**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-EIGHTH PARLIAMENT

## FIRST SESSION

**Tuesday, 30 August 2016**

**(Extract from book 12)**

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

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HANSARD150

1866–2016

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

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

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

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

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

## The Governor

The Honourable LINDA DESSAU, AM

## The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

## The ministry

(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 | Patten, Ms Fiona | Northern Metropolitan | ASP |
| Dalla-Riva, Mr Richard Alex Gordon | Eastern Metropolitan | LP | Pennicuik, Ms Susan Margaret | Southern Metropolitan | Greens |
| Davis, Mr David McLean | Southern Metropolitan | LP | Peulich, Mrs Inga | South Eastern Metropolitan | LP |
| Drum, Mr Damian Kevin [3] | Northern Victoria | Nats | Pulford, Ms Jaala Lee | Western Victoria | ALP |
| Dunn, Ms Samantha | Eastern Metropolitan | Greens | Purcell, Mr James | Western Victoria | V1LJ |
| Eideh, Mr Khalil M. | Western Metropolitan | ALP | Ramsay, Mr Simon | Western Victoria | LP |
| Elasmar, Mr Nazih | Northern Metropolitan | ALP | Rich-Phillips, Mr Gordon Kenneth | South Eastern Metropolitan | LP |
| Finn, Mr Bernard Thomas C. | Western Metropolitan | LP | Shing, Ms Harriet | Eastern Victoria | ALP |
| Fitzherbert, Ms Margaret | Southern Metropolitan | LP | Somyurek, Mr Adem | South Eastern Metropolitan | ALP |
| Hartland, Ms Colleen Mildred | Western Metropolitan | Greens | Springle, Ms Nina | South Eastern Metropolitan | Greens |
| Herbert, Mr Steven Ralph | Northern Victoria | ALP | Symes, Ms Jaclyn | Northern Victoria | ALP |
| Jennings, Mr Gavin Wayne | South Eastern Metropolitan | ALP | Tierney, Ms Gayle Anne | Western Victoria | ALP |
| Leane, Mr Shaun Leo | Eastern Metropolitan | ALP | Wooldridge, Ms Mary Louise Newling | Eastern Metropolitan | LP |
| Lovell, Ms Wendy Ann | Northern Victoria | LP | Young, Mr Daniel | Northern Victoria | SFFP |
| Melhem, Mr Cesar | Western Metropolitan | ALP | | | |

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

**PARTY ABBREVIATIONS**

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

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## TUESDAY, 30 AUGUST 2016

# Tuesday, 30 August 2016

**The PRESIDENT (Hon. B. N. Atkinson) took the chair at 2.05 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 respect 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 the Parliament this week.

## ROYAL ASSENT

**Message read advising royal assent on 23 August to:**

**Education and Training Reform Amendment (Miscellaneous) Act 2016**
**Gene Technology Amendment Act 2016**
**National Parks and Victorian Environmental Assessment Council Acts Amendment Act 2016**
**Road Management Amendment (Bus Stop Delivery Powers) Act 2016.**

## OMBUDSMAN JURISDICTION

**The PRESIDENT** — Order! I take this opportunity to provide a statement in respect of the legal proceedings in the Supreme Court in relation to the Ombudsman's jurisdiction. On Wednesday, 10 February this year, the house resolved that I be directed to make application to the Supreme Court to be joined as a party to the proceedings initiated by the Ombudsman. The resolution directed me to do this on behalf of the Legislative Council in order to contend certain views contained in the resolution. On Thursday, 11 February, I advised the house, because I am acting at the direction of the house, I would provide information to you as matters proceed. I have provided updates to the house accordingly and now do so again.

The matter was heard by the Honourable Justice Cavanough in the Supreme Court of Victoria on Monday, 9 May and Tuesday, 10 May. The court heard arguments from the counsel for the Attorney-General and counsel representing me as President. Counsel for the Ombudsman were present but declined to put forward arguments further to the Ombudsman's written submissions. Justice Cavanough then sought further written submissions on certain matters.

On Friday, 26 August, Justice Cavanough handed down his decision, as advised in an email from the Clerk to members on the same day. Justice Cavanough has determined that:

> The Victorian Ombudsman has jurisdiction under s 16(2) of the Ombudsman Act 1973 to conduct an investigation pursuant to the referral from the Legislative Council made on 25 November 2015.

I regard this determination to be the conclusion of my obligations in the resolution of the house of 11 February this year.

## QUESTIONS ON NOTICE

### Publication

**The PRESIDENT** — I also wish to advise the house in respect of a change to some procedures which brings us into line with the Legislative Assembly and provides some economy but is, I think, no real inconvenience to members. Members would be aware that it has been the practice that new questions on notice are given a unique number and printed in full on the pink notice paper on the first day after they are submitted. On following days the question number is simply listed on the notice paper next to the date on which it was given.

I advise that from tomorrow new questions on notice will no longer be printed in the pink notice paper but will continue to be published in full on the notice paper that is published each day on the website. Standing orders require that questions be placed on the notice paper but do not require them to be printed. The printed notice paper will refer readers to the notice paper published on the website, which is the version that is overwhelmingly used by organisations and persons required to prepare answers to questions, including ministerial staff and departments.

Unanswered question numbers will continue to be printed in the pink notice paper each day so that members can quickly determine if an answer is outstanding when referring to the printed notice paper. This new practice continues our efforts to be more cost efficient while continuing to publish essential information online. I remind members that answers to questions on notice will continue to be incorporated in the weekly *Hansard*, in accordance with standing orders.

## DISTINGUISHED VISITORS

**The PRESIDENT** — Order! Just before we proceed to questions without notice, it is my great pleasure to welcome to the Parliament today and to the visitors gallery a delegation from the United States. The delegation is led by the Honourable Curtis Bramble and includes representatives from various state senates in the United States. The delegation is here under the auspices of the National Conference of State Legislatures. We welcome the delegation and are very pleased to have you with us today in our Parliament.

**Mr Finn** interjected.

**The PRESIDENT** — Order! The significance of that interjection, the interjection being unruly of course, is that we are known as members of the Legislative Council. One of us is very keen to see us change and call ourselves the Senate so that we can also be referred to as state senators.

**Mr Finn** — And there is nothing wrong with that, either.

**The PRESIDENT** — Order! That would be the member.

## JOINT SITTING OF PARLIAMENT

### Legislative Council vacancy

**Ms WOOLDRIDGE** (Eastern Metropolitan) — I desire to move, by leave:

> That this house meets the Legislative Assembly for the purpose of sitting and voting together to choose a person to hold the seat in the Legislative Council rendered vacant by the resignation of Mr Damian Drum and proposes that the time and place of such a meeting be the Legislative Assembly on Wednesday, 31 August 2016, at 6.45 p.m. or, at the latest, on Thursday, 1 September 2016, at 4.45 p.m.

**Mr Leane** — On a point of order, President, according to today's blue daily program there is a provision for members to move motions by leave, but it is not until much further down the list, so I am a bit confused by why the Leader of the Opposition would be moving a motion at this point when I would have thought we would have been on point 2.

**Mr Rich-Phillips** — On the point of order, President, as you would appreciate, the very nature of doing something by leave is that it can be done at any point in proceedings.

**The PRESIDENT** — Order! That is correct. Is leave granted?

**Leave refused.**

**Ms WOOLDRIDGE** — On a point of order, President, I would have thought this matter would have been the highest priority for this house because not only is the government flouting the contraventions of this house but they are actually flouting their obligations and defying their obligations under the Victorian constitution. This is a motion that the government actually supported last sitting Wednesday, and it is outrageous that the government continues to block a joint sitting occurring and a member coming into this house so that they can fill the vacancy and represent their constituency in Northern Victoria Region.

**Mr Leane** — On the point of order, President, we are happy to have a joint sitting. We are happy for our leader to move a joint sitting.

**The PRESIDENT** — Order! I advise Mr Leane that I am very intuitive, and I agree with him. It is not a point of order.

## QUESTIONS WITHOUT NOTICE

### Electorate office staff

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — My question is to the Deputy Leader of the Government. The government's attempt to block the Ombudsman's investigation of the Labor staffing rorts failed spectacularly in the Supreme Court last week. How was the public interest, as distinct from the Labor Party's own interests, served by the government wasting taxpayers funds trying to block that Ombudsman's investigation?

**Ms PULFORD** (Minister for Agriculture) — I thank Mr Rich-Phillips for his question. The court has been asked to rule on a very important question about the relationship between the Parliament and the Ombudsman, which it has now done. The government has indicated, and I restate this today for the benefit of members present, that it will reflect on that finding and what it means for the role of the Ombudsman not only in this matter but in her ability to discharge all of her duties as Parliament intended for all matters in the future.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the deputy leader for her answer. Given the government's spectacular failure in the Supreme Court last week, will the government now rule out wasting more taxpayers funds appealing that Supreme Court decision?

**Ms PULFORD** (Minister for Agriculture) — I thank Mr Rich-Phillips for his further question. As I indicated, this is a very important matter that goes to the question of the relationship between the Parliament and the Ombudsman — one that all members have an interest in; one in fact that the President, as the Presiding Officer in this chamber, also has an interest in — and as I have indicated, the government will reflect on that finding and respond in due course.

## Electorate office staff

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — My question is again to the Deputy Leader of the Government. In relation to the government's embarrassing defeat in the Supreme Court last week, did the solicitor-general advise the government not to pursue that matter, and if so, why did the government ignore that advice?

**Ms PULFORD** (Minister for Agriculture) — I thank Mr Rich-Phillips for his question. I will provide Mr Rich-Phillips with a response on notice.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for her response. In February the Leader of the Government advised the house that in relation to advice from the solicitor-general:

> … the government has great confidence in the reliability of that advice and the professional acumen of that advice.

Does the government continue to have confidence in the solicitor-general?

**Ms Mikakos** — On a point of order, President, I draw your attention to standing order 8.02(2)(a) and also (b). The member has sought from the minister a confirmation around legal advice that may or may not have been provided to the government and also is seeking from the minister an expression of an opinion, and on both of those grounds both the substantive question and the supplementary question are in fact out of order.

**Mr Rich-Phillips** — On the point of order, President, the standing order that the minister has referred to in fact says a member should not seek a legal opinion. It does not say a member cannot ask questions about legal advice. The minister has taken the substantive question on notice, which was whether the government disregarded the advice of the solicitor-general. Given the nature of that substantive question, the supplementary, asking whether the government continues to have confidence in the solicitor-general, which was the position put by the Leader of the Government back in February, is apposite to the substantive question.

**The PRESIDENT** — Order! I thank Ms Mikakos for the point of order. The Clerk and I have had a discussion, and I have taken in mind what Mr Rich-Phillips indicated as well. I concur with Mr Rich-Phillips that he is not seeking a legal opinion, which is strictly what the standing order refers to in that regard. The minister has already indicated that she is prepared to go away and provide a substantive answer to the first question posed by Mr Rich-Phillips, and I think that is the key matter in terms of Ms Mikakos's point of order having already been resolved by the minister's willingness to go and provide an answer.

In regard to whether or not an opinion is sought, Ms Mikakos is right that under standing orders we do not seek to have members provide opinions or speculation on matters, but in this regard the confidence of an officer of the Parliament or an officer of the government is a matter which I think does present an opportunity for the government to express a comment on. In that context, I think that the minister is able to deal with this matter.

**Ms PULFORD** (Minister for Agriculture) — Mr Rich-Phillips in his supplementary question asked me to comment or express a further opinion on advice provided to the house on behalf of the government by the Leader of the Government, who members will notice is not here. I will provide Mr Rich-Phillips with that response in writing.

## Electorate office staff

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — My question is again to the Deputy Leader of the Government. What was the total cost of the government's failed Supreme Court action to stop the Ombudsman investigating the Labor staffing rorts matter?

**Ms PULFORD** (Minister for Agriculture) — I will seek a written response for Mr Rich-Phillips on that question.

*Supplementary question*

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for that response. Given the only possible beneficiary of the government's botched effort to nobble the Ombudsman was the Labor Party, will the government now seek to recover the cost of that action from the ALP?

**Ms PULFORD** (Minister for Agriculture) — As I have indicated in response to earlier questions, this is a very important question on the relationship between the Ombudsman and the Parliament. I will seek a written response from the responsible minister.

