to the Minister for Energy, Environment and Climate Change, from Mr Bourman to the Premier and from Ms Fitzherbert to the Minister for Education. I will

refer all of those matters to the relevant ministers for response.

In addition, I have 57 written responses to adjournment debate matters, which will also be circulated to members.

The ACTING PRESIDENT (**Mr Finn**) — Order! That being the case, the house stands adjourned.

House adjourned 6.45 p.m.