## Sheep and goat electronic identification

**Ms BATH** (Eastern Victoria) — My question is to the Minister for Agriculture. Before the 2014 election Labor's shadow minister for agriculture, Jacinta Allan, said:

> Labor won't be introducing the mandatory electronic tagging of sheep until there is a nationally consistent approach that is affordable for farmers and well supported by industry.

Minister, last week you announced the Andrews government would begin mandatory electronic identification (EID) for sheep and goats from January next year, despite there being no nationally consistent approach. Can you explain your 180-degree backflip on Labor's pre-election commitment?

**Ms PULFORD** (Minister for Agriculture) — I thank Ms Bath for her interest in this matter. I note Ms Bath is attending a briefing on this question that has been organised for members of the opposition at 4 o'clock this afternoon, where all of her questions will be answered. I will provide Ms Bath with a written response to this question, but Ms Bath makes a number of assertions in asking her question that are factually incorrect.

*Supplementary question*

**Ms BATH** (Eastern Victoria) — I do look forward to the response. Minister, considering the cross-border trade implications of your go-it-alone EID plan, what advice have you received as to the additional costs it will force onto our sheep and goat industries?

**Ms PULFORD** (Minister for Agriculture) — I thank Ms Bath for her question. I look forward to providing her with a written response to all of these matters. In the meantime she might like to have a look at the Agriculture Victoria website, where there are pages and pages of information available for people to see on this critically important reform.

## Victorian Multicultural Commission

**Mrs PEULICH** (South Eastern Metropolitan) — My question is to the Deputy Leader of the Government for the Minister for Multicultural Affairs. I ask: can you assure the house that the Victorian Multicultural Commission will retain its independent status and power as a statutory authority, as set out in law, despite losing its staff and its control over grant allocation following the Victorian government's latest reforms, merging the community resilience unit, the Office of Multicultural Affairs and Citizenship and the office of the Victorian Multicultural Commission?

**Ms PULFORD** (Minister for Agriculture) — It is not me; it is Gavin.

**The PRESIDENT** — Order! The member has directed it to the minister at this point.

**Ms PULFORD** — I thank the member for her question for Mr Jennings, who is not here. I will seek a response.

*Supplementary question*

**Mrs PEULICH** (South Eastern Metropolitan) — I do have a supplementary question, but my concern is that the responses that were promised to this chamber appear not to be forthcoming. I think that is a most serious example of the contempt that the government holds this chamber in.

*Honourable members interjecting.*

**Mrs PEULICH** — Put your L-plate on! You just like to bully women, don't you? You are a big bullyboy!

I will give a notice of motion after question time on this particular topic. My supplementary question is: will the Victorian Multicultural Commission chair retain the power to call and convene meetings without ministerial or departmental preapproval?

**Ms PULFORD** (Minister for Agriculture) — I will pass on Mrs Peulich's question and interest in this matter to Mr Jennings.

## Workplace bullying

**Ms CROZIER** (Southern Metropolitan) — My question is to the Minister for Families and Children, who represents the Minister for Women. I refer the minister to the appalling record of her government when it comes to the treatment of women in senior positions and in particular the latest move from within the Labor caucus to force former minister Jane Garrett to resign from Parliament. My question to the minister is: does the minister condemn what appears to be a concerted campaign of bullying and intimidation against women within the Andrews government?

**Ms Mikakos** — On a point of order, President, I again refer you to the standing orders in relation to the member posing arguments in her question and also in

terms of her seeking an opinion, which actually does not relate to a portfolio responsibility.

**The PRESIDENT** — Order! I have had a look at the question. The question is fine. The question is: does the minister condemn it? The question does not seek an opinion as such. It asks the member whether that sort of behaviour would be tolerable.

**Ms MIKAKOS** (Minister for Families and Children) — I find it interesting that the member has asked a question in relation to our government's position in relation to women. The member is sitting next to her leader, who is only in this house because of the way the Liberal Party treated her during the Kew preselection. Tell us about the Kew preselection, Ms Wooldridge.

**Mr Finn** interjected.

**The PRESIDENT** — Order! Mr Finn, that was a barrage and it was unnecessary.

**Ms MIKAKOS** — I find it interesting that the member has selective amnesia when Ms Wooldridge, sitting next to her, can remind her about the shoddy treatment that she received because of her pro-choice views.

**The PRESIDENT** — Order! The minister knows that it is not permissible under our standing orders and the way we conduct this house to refer to matters of the opposition and to relate to those sorts of internal party matters. They are irrelevant as far as the question that has been asked today.

**Ms MIKAKOS** — This government is very proud of its position when it comes to women. We have a cabinet which has more than double the number of women ministers compared to that of the shadow cabinet.

**Mr Finn** interjected.

**Questions interrupted.**

## SUSPENSION OF MEMBER

### Mr Finn

**The PRESIDENT** — Order! It is a real problem, because when I had our United States guests at lunch I was telling them the difference between our house and the other house and about the fact that the Speaker has this trigger finger when it comes to sending members out of the house and that I do not have to do that very often — very, very seldom. On this occasion, Mr Finn, unfortunately, I am embarrassed to say: take half an hour, please.

**Mr Finn withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE

### Workplace bullying

**Questions resumed.**

**Ms MIKAKOS** (Minister for Families and Children) — I am very proud of the fact that I am a member of a government that commenced Australia's first Royal Commission into Family Violence and that we have a lot of work underway to implement all of those 227 recommendations that go right across government when it comes to the issue of family violence. I remind the member opposite that she as the shadow minister and her leader are yet to commit to implementing each and every one of those recommendations. One hundred and fifty-three days after that important report was received by this Parliament we still do not have a bipartisan position when it comes to the most important issue facing women in this state and in this nation, and that is the scourge that is family violence. The hypocrisy of the opposition when it comes to this issue is very telling, because we are — —

**The PRESIDENT** — Order! I thank the minister.

*Supplementary question*

**Ms CROZIER** (Southern Metropolitan) — My supplementary question to the minister is: Minister, if evidence is produced that bullying and intimidation have occurred, would you refer the actions to the Victorian Equal Opportunity and Human Rights Commission for investigation?

**Ms MIKAKOS** (Minister for Families and Children) — We have the member again coming here trying to cast aspersions. If she has any evidence, she should produce that, but she does not. The opposition just go and throw mud and engage in muckraking. We are a government that is absolutely committed to improving the position of women and children in this state. This is why we are getting on with implementing the recommendations of the family violence royal commission. Ms Crozier, you are yet to commit to doing the same, so you have absolutely zero credibility when it comes to the issue of family violence. Both you and Ms Wooldridge questioned the value of that royal commission, I remind you, at the time. You said it would be a lawyers picnic. You were saying it was a waste of time and money. We got on with it. We

conducted this royal commission, and now we are getting on with implementing those recommendations.

## National disability insurance scheme

**Dr CARLING-JENKINS** (Western Metropolitan) — My question is for the minister representing the Minister for Housing, Disability and Ageing, Minister Mikakos. Minister, I note that the government recently funded the Young People in Nursing Homes alliance to examine the issue of young people in nursing homes in the north-east Melbourne site where the national disability insurance scheme (NDIS), as you would know, is currently being rolled out, and I applaud this. However, this funding is limited. It is restricted to observing what is happening rather than resourcing work with young people in these locations.

During the Barwon trial, I am aware of 23 young people who were identified within these homes as being disconnected from the NDIS. Many were not even aware of this major reform which could impact their lives for the better until an unfunded organisation assisted them. So my question is this: as the NDIS rolls out across the state, what is the government doing in consultation with the National Disability Insurance Agency to ensure that vulnerable Victorians with a disability, such as those in nursing homes, are being made aware of the scheme and how it will benefit them?

**Ms MIKAKOS** (Minister for Families and Children) — Finally, a sensible question. I thank Dr Carling-Jenkins for that question, and I acknowledge her very strong personal commitment — her continued interest and commitment — to supporting people with disabilities. As I have explained to the house on previous occasions, I believe the rollout of the national disability insurance scheme is one of the most groundbreaking social policy reforms for our nation. To our overseas visitors, I would certainly encourage them to find out more about this whilst they have the opportunity to do so, because this is going to be groundbreaking, providing supports to people with disabilities — ongoing supports for them from a very young age right through the duration of their lives.

I am very pleased that the national disability insurance scheme is being rolled out in my electorate as part of the first wave of this rollout. But this is going to be rolled out right across our state and right across our nation, and I think it is going to have a profound impact in terms of the supports and the services that people with disabilities have long deserved and long expected in this nation. I am very excited by this. I think it is going to be a groundbreaking reform.

As Dr Carling-Jenkins has said, it is critically important that we do work across all tiers of government to make sure that people with disabilities, their carers, their families — their support networks — are aware of this profound reform and that we link them in with the information that they need. In terms of the specifics of the question that the member has raised, I will refer those particulars to Minister Foley as the responsible minister and seek to provide a written answer to the member with further details about that, but I know that Minister Foley is working very closely through his department with the National Disability Insurance Agency to make sure that we can provide the best possible supports through information and of course through services to people with disabilities as this particular reform is being rolled out.

## South West Healthcare

**Mr PURCELL** (Western Victoria) — My question is also to the Minister for Families and Children, representing the Minister for Health. South West Healthcare in Warrnambool is a key medical provider in south-west Victoria. It has a catchment area of over 110 000 people and saw 20 000 emergency department patients in 2014–15. However, the ongoing expansion of South West Healthcare has stalled, and the hospital needs funding to complete improvements to vital operating theatre capacity and to upgrade and expand the emergency department. Regional families also deserve to have access to the best emergency and operating theatre facilities, and we all deserve regional hospitals that are equipped with sufficient capacity to provide the best in medical treatment. I therefore ask the minister: is there a commitment from this government to provide the best quality medical facilities for locals and visitors to regional Victoria, including south-west Victoria?

**Ms MIKAKOS** (Minister for Families and Children) — I thank Mr Purcell for what is another very good and sensible question on behalf of his constituents.

**Ms Shing** interjected.

**Ms MIKAKOS** — Absolutely. Ms Shing is absolutely right. We are getting some very good questions from the crossbench here — which sadly was lacking from members of the opposition earlier — because we have got members here who are seeking to promote the best interests of their constituents through their questions. Can I acknowledge that I am aware that

Mr Purcell has actually been doing a great deal of advocacy around the health needs of his electorate, and I acknowledge his interest in that respect.

In relation to the specific issues around South West Healthcare, I will refer the details of that to the Minister for Health, who is the responsible minister, and seek to provide the member with a written answer. But I can assure him that our government is absolutely committed to providing better health care to Victorians right across the state through the additional $1.3 billion of funding in our first budget and a further $1.63 billion in our second budget, including Australia's largest ever one-off elective surgery boost. This stands in stark contrast to what was the record of the previous government. We have also seen massive cuts through healthcare funding from the commonwealth government, which is very alarming. We are a government that is governing for the whole of the state, and that includes our regions and making sure that regional Victorians have their healthcare needs addressed as well. I look forward to referring this specific question to the minister and providing a written response to the member.

### Solar energy

**Mr BARBER** (Northern Metropolitan) — My question is directed to the Deputy Leader of the Government as the minister representing the minister representing the Minister for Energy, Environment and Climate Change. Minister, due to your government's failure to legislate the decision-making criteria under the Electricity Industry Act 2000 as it relates to payments to solar panel-owning homes and businesses and the electricity that they feed back into the grid, and due to the fact that the decision on next year's terms is due imminently, is this going to be the third year in a row in which under your government solar homes and businesses experience a cut to the payments made for the excess solar electricity that they feed into the grid?

**Ms Tierney** interjected.

**Ms PULFORD** (Minister for Agriculture) — I thank Mr Barber for his question, and I cannot help but note an interjection in my ear from Ms Tierney, who is very, very interested and I am sure would like us all to be able to talk about the government's decision on fracking earlier today, but that was not the question. In any event, Mr Barber is asking a question of a minister represented in this place by Mr Jennings. I will pass on Mr Barber's question and seek a response.

*Supplementary question*

**Mr BARBER** (Northern Metropolitan) — Minister, what do you say to the approximately 80 000 homes and businesses that are currently on a 25 cent or one-for-one feed-in tariff and that will be experiencing an increase in their power bills over the coming 12 months in the hundreds of dollars quite likely as a result of your government's failure to act?

**Ms PULFORD** (Minister for Agriculture) — Mr Barber asked what I say to them, but I think I might take that as an invitation to seek a response from the responsible minister, and I will do so.

## QUESTIONS ON NOTICE

### Answers

**Ms PULFORD** (Minister for Agriculture) — I have written answers to the following questions on notice: 1227, 4796, 4860, 4893, 5030, 5042, 5297, 5320, 5344–5, 5355–6, 5359, 5369–76, 5428–45, 5475, 5483, 5731, 5840–1, 6268–87, 6289–91, 6295–6, 6300–13, 6650.

## QUESTIONS WITHOUT NOTICE

### Written responses

**The PRESIDENT** — Order! In respect of today's questions, for Mr Rich-Phillips's second question to Ms Pulford, which includes both the substantive and the supplementary question, we seek a written response in two days; Mr Rich-Phillips's third question to Ms Pulford, again the substantive and the supplementary question, again in two days; Ms Bath's question to Ms Pulford, the substantive and the supplementary question, in one day; Mrs Peulich's question to Ms Pulford, both the substantive and supplementary question, in two days; Dr Carling-Jenkins's substantive question to Ms Mikakos, in two days; Mr Purcell's question to Ms Mikakos, again the substantive question only, in two days; and Mr Barber's question to Ms Pulford, the substantive and the supplementary question, in two days.

**Mr Ondarchie** — President, I raise a point of order in relation to a written response to a question without notice that I posed to the Minister for Small Business, Innovation and Trade on 18 August. My substantive question went to his $30 000 travel report and asked him if it was a full and accurate report. His response was, 'Yes, it was'. My supplementary question went to the fact that he attended some hospitality courtesy of

Melbourne City Football Club and Manchester City Football Club. In his substantive response he responded that he did in fact attend that game. So it is either one or the other — he has either deliberately or clumsily misled the house. Either it is a full report or it is not a full report, and I ask you to reinstate it or deal with it accordingly.

**Mr Dalidakis** interjected.

**Mr Ondarchie** — On the point of order, President, if I could pick that up, by way of explanation he gave me a one-word answer to my substantive question on whether there was a full and accurate report. He said, 'Yes', and then in his supplementary he said, 'Actually, I did attend' — so it either is or it is not. He is either deliberately or clumsily misleading the house.

**The PRESIDENT** — Order! The minister has answered both questions. It might not be to the satisfaction of the member, and indeed the member might find that there is a contradiction in the two answers. It is not for me to tell the minister how he is going to answer that question, and I think the member has other mechanisms to take up as a member. I do not intend to reinstate. The minister has provided his answers.

I might take this opportunity, however, to indicate that Ms Wooldridge has raised with me also question on notice 5297, which was to ask the Minister for Families and Children, representing the Minister for Health as the lead minister for the Department of Health and Human Services (DHHS), in relation to the DHHS 2014–15 annual report, page 182, note 5(e), which shows an ex gratia payment of $1.5 million: 'What does the ex gratia expense relate to?'. To date she has yet to receive a response to that question. Does the minister know the progress of that answer?

**Ms Mikakos** — President, I thank you. I will refer the relevant question on notice to the Minister for Health and seek a response as to the progress of that response.

## CONSTITUENCY QUESTIONS

### Northern Victoria Region

**Ms LOVELL** (Northern Victoria) — My question is for the Minister for Health, and it is regarding drug-affected patients accessing emergency department (ED) services at Goulburn Valley Health.

I was recently contacted by a constituent who told me that while accompanying an unwell family member to the ED he overheard a conversation outside the treatment cubicle between two nurses who were discussing how to get a patient who they believed was drug affected into the treatment area without issue. The patient was ultimately put in a treatment area adjoining my constituent's, and the two areas were only separated by a sheet, which caused unnecessary distress to my constituent and his family member during what was already a stressful time for them.

It is not always appropriate for drug-affected people to access the emergency department in this way as it might put other patients or staff at risk. A solution that ensures the safety of all patients and staff needs to be provided. My question of the minister is: will she ensure the provision of a separate area for the treatment of drug-affected patients, including additional funding if necessary, as part of the hospital redevelopment?

### Northern Metropolitan Region

**Ms PATTEN** (Northern Metropolitan) — Two weeks ago I visited the Brunswick Temple Brewing Company, an excellent establishment with great food and delicious beers. The brewery is energy efficient, reclaims wastewater from the brewing process and sends organic waste to farms. I was really impressed with owner Nicholas Pang's dedication and commitment to his craft.

The microbrewers of Victoria and northern metro are a growing and popular small business sector with locals and tourists alike, but they are being done over by an unfair tax and tariff. They pay far more tax and have a far lower tax threshold than any other business making alcoholic beverages, such as small wineries and small distilleries. What is the government doing to improve the lot of microbreweries in Melbourne in order to best support these small but essential businesses?

### Eastern Victoria Region

**Mr MULINO** (Eastern Victoria) — My constituency question is for the Minister for Roads and Road Safety in the other place, and it relates to the Monash upgrade, a project that will create hundreds of jobs and, just as importantly, increase the capacity of a major arterial network at peak time. The project will stretch along a great length of that road, but it will include the expansion of the road from two to three lanes up to Clyde Road, Berwick, which is in my electorate. Of course it will benefit many people in my electorate in terms of their access to the eastern suburbs and also the city.

I ask the minister to provide an update in relation to the completion of this project and also to spell out some of

the benefits of the project, in particular those arising from the use of smart technology.

**The PRESIDENT** — Order! That just scrapes in.

## Western Victoria Region

**Mr MORRIS** (Western Victoria) — My constituency question is directed to the Minister for Roads and Road Safety, and it is in relation to the Buninyong pedestrian crossing. At the election the member for Buninyong in the other place, Mr Geoff Howard, made a commitment of $350 000 to install a pedestrian crossing on Warrenheip Street, Buninyong. I have met with the residents of Buninyong, and I must say they are a fabulous community and very consultative, which is in stark contrast to their local member, Mr Howard, who seems hell-bent on steamrolling the local community. Concerns have been raised that the local community consultation process was designed to deliver the outcome that Mr Howard wished. I ask: will the minister rule out the installation of both a fully signalised and a yellow flashing lights pedestrian crossing and actually listen to the community instead of dictating to them?

## Western Metropolitan Region

**Mr MELHEM** (Western Metropolitan) — My question is for the Minister for Multicultural Affairs, and it relates to the numerous multicultural groups in my electorate of Western Metropolitan Region that carry out an enormous number of activities as well as providing much-needed services to the multicultural communities in the area. They also organise many festivals that are enjoyed by countless members of the broader community in the area. Many of these groups have applied for funding under the various categories for which funding is available. Could the minister advise me as to when the funding will be announced so that the much-needed funds are available to these groups in my electorate as soon as possible? Should we expect that all the different categories of funds will be announced at the same time?

**The PRESIDENT** — Order! I might just return to Mr Morris's question and simply warn members that, whilst he posed a question, there was also an editorial remark that followed the question. That is not part of what we expect in a constituency question.

## Western Victoria Region

**Mr RAMSAY** (Western Victoria) — My constituency question is for the Minister for Police, the Honourable Lisa Neville. The question I ask is: why, after many attempts by the Drysdale Neighbourhood Watch to obtain funding for CCTV, have their applications — and there have been numerous applications — been denied? The minister was more than happy to provide a quarter of a million dollars to St Kilda's penguin colony to provide CCTV but is unable to commit to Drysdale's request for CCTV. The crime rate has gone up. Police stations are closed in Portarlington, Drysdale and Queenscliff, yet the community has been suffering home invasions, carjackings and an increase in crime, drug problems and the like, so there is a definite need for CCTV. The question I pose again to Ms Neville is: why are applications through the City of Greater Geelong for much-needed CCTV continually being denied?

## Eastern Victoria Region

**Mr O'DONOHUE** (Eastern Victoria) — I raise a matter for the attention of the Minister for Police as well, concerning reports of another Molotov cocktail attack at the Pakenham police station. I understand there was also an incident last week where some damage was caused to the Pakenham police station. I also understand some work has been done regarding security infrastructure upgrades. The constituency question I have for the minister is: will she ensure that Victoria Police have the necessary resources to enable the security upgrade that is obviously required following these attacks at the Pakenham police station to be completed as soon as possible? The Pakenham police do a fantastic job. The members there work extremely hard, but regrettably it is an area of growing and increasing crime and it is important that the station is safe and secure for the benefit and safety of the hardworking men and women of the Pakenham police.

## Southern Metropolitan Region

**Mr DAVIS** (Southern Metropolitan) — My constituency question today is for the attention of the Minister for Public Transport, and it concerns the sky rail between Caulfield and Dandenong, taking in areas of Murrumbeena, Carnegie, Noble Park and Hughesdale. The chamber is familiar with this project and the many concerns. Hundreds of trees have been torn out along this corridor. Heritage stations are today being torn down as part of this process, without proper heritage protection or proper heritage processes. The minister was out in the area on the weekend, saying that construction will commence this week. That is despite a complete failure of community consultation. What I am seeking today is for the minister to pause, to go back and to wait with this project. I am seeking for her to indicate that she is prepared to pause. I am asking for that pause before even further damage is done and

before this project proceeds. Nobody voted for this sky rail. The community wanted rail under road.

## MINISTERS STATEMENTS

### Victorian Young Achiever Awards

**Ms MIKAKOS** (Minister for Youth Affairs) — I rise to inform the house that this morning I had the pleasure of opening the nominations for the 2017 Victorian Young Achiever Awards. For the launch I was joined at Nova 100's studios by some of the impressive and inspiring winners of this year's awards. They are a perfect example of the breadth of talent and leadership of our young Victorians.

The Andrews Labor government is a proud supporter of the Victorian Young Achiever Awards, which acknowledge and celebrate the achievements of young Victorians up to 29 years of age. We support these awards so as to recognise the positive impact and leadership young people contribute to our state. We are a proud sponsor of the Victorian Government Group Achievement in the Community Award, one of eight sponsored categories in 2017. This award recognises young people who have worked together to provide a service, program or project for other young people that has resulted in positive, youth-led changes in a local community.

As patron of the Victorian Young Achiever Awards and as the Minister for Youth Affairs, I believe that all young people need to be given the freedom and opportunity to express themselves. The Victorian Young Achiever Awards encourage young Victorians to engage with community, business and government. With opportunity, young people can lead the way in helping shape a fairer, more tolerant, more sustainable and more productive Victoria.

Our government is proud to support all Victorian young people to make their voices heard and to contribute to their community through our new youth policy, *Building Stronger Youth Engagement in Victoria*. As a government we are listening to the needs of young Victorians, and I am excited to see the inspiring projects that Victorian young people are creating. It is disappointing that the federal government, which removed even having a youth affairs minister, still refuses to restore its cuts to National Youth Week and the Australian Youth Affairs Council.

I advise members that nominations for the Victorian Young Achiever Awards close on 1 December. More information is available on the Youth Central website.

### Sheep and goat electronic identification

**Ms PULFORD** (Minister for Agriculture) — Last week I made an announcement that represents a significant reform for Victoria's livestock industries, and it is in relation to the mandatory electronic tagging of sheep and goats from 1 January 2017. It was Victoria that led this reform for cattle in 2002 and it is Victoria that is leading this reform again in 2017.

This is not a decision that I have taken lightly, but in the time that I have had responsibility for the agriculture portfolio I have spoken to many, many farmers about their views on this matter. I have received a report from the Victorian Auditor-General's Office that talks about the deficiencies in our current system. I have received the unanimous recommendation of the Sheep and Goats Identification Advisory Committee, and we have some very recent additional information from a Sheepcatcher II study.

The government is committed to working very closely with people across affected parts of the supply chain on this reform for a number of reasons. This will be critically important for boosting our biosecurity. This will be of great interest and importance to our overseas trading partners and those all-important export markets, where information about provenance is at an increasingly high demand. It will also provide for many of our farmers, who wish to explore this, opportunities to make their businesses more profitable and more productive.

Over the next four weeks I am consulting on draft business rules for the operation of the new regime. It will be a five-year transition. I am also consulting on a transition support package — a funding package that will enable this transition to be made in a way that will be at neutral cost for farmers. I can see Mr Ramsay waving his scanner in his hand over there. Scanners and all manner of things will be part of it, but I would encourage all members to engage with people in the community who are interested in this matter and to encourage everyone to have their say through that consultation so that we can hear from industry before we put the finishing touches on this important reform.

### Early childhood education

**Ms MIKAKOS** (Minister for Families and Children) — I rise to update the house on the measures the Andrews Labor government is taking to boost the numeracy skills of young children in Victoria. Last week I launched the Let's Count numeracy program to help early childhood educators better engage children in activities such as counting, measuring, identifying

patterns and increasing spatial awareness. This program was developed by the Smith Family, and in 2015 a longitudinal study showed that the program dramatically improved children's maths skills in children aged three to five.

We know that skills in science, technology, engineering and mathematics — also known as the STEM subjects — are vital for the future success of our children and our nation. By helping them develop these skills, we are creating a more positive attitude towards maths before they begin primary school. We are supporting the delivery of the Let's Count program to around 500 educators in funded kindergarten programs across the state over three years. Approximately 5500 families and 14 250 children will benefit from the program in Victoria.

Last week I had the pleasure of visiting Frankston Preschool together with the local Assembly member, Paul Edbrooke, to announce that across the state 121 educators are in the first cohort to participate in this program. The first phase of the rollout will benefit children from areas such as Frankston, Morwell, Broadmeadows, Sunshine, Dandenong, Wodonga and Shepparton.

## PETITIONS

**Following petitions presented to house:**

### Christmas carols in schools

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that the government has imposed a ban on singing traditional Christmas carols in Victorian government schools.

The petitioners therefore request that the Legislative Council of Victoria ensure that the Andrews government reverses this decision and allows students attending government schools to sing traditional Christmas carols.

**By Ms LOVELL (Northern Victoria) (16 signatures).**

**Laid on table.**

### Country Fire Authority enterprise bargaining agreement

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that Premier Daniel Andrews must not hand control of the Country Fire Authority (CFA) to the United Firefighters Union (UFU).

The petitioners therefore request that the Legislative Council of Victoria ensure that the Andrews government reject any EBA conditions that:

A. allow the UFU to direct or impede CFA activities;

B. undermine the autonomy of CFA volunteer firefighters;

C. impact upon the rights of CFA volunteer firefighters (including through the volunteers charter);

D. lead to a reduction in surge capacity of the CFA to respond to major events.

**By Ms LOVELL (Northern Victoria) (313 signatures).**

**Laid on table.**

**Ordered to be considered next day on motion of Ms LOVELL (Northern Victoria).**

### Goulburn-Murray irrigation district

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the need for a thorough review of the ownership and trading of water and a permanent ban on water being traded out of the Goulburn-Murray irrigation district (GMID).

The petitioners therefore request that the Legislative Council of Victoria ensure that the Andrews government ban any further water being traded out of the GMID and conduct a thorough review of ownership and trading that includes:

A. reviewing carryover rules to only allow carryover for those who use the water for productive use;

B. establishes more equitable sharing of the cost of water delivery by requiring speculators to contribute to the delivery of water and maintenance of the system;

C. establishes a public register of water ownership;

D. establishes regulation of water brokers to provide for better transparency in the trading of water;

E. allows more flexibility for the environmental water holder to sell water on the temporary market without the requirement to purchase further water.

**By Ms LOVELL (Northern Victoria) (549 signatures).**

**Laid on table.**

**Ordered to be considered next day on motion of Ms LOVELL (Northern Victoria).**

## Ormond railway station

To the Honourable the President and members of the Legislative Council assembled in Parliament:

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 above 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 overdevelopments 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 demand the Andrews Labor government 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 Mr DAVIS (Southern Metropolitan) (41 signatures).**

**Laid on table.**

## Elevated rail proposal

To the Honourable the President and members of the Legislative Council assembled in Parliament:

We, the undersigned citizens of Victoria, call on the Legislative Council of Victoria to note:

the Victorian government has announced plans to construct concrete pylon sky rails on long sections of the Dandenong–Pakenham lines as a cheaper alternative to traditional methods of delivering its level crossing removal election commitments;

that affected local communities were not properly consulted in the development of these plans, with reports that those residents most affected by the imposition of sky rail were purposefully excluded from what limited consultation actually occurred; and

that affected residents are completely opposed to the construction of sky rails along the Dandenong–Pakenham lines, with their inherent greatly increased visual impact and noise pollution and greatly reduced residential amenity and privacy.

We therefore demand the Andrews Labor government abandon its cheap and nasty sky rail plans and instead proceed with a rail-under-road solution to level crossing removals as has been so successfully implemented at Burke Road, Glen Iris.

**By Mr DAVIS (Southern Metropolitan) (92 signatures).**

**Laid on table.**

**Ordered to be considered next day on motion of Mr DAVIS (Southern Metropolitan).**

## PARTNERSHIPS VICTORIA

### Fulham Correctional Centre contract extension project

**Mr HERBERT (Minister for Corrections), by leave, presented project summary.**

**Laid on table.**

### Port Phillip Prison contract extension project

**Mr HERBERT (Minister for Corrections), by leave, presented project summary.**

**Laid on table.**

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest* No. 11

**Ms BATH (Eastern Victoria) presented *Alert Digest* No. 11 of 2016, including appendices.**

**Laid on table.**

**Ordered to be published.**

## STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

### Onshore unconventional gas in Victoria

**Ms PULFORD (Minister for Agriculture), pursuant to standing order 23.30, presented government response.**

**Laid on table.**

## PAPERS

**Laid on table by Clerk:**

Crown Land (Reserves) Act 1978 — Ministerial Order for approval in relation to Geelong Library Heritage Centre granting a lease, dated 24 August 2016.

Interpretation of Legislation Act 1984 — Notice pursuant to section 32 in relation to Variation to the State Environment Protection Policy (Ambient Air Quality).

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

Brimbank Planning Scheme — Amendment C177.

Casey Planning Scheme — Amendment C226.

Greater Dandenong Planning Scheme — Amendment C195.

Hume Planning Scheme — Amendment C198.

Mitchell Planning Scheme — Amendment C115.

Monash Planning Scheme — Amendment C126.

Northern Grampians Planning Scheme — Amendment C42.

Stonnington Planning Scheme — Amendment C237.

Surf Coast Planning Scheme — Amendment C103.

Wangaratta Planning Scheme — Amendment C63.

Whitehorse Planning Scheme — Amendment C181.

Whittlesea Planning Scheme — Amendment C56.

Wyndham Planning Scheme — Amendment C206.

Yarra Planning Scheme — Amendments C216, C217 and C222.

Statutory Rule under the Road Safety Act 1986 — No. 100.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rule No. 100.

Legislative Instrument and related documents under section 16B in respect of the Summary Offences Act 1966 — Notice of Declared Area pursuant to section 18, dated 15 July 2016.

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

Building Legislation Amendment (Consumer Protection) Act 2016 — section 5 and remaining provisions of Part 3 (except Division 10 and sections 24, 28, 37, 40, 41, 46, 52 and 71) — 1 September 2016 *(Gazette No. S261, 23 August 2016).*

Fines Reform and Infringements Acts Amendment Act 2016 — Division 1 of Part 3 — 1 September 2016 *(Gazette No. S261, 23 August 2016).*

## NOTICES OF MOTION

**Notices of motion given.**

**Mrs PEULICH having given notice of motion:**

**The PRESIDENT** — Order! I have trouble with that notice of motion because with some of it Mrs Peulich seemed to be debating, and I do not have it in writing as a motion so I am not sure where the motion started and ended. I have an idea where it started, but I am not sure where it ended.

**Mrs Peulich** — On a point of order, President, it ended with the Leader of the Government continuing to receive a salary but flouting the conventions of this chamber by refusing to answer questions on notice.

**The PRESIDENT** — Order! Those words were not even in the motion though.

**Mrs Peulich** — Could I perhaps provide the motion to you?

**The PRESIDENT** — I think it would be better if Mrs Peulich drafted it and presented it tomorrow.

**Mrs Peulich** — Does that complicate it?

**The PRESIDENT** — As I said, towards the end of it I thought Mrs Peulich was debating it. She had sort of gone into an explanation of what I would understand to be the motion that she presented. I think the problem is it was done without a written note of what that motion was. I think perhaps if Mrs Peulich has a look at *Hansard* and cobbles together a written motion that is tight, it will achieve what she wants.

**Mrs Peulich** — Thank you, President, for your advice. I certainly will do that. However, I did want the house to note the contempt that is demonstrated by the Leader of the Government by refusing to answer questions without notice and supplementary questions under your framework.

**The PRESIDENT** — I understand that, and I think to some extent Mrs Peulich has had a go at that and has got that across, but as I said, we do need these motions in the correct form. I think when Mrs Peulich looks at *Hansard* she will find that it went off the page a bit.

**Further notices of motion given.**

**Ms WOOLDRIDGE having given notice of motion:**

**Mr Dalidakis** — On a point of order, President, the Premier has gone to great lengths to publicly deny this allegation, including citing the tragic passing of his own father from cancer. For the Leader of the Opposition in this place to try to somehow smear the Premier with these baseless allegations, which he has denied both on the record and through written form, is I think appalling.

**The PRESIDENT** — Order! I am not sure what point of order you are referring to. Which part of the standing orders was that under?

**Mr Dalidakis** — With great appreciation for the point that you are making, President, with great effort on your own part you have attempted for this Parliament to try and raise the tone. Using this form of Parliament to attack a member of the other house is something that is somehow demeaning to this place.

*Honourable members interjecting.*

**Mr Finn** — On the point of order, President, Mr Dalidakis, I think, was making a point of order. Clearly he was not making a point of order, because in fact he was debating the motion that Ms Wooldridge had given notice of. He is getting way ahead of himself, and I submit to you most respectfully that there is no point of order at this time.

**The PRESIDENT** — Order! There is no point of order. I do take on board Mr Dalidakis's comment, and I think we do need to be careful when we embark on this type of motion, particularly when there are contradictory positions in the public arena as to what may or may not have been said. But certainly in the context of our standing orders this is an appropriate motion for a member to bring and certainly not one that I am in a position to rule out or modify. The motion has been properly put in accordance with our standing orders.

**Ms Lovell** — On a point of order, President, I waited until that point of order had concluded until I raised this one. During the debate on that point of order Ms Symes actually called the opposition a name that was very unparliamentary and derogatory. I ask her to withdraw.

**The PRESIDENT** — Order! My difficulty is that I did not hear Ms Symes's comment. I ask Ms Symes if she is prepared to withdraw it.

**Ms Symes** — On the point of order, President, I am not going to repeat what I said. Ms Lovell did hear what I said. I am very upset with the fact that we are going to be subjecting a parliamentary colleague tomorrow to a debate that she does not need to be subjected to.

*Honourable members interjecting.*

**Ms Symes** — Can I explain?

**The PRESIDENT** — Order! No. When I seek a withdrawal I really need you to withdraw rather than to enter into a debate of even why you might have made a comment.

**Ms Symes** — I withdraw.

**The PRESIDENT** — Order! On a cheerier note, I wish to advise the house that Mr Young of the Shooters and Fishers Party is not with us today, the reason being — and it is quite a good reason, really — that yesterday his wife, Carly, gave birth to a daughter, Charlotte. As I understand it, all are well, including Mr Young, who obviously would have had considerable exertion and stress et cetera associated with this, as all we mere males do. We extend our congratulations to Mr Young and his family on the safe arrival of Charlotte.

## 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, 31 August 2016:

(1) notice of motion given this day by Ms Wooldridge relating to a joint sitting to fill the vacancy in the Legislative Council;

(2) notice of motion given this day by Mr Davis relating to the local government regulations;

(3) order of the day 3, resumption of debate of the Environment Protection Amendment (Banning Plastic Bags, Packaging and Microbeads) Bill 2016;

(4) order of the day 2, resumption of debate of the Crimes Amendment (Carjacking) Bill 2016;

(5) notice of motion 296, standing in the name of Ms Wooldridge, relating to amendments to sessional orders;

(6) notice of motion given this day by Mr O'Donohue in relation to a committee reference on fuel pricing in regional and rural Victoria; and

(7) notice of motion given this day by Ms Wooldridge relating to the Premier's reported comments on bowel cancer.

**Motion agreed to.**

## MEMBERS STATEMENTS

### Leader of the Government

**Ms WOOLDRIDGE** (Eastern Metropolitan) — I rise to provide the house with an update on the suspension of the Leader of the Government. The Legislative Council has broad powers to order the government to produce documents. If the government wants to withhold documents by claiming executive privilege, our standing orders require withheld

documents to be sent to an independent arbiter for assessment. This process was agreed by all parties in the last Parliament.

Prior to the Leader of the Government's suspension from the house and since, the independent arbiter process has been available to the Andrews government to adopt, but they have refused to use it. Discussions have been underway to refine the arbiter model to ensure the release of documents, excluding those that are genuine cabinet in confidence and where it is not considered to be in the public interest. The Leader of the Government, Mr Rich-Phillips and I made good progress over the winter recess. However, the Leader of the Government has hit a roadblock within his own party, and it appears he does not have the backing of his colleagues to either release the documents or submit them to the process outlined in the standing orders or to refine the process.

The coalition has consistently said that the new agreed process for the provision and assessment of documents would enable us to lift the suspension on Mr Jennings, allowing him to return to the chamber. Getting the documents has always been our objective, and the up-to-six-month suspension was to create a significant incentive for the Labor Party to do so. I encourage Labor to engage in the negotiations to resolve the new arbiter process that they broke off three weeks ago.

## Employment

**Ms TIERNEY** (Western Victoria) — The Andrews Labor government is leading the way to create job opportunities and drive economic growth across regional Victoria. Before the 2014 state election Labor committed to creating 100 000 full-time jobs in the first two years of government, and we are on track to deliver that commitment and deliver it ahead of time.

Data released in July by the Australian Bureau of Statistics shows that jobs growth is booming in regional Victoria, where the three-month average unemployment rate has dropped from 6.7 per cent in March to 5.6 per cent in June. Employment growth has been particularly good in the Geelong and north-west Victoria regions, with 9500 people and 4700 people employed respectively. The unemployment rate in the Geelong region, which includes the Surf Coast and Lara, was 5 per cent below the national and state average. In June 2016 employment in Warrnambool and the south-west region had increased by 900 persons compared to the same time last year.

We have created more jobs in the 18 months since we came to power than the Liberal government managed to achieve in its entire term of government. The Andrews Labor government is focused on jobs and investment in regional Victoria as well as the strong financial management of Victoria. The Andrews Labor government is also creating the right environment for employment growth right across regional Victoria and the entire state — a significant point of difference from the previous Liberal-Nationals government.

## Firefighters

**Ms HARTLAND** (Western Metropolitan) — Twenty-five years ago, on 21 and 22 August, Coode Island exploded. This was a major storage facility that held substantial amounts of flammable, toxic and carcinogenic materials. At the time I lived just 1 kilometre away from the site, and I was the spokesperson for the Hazardous Materials Action Group, a community group that had campaigned for many years against having such a dangerous site so close to our homes.

Last week I was sent a photo of the fire, and it reminded me just how dangerous that day was. In particular the photo was of a firefighter standing on top of a tank directing other firefighters as to where to apply water and foam. The photo took me back to that day and reminded me of the fear that this fire caused not only in me but in my community. Thank goodness we had firefighters that day who were prepared to put their lives on the line for our community. Firefighters — career and volunteer — need to be respected rather than being demonised, as they have been over the last 12 months by the Liberal and National parties, and used as political footballs. They need respect. They do an amazing job, but I do not see any respect from the opposition for those firefighters.

## Deer control

**Mr BOURMAN** (Eastern Victoria) — Last Wednesday I went out to Wilsons Promontory National Park to see what happens during the cull of an introduced species. The cull was run by Parks Victoria, with the assistance of the Game Management Authority (GMA), the Australia Deer Association, the Sporting Shooters Association of Australia and possibly others that I have missed. The Prom was shut down for a few days whilst other maintenance was conducted, meaning that any hotspots could be targeted to reduce the number of deer. The deer were culled and collected, but they were not just put in a hole. The GMA and a university student took a large amount of data and samples from the deer, which may prove invaluable in future efforts to keep the numbers of deer under control.

The whole operation was performed in an extremely professional manner. Seeing the way that government agencies can interact with volunteers from the associations proves that culls using volunteers are a real asset to the state. Safety was the primary concern, as was proven during the mandatory briefings, when everyone was instructed not to shoot if there was any doubt about absolute safety when taking the shot. The whole operation was a credit to everyone involved. The volunteers from the associations performed in a very professional manner, as usual. I have been critical of Parks Victoria before, but this operation was not something I can be critical of. Parks Victoria staff and other staff were all a credit to their organisations.

## Firefighting aircraft

**Mr MORRIS** (Western Victoria) — I rise to raise an issue which is an incredibly important one in all of Western Victoria Region, and that is the relocation of the air crane from the Ballarat airport to the airport in Moorabbin, where it appears that that particular aircraft is going to be fighting fires on Port Phillip Bay and sand-belt golf courses. This disgraceful move by the Andrews government is effectively going to leave exposed the whole of western Victoria.

Western Victoria Region, as we well know, is a large region of 79 000 square kilometres and 480 000 electors, which Mr Andrews appears clearly to not care about at all. The member for Ripon in the other place, Ms Louise Staley, has been a strong advocate for ensuring that this air crane does remain at the Ballarat airport. She certainly understands, unlike this government, the importance of ensuring that the Country Fire Authority (CFA) has the appropriate equipment to ensure that western Victoria remains safe. I have certainly been contacted, as has Ms Staley, by CFA members who are aghast at this decision and the fact that it is going to leave the whole of western Victoria exposed to the upcoming fire season. So it is very clear what needs to happen: Daniel Andrews and Labor need to change their decision and the air crane needs to remain at the Ballarat airport.

## The Dreamers photographic exhibition

**Mr ELASMAR** (Northern Metropolitan) — On Wednesday, 17 August, it was my pleasure to attend in Queen's Hall, along with many parliamentarians, a special art exhibition comprising portraits of people who are experiencing life-threatening illnesses. The event was hosted by the state's Minister for Health, the Honourable Jill Hennessy, and was well attended. The photographs were truly uplifting and generated warmth and a zest for life. The pictures' subjects reflected their desire to live life to the fullest extent, regardless of tragic personal circumstances. I congratulate the organisers of the exhibition for highlighting in a positive way these wonderful people and their courage and tenacity in the face of adversity.

## Darebin community organisations

**Mr ELASMAR** — On Friday, 19 August, I was very pleased to attend Darebin City Council's annual recognition of community organisations event with Minister Mikakos and hosted by Darebin mayor Cr Vince Fontana. As is customary, there were many friendly and familiar faces present, and I enjoyed talking with members of the community in a peaceful and relaxing setting. The event was held at the old Preston town hall in Gower Street, and I congratulate all the council officers who organised this pleasant community evening.

## Heathdale Christian College

**Dr CARLING-JENKINS** (Western Metropolitan) — Last Tuesday I had the privilege of attending the commissioning service of Mr Ross Grace as principal of Heathdale Christian College (HCC) in Werribee. Ross comes with impressive credentials, having previously worked as a principal and CEO of Donvale Christian College. The purpose of HCC is 'To glorify God through Christ-centred education that helps children develop their God given potential'. I am confident that Ross will lead the school in fulfilling this purpose.

HCC was established by a group of dedicated parents who shared a vision for their children's education. These families established a school which aligned with their beliefs and values — a choice Victorian parents are still entitled to make. The DLP has always believed that parents are the primary educators of their children and that government policy should never infringe or impede upon the responsibility and right of parents to choose the educational philosophy and environment which best suit their children's needs.

Religious groups, motivated by their deep commitment to their child's welfare, established schools to pass on their values and moral commitments to the next generation. Religious freedom is a foundation principle of our civilisation. It derives from a dark period of our history when states assumed the power to impose an ideology on its citizens. Religious freedom is our guarantee that this will never happen again. It is the role of the state to protect our freedom, not undermine it.

## Frankston rail line

**Ms SPRINGLE** (South Eastern Metropolitan) — I rise today to speak about trains. Quite frankly, the services on the Frankston line in my electorate are woeful. On the Frankston line commuters can pretty much expect that more than 1 in every 10 peak services will be more than 5 minutes late, because that has been the average over the last 12 months. Reliable and punctual trains are absolutely essential for the south-east's economic future and for everyone who lives along the Frankston line in particular.

The trains are now so congested that too many people find it difficult to get to work on time, making public transport a far less viable alternative than high-polluting roads. This has massive impacts on the livability of the south-east, and it is forcing people into their cars and onto gridlocked roads. Far too often trains on the Frankston line need to stop because of the signalling failures, which is no surprise given the 19th century signalling technology in use on Melbourne's train network. Fixing the signalling technology must be part of the solution, but the government has no plan to roll out modern digital high-capacity train signalling on the Frankston line.

## Indigenous Ceramic Art Award

**Ms LOVELL** (Northern Victoria) — I wish to congratulate local Greater Shepparton artists Cynthia Hardie and Jack Anselmi from Gallery Kaiela, who were named as the winners of the 2016 Indigenous Ceramic Art Award at the Shepparton Art Museum (SAM) on 20 August. This is a prestigious national award and has attracted many extremely high quality entries that are currently on display at SAM, which is just another great reason to visit SAM.

It was also wonderful to be treated to another fantastic performance by talented young Greater Shepparton singer Lily Walker at the opening of the awards. Lily has an extremely bright future ahead of her.

## Country Fire Authority events

**Ms LOVELL** — It is extremely insulting to the constituents in coalition-held electorates that Daniel Andrews has ordered a gag on any opposition members speaking at or taking part in local Country Fire Authority (CFA) brigade functions and events. It is disgraceful that Daniel Andrews is broadening his attempts to silence those who have fought against his dictatorial enterprise bargaining agreement. It is also disappointing that what was once a bipartisan practice at medal ceremonies and brigade dinners is now being poisoned with Daniel Andrews's political malice.

Over many years I have stood proudly beside my CFA volunteers to support the work they do protecting our community and more recently to support them through what has been one of the toughest administrative fights they have had to endure against Daniel Andrews's determination to hand power over volunteers to the United Firefighters Union. Like many of my coalition colleagues I will not be bullied or gagged by Daniel Andrews and I will continue to attend any brigade function I am invited to in the capacity the branch would like me to.

**The ACTING PRESIDENT** (**Mr Elasmar**) — Time!

## Britax workers

**Mr MELHEM** (Western Metropolitan) — I rise to speak on Britax Australia's recent decision to end production in Australia and offshore jobs to China. Britax operates in Sunshine in my electorate, and its factory is the last one of its kind in Australia to produce baby car seats to the highest safety standards. Unfortunately it plans to phase out production over the course of next year and is about to start sending manufacturing components to China in anticipation of work starting there. While the company has had a highly profitable operation at Sunshine, it believes moving production to China will further maximise its profits, even though it has a very highly skilled workforce and no industrial action has taken place for the last 20 years.

We need to maintain and protect local jobs. That is why on Tuesday I visited Britax workers and Australian Workers Union members protesting outside the gates of the company's Sunshine factory. The workers walked off the job some two weeks ago protesting against Britax's decision. In the words of the Australian Workers Union Victorian branch assistant secretary Liam O'Brien:

> These are very hardworking, law abiding people who are proud of the jobs they do. Proud to produce the only totally Australian-made car safety seats for kids, and desperately worried about the future.

I say to Britax: do not turn your back on Australian jobs. It is not too late to rethink your decision of outsourcing production to China and save the livelihood of workers. Fortunately with the assistance of the Fair Work Commission the dispute has been settled, but unfortunately the workers have not won the case to save their jobs. They were able to maintain and

improve their redundancy package and retraining, and I want to congratulate them on their efforts.

## Italy earthquake

**Mrs PEULICH** (South Eastern Metropolitan) — I rise to extend my deepest sympathy to the people of Italy, both those who have settled here — our Italian diaspora — and all those affected by the recent disastrous earthquake in the Norcia and Abruzzo areas of Italy. This earthquake measured 6.2 on the Richter scale and caused untold damage to the surrounding regions of Norcia. The town of Amatrice, which was one of the three towns at the epicentre of the destructive earthquake, was home to about 2000 people and bore the brunt of its terrible force. Two hundred and ninety people have sadly been confirmed dead, and hundreds more have been injured, with over 2500 people displaced.

Reports describe the massive loss of buildings and of course the 16th century belltower of Amatrice, with the time frozen at 3.36 a.m., the time of the earthquake. Other towns in the regions which were badly hit were Accumoli and Pescara del Tronto. No doubt many of the people from our local Italian community are experiencing grief and anxiety at this time when so many people are missing or have been wounded or killed by this terrible tragedy. It is a great loss of course for the Italian community, and as shadow Minister for Multicultural Affairs and on behalf of the Victorian Liberal-Nationals coalition I offer them our full support and sympathy.

## Multicultural community national days

**Mrs PEULICH** — I would also like to acknowledge the celebrations of various independence days celebrated by our multicultural communities. These include, of course, India, which celebrated its independence on 15 August, Uruguay on 15 August, Ukraine on 24 August, Slovakia on 29 August and Moldova on 27 August, as well as Kazakhstan celebrating on 30 August its Constitution Day. Congratulations to all of those communities on these achievements.

## Melton youth achievement awards

**Mr EIDEH** (Western Metropolitan) — I rise today to congratulate the recipients of the City of Melton youth achievement awards and grants. A significant proportion of Melton is made up of young people whose contributions to society are often forgotten. We often hear negative stories of issues affecting youth throughout our communities, but many of the positives are left out. The youth advisory committee is a committee of young people who share a passion for leadership and advocacy for young people in their community. They go above and beyond to help and inspire others. Recipients were awarded in the categories of leadership and positive role models, arts, diversity, active achievements, inspiration and determination, as well as an honours award. I also congratulate the 30 young people and community groups who received individual youth advisory committee grants of up to $500.

These awards are an excellent opportunity to acknowledge the hard work and accomplishments of youth in the City of Melton. I congratulate these young recipients of the awards for being excellent role models and a voice to other young people who may not have the means to speak up in their community. I also congratulate Melton City Council for successfully facilitating this initiative to foster the skills and ambitions of young people in the City of Melton.

## Police resources

**Mr O'DONOHUE** (Eastern Victoria) — The concern in the community about the lack of front-line police continues to grow. Recently we heard from another member of the magistracy about the pressures on Victoria Police. This time it is reported that:

> Dandenong's top magistrate has questioned whether police have the manpower to deal with Greater Dandenong's spiralling youth offender problem.

The Dandenong regional coordinating magistrate, Jack Vandersteen, has been reported as saying that keeping check on the growing number of young offenders in the area was 'a big load to bear for Victoria Police' and that 'Victoria Police is not reacting to breach of … orders'. He also is quoted as saying, 'Tell that to the next 50 to 100 victims'.

There were 2770 breaches of court orders in Greater Dandenong between April 2015 and March this year, a rise of 17 per cent on last year and a dramatic 83 per cent jump from just over two years ago. Crime in the Dandenong local government area is up by 26.7 per cent to over 20 000 individual offences. This is driven by a range of increases in crime, including theft of and from motor vehicles, and the ever-growing issue of that cohort of young, hardened repeat offenders.

We have heard from many now. It is clear we need greater police resources and greater police numbers on the beat to deal with this crime surge we are seeing in Victoria.

## Government performance

**Mr FINN** (Western Metropolitan) — It was Henry Wadsworth Longfellow who in his 1875 poem *The Masque of Pandora* told us, 'Whom the gods would destroy they first make mad'. He must surely have been referring to the Andrews government. This government is a Dansaster, and madness is perhaps the only word that can describe a government that scraps a much-needed road at a cost to taxpayers of $1.1 billion. Is it madness to carve up neighbourhoods with a three-storey concrete monstrosity?

**Ms Crozier** — Sky rail.

**Mr FINN** — Sky rail indeed. 'Madness' might best describe a Premier publicly attacking volunteer firefighters, heroes of our state — and losing an election for his federal leader in the process. A Premier causing a civil war within his own government is clearly mad, but that is what we have today. Madness has been established beyond all doubt. Now comes the destruction. In these last final weeks, maybe even days, of the Andrews government, millions of Victorians hope its demise will be quick. Probably best to invoke the mercy rule. If this government was a cow, it would be put down.

## Tree removal

**Ms CROZIER** (Southern Metropolitan) — The destruction and devastation that the Andrews government is doing across Melbourne's suburbs with the removal of trees is unprecedented. This government is not one that is visionary or one that cares for local communities. It is hell-bent on pushing through projects without community consultation and with ill-thought-out plans. In doing so it is destroying much of what Melbourne is known for: a beautiful city with park lands, gardens, and tree boulevards. Melbourne has been renowned for the many green areas of its city. In fact it was the former Hamer Liberal government in the 1970s that led the way, having the vision for Victoria to be the 'Garden State'. What we now have is the Andrews government destroying much of the vegetation in areas where they have not even spoken to the community as to their decisions.

Local residents who live near the sky rail have voiced their concerns about river red gums being chopped down, when the minister responsible, Minister Allan, originally said none would be removed during construction. Trees are being chopped down right along the sky rail route, and residents have been left with no idea as to why they have had to go. Trees have also gone in other areas, too, such as Bentleigh, where the removal of level crossings has been undertaken, and finally of course there are the hundreds of trees that will go from along St Kilda Road for the Melbourne Metro rail project. These hundreds and hundreds of trees will be removed across our city with little thought or consideration in relation to local amenity and what they mean to local communities.

In the words of former Prime Minister Malcolm Fraser when speaking about Sir Rupert Hamer:

> He recognised the challenge ahead — the protections that had to be put in place if the lives of future Australians were to be enhanced.

Clearly this is a concept the Andrews government does not care about nor want to understand.

## LOCAL GOVERNMENT AMENDMENT BILL 2016

*Second reading*

**Debate resumed from 18 August; motion of Ms PULFORD (Minister for Agriculture).**

**Mr DAVIS** (Southern Metropolitan) — I am pleased to rise and make a contribution to the debate on this bill, the Local Government Amendment Bill 2016. I want to begin by setting some context for this bill. It is only recently that the chamber dealt with a number of changes called forward by the current government. Through its Minister for Local Government the government has taken to wagging its finger and pointing furiously and sharply at local governments all across the state. There is no sympathy for local government. There is no recognition by this current government of the important role that local governments play in representing their community and putting forward the views of their community while running a responsible operation at a local level, where costs are managed and community services and infrastructure are the focus.

What I would say is that in the context that we have seen with the local government changes that were brought forward in this Parliament a little while ago this is part of a larger set of changes that this government is seeking to put in place. Rate capping is part of that, too. Rate capping has been applied harshly and ineffectually but at a cost and with a maximum cumbersome nature of the regime that has been put in place. In many respects we have the worst of all worlds — the loss of the decision-making powers and independence of local governments on one hand without actually achieving the financial objectives on the other. At the same time the government is erecting a series of costly and

cumbersome structures that chew up resources and create uncertainty and doubt for local governments, particularly local governments that are seeking to budget responsibly. So that uncertainty and confusion that has been created is a part of the problem, too.

At the same time, with local government we have seen a review of the Local Government Act 1989 occur. I will put on record now, in this context of setting the scene for this debate, my concerns about a number of the directions in the review of local government, particularly the directions document that has been released. So to be clear to the community and this chamber: the government released a discussion paper. They listened, it is said, to the broad input from the community, and now a directions document has come forward, laying out a series of directions.

I do make the point with respect to this particular document, the directions document, that it is a long document and that there are many changes, some of which no reasonable person would quibble with. But there are a number of key problems, I think, with the directions document. One is the presaging of a greater shift towards the use of regulation rather than to specifying in the act the clear responsibilities and duties of local government. I think that that is the wrong direction to go in. I think it actually leads to more ministerial power, and I think that it is a set of decisions that are often made in less public view and with less public visibility than is desirable.

I put on record at this early point my concern about that overarching direction that is in the directions document. I also place on record one of the important franchise changes that has been flagged in this: it is clear that the government seeks to strip property owners and businesspeople of their voting rights in particular municipalities. They seek to move — perhaps over time, perhaps more quickly — to a system where only those on the state roll would vote. I think that that is a fundamental breach of longstanding tradition. It is also a fundamental breach of longstanding arrangements that see the principle of no taxation without representation breached in a very serious way. That means that people who have businesses, factories and shops in communities where they employ people, where they are a significant part of the community, will be stripped of the right to vote. I see that context as also a concerning long-term focus.

It is not my position today to go through at length the review of the Local Government Act, but I am just putting on record the context that we find ourselves in: the changes made under rate capping, the changes made under the recent local government bill and the changes proposed to be made under the review of the Local Government Act. So there is a framework here from which to view this.

What is also clear is the language, the intemperate language that is used by not only the Premier but the minister and other ministers with respect to local government. I see local government as a partner; I did as a minister. I worked well with local government when I was Minister for Health and Minister for Ageing, and I saw local government as a significant partner in delivering health programs at a community level, whether it be maternal and child health or the series of other programs that are delivered at a local government level — immunisation and all of those important programs that are part of where we need to be in terms of delivering best quality services across a broad spectrum.

But this bill arises from the earlier bill where the government laid down a so-called code of conduct — a tougher code of conduct. I am going to point directly to the code that was put in place and indicate that the government botched the implementation of this code. Part of the role of government, the department and the minister is that when new legislative change is made, decisions are communicated to the relevant sector in a timely and clear way. That was not the case on this occasion, and there are myriad questions about the process around this that I will seek answers to when we come to the committee stage. It is clear that the code was not communicated effectively.

It is interesting looking at the Municipal Association of Victoria (MAV) and its series of news releases, one issued at 11.42 a.m. on 16 August and another issued at 3.26 p.m. on 16 August, both putting some clear points. I want to quote and put on the record the views of the MAV — and I have to say they are not dissimilar to the views of the Victorian Local Governance Association (VLGA) and in fact the whole of the sector:

> The new laws — which the MAV broadly supports — were intended to strengthen councillor conduct and to resolve instances of poor individual conduct by a councillor.
>
> However, using new provisions that take effect on 1 September to disqualify councillors on what can best be described as a very minor technicality is like using a sledgehammer to crack a walnut.
>
> We echo the sentiments expressed by the Premier in recent days that a commonsense solution must prevail …

The note goes on:

> In most cases, we are talking about a minor administrative oversight, an honest mistake or an instance where the

> inspectorate's interpretation of the rules differs from a council's understanding of the legislation.

They go on to point out:

> Minor, unintended administrative errors that have already been fixed or can be easily corrected prior to 1 September should not be subject to the new penalty.

The MAV goes on to talk about the situation, saying that there is a concern, given the instances where councils believe they have complied with the legislation while the inspectorate has given them a different interpretation:

> A council could disagree with the inspectorate's ruling and continue to conduct its business. If this were to occur, the inspectorate would need to initiate proceedings in the Magistrates Court against councillors in a test case of the new laws and whether they have applied an appropriate use of the penalty provision.

At that point the MAV goes forward to say, 'Hopefully it does not come to this' and that a 'suitable solution' is found. Of course it is found in this bill, but that is the government covering up its own tracks, fixing its own blunder, fixing its own mistake and trying to cover the botched implementation and the botched communication which is at the essence of this.

The second news release from the MAV of 16 August is very forward. It is headed 'Sorting the facts from government's political spin'. The government tried to cover its own tracks by spinning out and clobbering councils around the state despite 13 councils and 107 councillors being involved in what were a series of technical breaches. What the government sought to do was again get into its finger wagging, its pointing and its ongoing carry-on. The news release says:

> Guidance … from the state government failed to articulate a clear and unambiguous process and time lines.

Point 6 in this list from the MAV says:

> Mixed messages were provided by the government in their 2015 guide and March 2016 circular advice to CEOs, causing confusion about whether the new penalty would apply to current councillors.
>
> For example:
>
> The 2015 guide refers to 'incoming councillors' and the circular specifically states 'The provisions are coming into force at a later date to ensure that they do not unduly impact current councillors and their councils.'
>
> The 2015 guide also states that … 'again this declaration must be signed and witnessed by the CEO', which is at odds with the legislative requirement, which only specifies that a declaration must be witnessed by the chief executive officer (section 63).

The fact of the matter is on this occasion the majority of councillors made a sensible commitment to comply with the code despite in some instances the word 'abide' being used, which the Local Government Investigations and Compliance Inspectorate considers to be mandatory. None of the material provided by the state included a set of words that specifically required all councils to use the word 'abide' in the declaration made by councils; nor did the state advise councils that any use of similar wording with the same meaning would be assessed as non-compliant and therefore result in disqualification.

Of course this is a shambles. It is a circus. To see our significant local governance arrangements disrupted in this way is something that could have been avoided and should have been avoided. The MAV goes on:

> 8. In the absence of specific guidance, councils used a variety of processes which were intended to ensure their compliance with the new legislative provisions. The inspectorate used a generic checklist to assess these local processes, and applied a black-letter-law approach rather than assessing compliance with the objectives of the legislation.
>
> 9. The inspectorate failed to provide affected councils with information identifying their purported failure which would have allowed them an opportunity to provide additional evidence of their compliance.

It also goes on to say:

> Allegations of non-compliance resulting in disqualification should be supported by a statement of reasons to the council to ensure procedural fairness and natural justice. This did not occur.

Again, it is a shambles. I want to make a point here more generally that what the government has done with this whole sector is not only the finger wagging and the heavy-handed legislation rather than working with the sector but also the creation of a series of confusing points, pulling the inspectorate back into the Department of Premier and Cabinet, handing it to a different minister who does not understand the sector — not that I think Minister Hutchins is particularly knowledgeable of the sector — and creating that confusion with two ministers and two departments responsible through this process.

Also with the rate-capping regime you have got the Essential Services Commission breathing down the neck of councils, looking at councils, wagging their fingers and also wagging their fingers at the local government sector — and all for what? What on earth have we got out of the intervention of the Essential Services Commission through this process? The answer is a lot of cumbersome and intrusive, cost-driven

outcomes — nothing of any help whatsoever. What I would say here is: putting all of these different players into the sector — putting all of these groups in there, all seeking elbow room, all seeking to justify their own existence here — is a case of the inspectorate losing perspective and losing focus on what is occurring.

The inspectorate has also got to answer questions about the way it has gone about this. To give just one small example, the inspectorate gave great ticks to Campaspe and said they thought their model was fantastic but then later failed Campaspe for the process involved. So you have got the inspectorate on one hand saying 'You've all done a fantastic job' and then on the other hand giving them the cross. You have got this inconsistency even within the inspectorate's own approach. You have got the minister, you have got the Special Minister of State, you have got the Essential Services Commission, you have got the inspectorate and you have got Local Government Victoria all milling around, not knowing how to manage the sector and all missing the essential point that the task is to actually work with local government rather than point and wag their finger at the sector and add additional costs and cumbersome layers.

I also want to say something about the position of bodies within the sector. I have already pointed to the MAV's view, but the VLGA's view is no different. The VLGA, I think, has got a very important role here and has been able to advocate sensibly for some sensible movement from the government. LGPro are also prepared to make the point that CEOs were acting in a vacuum of clear guidance.

I also want to draw people's attention to the inspectorate's report. I must say that I have read a lot of reports in my time, but this is not one — —

*Honourable members interjecting.*

**Mr DAVIS** — Well, I actually have, I can tell you. But what I want to say is that this one does not really fill anyone with enthusiasm or great confidence in the inspectorate's ability to deal with more serious matters. It is a flimsy approach, it is a flimsy report and I think there is a question about the inspectorate's focus. I think it has been out there looking for a role. It has been out there looking for a way to stretch and to elbow its way into some role in the sector — a bigger role — and the way to do that is to sort of be a little bit hairy-chested, so they have tried to be a little bit hairy-chested in this inspectorate report. But actually — —

**Ms Shing** — Hairy-chested?

**Mr DAVIS** — Yes, it is very bossy. It just does not quite get there though. It just does not quite get there.

The government's refusal to provide the opposition with legal advice on these matters is concerning. I have already spoken to the minister's office but also to the minister with carriage in this place, who has indicated that in the chamber he will provide some advice and comfort about a number of points, particularly including the matters around the ability of councillors to stand. Now it might be that many councillors have got themselves overly concerned about this, but the failure of the government to share with members of Parliament some deeper indication of their legal advice on these matters is, I think, a concern. But I welcome the fact that the minister is at least prepared to say something in the chamber when the committee stage comes, and I will seek to make some contribution in the committee stage.

I cannot but think that this was a case of the inspectorate sitting there, looking, waiting, rubbing its hands and then seeing something on which to pounce — something on which to clobber the sector, assert its authority and elbow its way to some greater prominence, thereby justifying its existence, whereas I think the inspectorate ought to have been focused on a number of more serious things. I am not going to detail those today. There are a number of those around the state where I think it could take a serious role, but this is not that particular occasion.

If you think about the response of the government, I can only sort of quietly say I was pleased that Minister Wynne was in charge at the particular time. I think he at least has a genuine sympathy for local government, a genuine understanding of local government — —

**Mrs Peulich** — Understanding might help.

**Mr DAVIS** — Yes, I think at least he understands the sector. I think he at least was prepared to listen, whereas I do not think the luminaries in the Premier's office and the people in the minister's office were in such a generous mode. So we may well have ended up with a very different outcome in different circumstances. We might have had the pushing forward with seeking to knock out all these councillors around the state.

My concern with that would have been that this would become a legal minefield, and there is no guarantee that the inspectorate would have been successful in attempts to clobber councillors. Inevitably I think it would have

ended up with discussions or a case in the Supreme Court.

I have got many questions to ask in the committee stage about what is in itself a small bill. I will conclude by saying that this is a case where the government got it wrong. The government's so-called reforms were poorly implemented. The communications from the department and the circulars were not up to scratch in terms of communication. I think sometimes a little more than circulars are required to explain new changes. In the broader context of the government's negative focus on local government, I see this as a sorry day but one on which I believe most in this chamber will be very prepared to enthusiastically support a solution for the mess the government itself has created.

**Ms DUNN** (Eastern Metropolitan) — I rise to speak on the Local Government Amendment Bill 2016. It is a bill that seeks to repeal section 76C(1) of the Local Government Act 1989. That section requires a council to review and make any necessary amendments to its councillor code of conduct within four months after the commencement of section 15 of the Local Government Amendment (Improved Governance) Act 2015. Section 15 of that particular act came into operation on 1 March 2016. Section 76C(6A) of the Local Government Act 1989 also came into operation on that same day. It requires a councillor to make a declaration within one month of amendments to their code of conduct. On 1 September a new section 29(1)(ea) will be inserted into the Local Government Act 1989. The effect of this new provision would be, but for the amendments being made by this bill, to prevent any councillors who have not made a declaration in accordance with section 76C(6A) of the Local Government Act 1989 following a review of the councillor code of conduct as required by that section to continue to be councillors or to nominate as a candidate at the election in October.

It is a sorry tale, this tale. First I will go to the review of councils' compliance with the code of conduct conducted by the chief municipal inspector. The inspectorate reviewed councils' compliance with the code of conduct provisions under section 76C of the Local Government Act 1989. In terms of the review, it was looking at amendments to the act that provided that councils must review and make any necessary amendments to their current codes within four months of 1 March 2016. That was required to be done by calling a special meeting solely for the purpose of reviewing the code.

In terms of what the inspectorate found when it reviewed the councils, it found in the review of information contained on the websites of all Victorian councils that all councils had adopted their revised codes albeit that five councils did not meet the requirements with strict compliance. Some of them adopted their codes after the specified date of 4 July, some of them adopted their codes at an ordinary meeting rather than a special meeting of council and others did so before the commencement of the legislation.

The inspectorate does go on to say that the failure to meet the strict requirements of the legislation does not necessarily invalidate the code but demonstrates shortcomings in governance or administrative processes. I will certainly be exploring the processes more in committee of the whole in terms of the sorts of material that was provided as guidance to councillors in fulfilling their obligations.

In terms of the review, the inspectorate found that 54 councils were fully compliant with the provisions in the act. It went on to find that the remaining 25 councils demonstrated varying degrees of non-compliance with the act by either the entire council group or individual councillors. Now, 25 councils is a lot of councils — it is 30 per cent of our local government cohort. It strikes me that there are some systemic failures when the degree of administrative error is so broad across local government, and I will certainly be asking questions about that in committee.

In terms of the review undertaken by the chief municipal inspector, one of the issues at play was that nine councils had provided from all their councillors signed endorsements of the updated code. However, these did not contain declarations that the councillor would abide by the code — 'abide' being a word that is in the act — and the process followed reflects the usual practice of councils when adopting or endorsing policies, rather than using that word 'abide'. I do not believe that any councillor thought that they were doing the wrong thing by endorsing a code of conduct rather than abiding by a code of conduct. I do not think that they used that as a way to ameliorate their obligations under their code of conduct.

The review found that four councillors refused to make a declaration and that a further five councillors from various councils did not make a declaration within the legislated timeframe of one month after their respective councils adopted the code. In what is an extraordinary raft of outcomes, it was recommended that 13 councils be disqualified for their actions. Some of those reasons were that the councillors did not make a declaration to abide by their codes, which is an extraordinary way to deal with this issue. I must say I am pleased that this

bill is before the house because in terms of this particular issue, I am not even sure calling it a sledgehammer cracking a nut does it enough justice because it is an extraordinary amount of force and consequence for something that I would perceive as a minor technicality — that is, agreeing to endorse a code of conduct rather than abide by a code of conduct.

I completely understand that in the legislation those words are very specific, but I do not believe those councillors were trying to abrogate their responsibility in relation to their obligations to their colleagues and their community.

It seems extraordinary to me that of those 13 councils 62 per cent of them did not use that word 'abide'. It is just extraordinary to think that the consequence for those communities could be so incredibly serious that they could lose their elected representatives — their access to a local representative at local government level.

I may think differently about those councillors who actively refused to sign the declaration to either endorse or abide with the code of conduct if they were not happy with the code of conduct and did not want to play by the rules. I think that is a different matter. I think there should be consequences for those councillors who really do not want to sign on to what is an agreed set of parameters about how you behave towards each other and how you behave in the community.

I can understand the confusion out there amongst councillors. When I looked at a few materials and bits of information that are out in the public domain, I saw how easy it is to understand how confusion could reign. I draw the attention of members first to Minister Hutchins's second-reading speech, which is when she introduced the legislation in the first place. Minister Hutchins talked about her legislative changes and new governance arrangements. She talked about appropriate standards of behaviour and said that all persons elected to be councillors, including those who have previously been councillors, are required to read the councillors code of conduct and declare that they will abide by the code. Failure to do so or failure to take the oath of office within three months of being elected will result in the person not being capable of becoming a councillor.

There is a direct reference to being 'newly elected'. If I was an existing councillor and I read that, I would think that that was talking about newly elected councillors and not me because I am not a newly elected councillor, having been in my role for over three years now. That is the first point at which the water is a little bit muddy.

I note that a circular was sent out by the executive director of Local Government Victoria on 1 March — circular 7/2016 — addressed to chief executive officers. It is very clear in its advice and in what it says. In terms of important issues to be aware of, it says:

> To review the councillor code of conduct and to make any necessary changes at a special meeting of council called solely for that purpose by 4 July 2016.

That is very clear information; in fact it was the clearest information I could find in relation to this matter.

However, where I think it gets very difficult is asking if councillors actually received this circular. There is a clear obligation on the CEOs in terms of informing councillors, but given that the buck ultimately stops with the councillor, did they ever get such clarity in their hands? Is it enough to send it to just the CEO and expect that information to be forwarded? What happens in the case of those councils who may be in a position in which they have an acting CEO and are in the middle of the recruitment process of a new CEO or where other matters apply and the circular simply does not get into the hands of councillors, who have significant obligations under the act?

I then went to the document *Reforms arising from the Local Government Amendment (Improved Governance) Act 2015 — A guide for councils*. Chapter 3 is all about supporting council management of councillor behaviour. Right up the top — in bold — it says:

> The act has been amended, however, to provide the additional requirement that all incoming councillors must read their council's code of conduct and make a declaration that they will abide by it before taking (and remaining) in office.

I think that is really unclear, because it refers to 'all incoming councillors'. If you have been on a council for over three years, you are probably not going to regard yourself as an incoming councillor. That adds yet more confusion and muddying of the waters.

The guide goes on to talk about councillors reading the code of conduct and making a declaration that they will abide by the code. The declaration must be signed and witnessed by the CEO. If a councillor fails to do so within three months of being elected, their position is declared vacant. However, I still think that that creates some confusion in relation to what councillor obligations are.

The document talks about timing and process for developing a code. It says:

> A council must review and make any necessary amendments to their councillor code of conduct within four months after these new requirements in the act come into effect and within four months after a general election. This must be done by calling a special meeting solely for the purpose of reviewing the councillor code of conduct.

In that instance the sentence is very clear in what the obligations are. However, I think the error in relation to this is that it has not been bolded, there are no dates included with it and there is no headline in terms of grabbing a councillor's attention in relation to this. I think that has again created some confusion in the minds of councillors.

It needs to be noted that existing councillors may have gone through more than one iteration of their code of conduct process because when they all got elected they would have gone through a process of reviewing their code of conduct at the time, so in terms of their obligations and signing onto a code of conduct and going through a process of agreeing to one, they would have already done that. I certainly understand why there could be confusion out there.

In terms of the code of conduct, there are some principles around it. I think we would all agree that they are good principles in relation to performing the role of a councillor in that a councillor must act with integrity, impartially exercise his or her responsibilities in the interests of the local community and not improperly seek to confer an advantage or disadvantage on any person.

In terms of the act there are also a number of general councillor conduct principles that go to avoiding conflicts between a councillor's public duties and personal interests and obligations, including: acting honestly and avoiding statements or actions that will or are likely to mislead or deceive a person; treating all people with respect; having due regard to the opinions, beliefs, rights and responsibilities of other councillors, council staff and other persons; exercising reasonable care and diligence in submitting yourself to lawful scrutiny that is appropriate for the office; endeavouring to ensure that public resources are prudently used and solely in the public interest; acting lawfully and in accordance with the trust based in the councillor as an elected representative; supporting and promoting these principles by leadership and example; and acting in a way that secures and preserves public confidence in the office of councillor.

It is an excellent set of principles, one that we would expect for our local government councillors — in fact for all elected representatives. I have seen many examples of codes of conduct. In fact this bill led me to review a number of codes of conduct online throughout a sample of council areas. They are well-thought-out documents. They contain a number of different provisions. They usually extend to at least 12 pages of provisions, so they are extensive. I cannot help but be reminded in relation to the code of conduct for members in this house that it is a full two pages. So the obligations and burdens on councillors are extensive in terms of their need to comply with the Local Government Act provisions.

In terms of improving governance, there are many ways we can go about that. I was interested very recently when I saw that the electoral commission of New South Wales has issued new rules for political donations and electoral expenditure for local council elections. I think that if we do want to improve governance in the local government space, perhaps Victoria would seek to implement caps on political donations. These were important new laws that came in in New South Wales on 1 July that apply to their local council elections. The purpose of the new laws is to promote integrity in the local government electoral process and in fact to align local government with state government election regulations. So I think if we are really genuine about improving governance of local government, a far better road may be to go down the road of reining in things like political donations rather than getting picked up for using the word 'endorse' instead of 'abide' when you sign off on your code of conduct.

I was very disappointed to read the media release that was issued by the acting Minister for Local Government, Richard Wynne. I guess I was concerned with some of the language in that particular release where the minister said, 'The councils have admitted themselves to gross incompetence'. Look, I think 'gross incompetence' is probably going a little too far in terms of administrative errors. I set this aside for those councillors who purposely said, 'I'm not signing'; that is a different matter. But for those councillors who tried to genuinely participate in the process, to label that as gross incompetence shows a complete lack of respect and a disregard for what is the third tier of government and in fact the closest tier of government to the people. So it was very disappointing to see a minister acting for local government say that about local government.

In terms of the peak bodies I am aware that the Municipal Association of Victoria are comfortable with the bill and what it seeks to do. They do raise the issue of whether there should be discretion for the minister in relation to these matters so we do not end up in these sorts of scenarios. They also raise the issue of the lack

of what they describe as a road map in terms of: if a councillor has not met all the requirements, what is the process in relation to that? What actually happens to them? They suggest that a road map, a flowchart or a framework — however you want to phrase that — would in fact be a good tool to have as part of a suite of tools for building the capacity of councillors to understand their obligations under this section of the act.

The Victorian Local Governance Association are also comfortable with what is proposed in the bill, and they also are interested in what will happen come February 2017, post the local government elections, if codes of conduct are not signed at that point: what will the consequences be, and what will the various iterations of those consequences be as well, whether it is one councillor, a council body or something in between? I think what it really highlights is that there has been this continual appetite to do things to local government — to constantly interfere with the autonomy of local government. Of course when you do interfere with the autonomy of local government you are in fact interfering with local democracy and people's right to have representation at that level.

If you have a strong local democracy, you have a strong local community, and that is what we should be striving for in Victoria. Punitive measures should never, ever be the first resort in relation to measures of local government and local councillors. If we were genuine about this tier of government and how important it is to local communities, we would in fact be building the capacity of councillors rather than just creating more and more punitive measures against councillors. I am not suggesting that every single councillor is necessarily a beacon of excellent behaviour, and yes, there do sometimes need to be some measures in any legislation in relation to poorly behaved councillors, but on the whole local government delivers extraordinary things for its community. It is in charge of an enormous amount of community infrastructure ranging to the billions of dollars. It provides a breadth of human services to local communities, and rather than constantly interfering with that, with local democracy we should actually be building the capacity of those local governments.

Having said that, certainly the Greens support the intent of the bill and what it seeks to do. We will be supporting the bill, and in terms of any further questions, I will be raising those in committee of the whole.

**Mr MULINO** (Eastern Victoria) — I will not speak at length. There are some core issues which I think all reasonable people in this place agree on in relation to this area. One of those is, I am sure, that there have been a range of important measures over the past 18 months that have strengthened local government governance. I totally concur with the observation by the speaker most immediately preceding me that local government is a very important level of government, that it is important for a very significant range of assets and, probably even more importantly, that it is responsible for the delivery of some absolutely key services.

Indeed Ms Dunn and I were both councillors at the same time in adjoining councils. I think we were on some committees, so both of us have an understanding of how important councils are. That is why it is important that we put into some context the raft of reforms that this government has put in place to improve governance of councils, because if you are managing tens of billions of dollars of assets, if you are taking in hundreds of millions — indeed billions — of dollars in rates and if you are delivering critical services, it is important that you have appropriate governance and that appropriate standards of ethics are applied to decision-making and behaviour.

The reforms that this government has put in place have been very pivotal and instrumental in strengthening local council governance and reducing councillor misconduct. I acknowledge that the vast majority of councillors behave well, but nonetheless, because of the importance of the decisions they make, it is important that we have rigorous processes for identifying and dealing with misconduct. Part of that broad sweep of reforms included new code of conduct requirements. My sense is that pretty much everybody in this chamber would agree that that is important. At all levels of government we have various ways in which groups of elected representatives agree on different constraints on their behaviour. We have the ways in which elected representatives reflect common values and common agreed principles on how they should be behave.

The code of conduct requirements are a very appropriate way in which at the local government level councillors can come together, and in fact must come together, in each local government area and develop codes of conduct which councillors must agree with. That, I believe, is one of the most important elements of the governance arrangements that this government has put in place. I want to stress that the code of conduct requirements that this government brought in were very clear. It is obvious that in a number of cases there was some confusion, but that confusion is not due to any lack of effort on the part of the government in terms of distributing the requirements. It is not due to any lack of

clarity in the requirements per se. If there is any confusion, I would contend that it is due to one or more councillors not paying attention to a new obligation that was made very clear.

I will run through the ways in which that was made clear to councils. All council CEOs were notified of the new requirements in an official circular from Local Government Victoria on 22 December 2015 — so quite some time ago. As an ex-councillor I know how closely CEOs and councillors work together, so that was a key conduit through which councillors were informed about this. Alongside that notification councils also received a comprehensive guide on the changes, which was also posted online. There were multiple channels through which councillors were told. Multiple hard copies were also sent to each council, and on 1 March every council CEO was again notified of the changes. There were multiple efforts to communicate directly to CEOs through online mechanisms, and then there were media releases.

The government understood that with the new requirements there was an obligation to explain this clearly to councillors, but what I have just laid out was a program where there were many, many steps by which councils, through different channels and through different modes of communication, were informed about these new obligations. What the government undertook was by any reasonable assessment an appropriate process.

It is true that some councillors had not complied with that obligation. I do not have the numbers in front of me, but my understanding is that some councillors made procedural errors and some councillors made more wilful errors. It is true that there are a number of councillors who have ended up not complying with the new obligation. We find ourselves in a situation in which, given how close the new council elections are, it is appropriate for the government to now intervene and present a bill to this Parliament which will prevent any unintended consequences arising from non-compliance by these councils and councillors.

This amendment will remove the requirement for councils to amend their codes during the current council term. This will then remove the requirement for current councillors to make their declaration within this period, and therefore no councillor will be disqualified on 1 September 2016. Councils will still be required to review and amend their codes within four months of this year's upcoming general election, which will affect subsequent general elections, and councillors will be required to make the written and witnessed declaration within one month of adoption of the code. I think it is worth noting that if we did not implement the changes we are talking about today, there would be a requirement to put in place interim arrangements which would have been inappropriate in the circumstances.

This is a very sensible move, but I do want to stress that the non-compliance that motivates this move was after the government had made multiple efforts and an entirely reasonable strategy of communication with council staff and councillors had been put into place. I commend this bill to the house, but moreover I think it is very important for this Legislative Council to support the government's ongoing efforts to improve governance, which will include ongoing compliance with these code of conduct requirements for a very important level of government and, given that importance, a level of government which should have the highest standards of probity.

**Ms LOVELL** (Northern Victoria) — I rise to speak on the Local Government Amendment Bill 2016 — and what an embarrassment this bill must be to this government. This is a bill that has been introduced to fix the bureaucratic nightmare of a mess that this government created through the flawed legislation it introduced into this house around about last October.

When this legislation was introduced to this house the councils that have been affected by this particular piece of legislation had been democratically elected and serving their communities for more than three years. They were operating quite fine without the Andrews government's interference. The Andrews government required each council to produce a code of conduct and to abide by that code of conduct. No council actually said they did not want to do that. Councils entered into this process in good faith, but unfortunately a lack of communication from the government and a lack of direction from the government led to 13 councils and 107 councillors being in breach of the act.

What did the government do? This was the first time that councils had had to adopt these codes of conduct and sign up to them. Would you not have thought that the government would have actually gone through them and worked with councils to make sure that everybody had it right? No, they did not do that. The first that councils knew of any discrepancies or inaccuracies in their codes of conduct was when they either received a telephone call or, in some cases, particularly in the case of the City of Greater Shepparton, saw a press release. That was the first they knew of the errors that had been in their particular code of conduct.

As I said, Shepparton was not notified. The first they knew of it was when they read it in a press release. All

the councillors at Shepparton had signed an endorsement of the code but not a declaration to abide by it. The word that they used was 'comply' instead of 'abide'. The councillors did actually all sign the one document, but as the CEO and councillors have said to me, there were no guidelines, templates or formats that were supplied for how the code should be presented. Nowhere in anything did it say that they actually had to sign individual documents. This is something that could have very easily been corrected when they lodged their document. There could have been some contact with the council to say, 'Look, this one is not quite right. Can you do this again?'.

I know that when the CEO of Campaspe Shire Council received a phone call to tell him that there was an inaccuracy, he said, 'Look, that's fine. Councillors are meeting tomorrow. We'll just all re-sign it and submit it'. He was told, 'No, you can't do that. You're going to be sacked'. He was notified at 3.30 p.m. He got a phone call to tell him that there were inaccuracies, but shortly after, he got a call from the press. He had to get a copy of the press release from the ABC so he could respond to it.

In the case of Campaspe they had actually had an audit by the Local Government Investigations and Compliance Inspectorate, which was conducted between 18 and 22 April 2016. In that audit they noted that the Campaspe shire's councillor code of conduct had a rating of compliant, and in addition the council was commended for the thorough nature of the document. Yet here they were, about to be sacked because their document did not comply. The reason it did not comply was that their CEO had signed on the wrong page, and they had also used the word 'endorsed', not 'declared'. It could have quite simply been corrected, but they were not given the opportunity to correct it.

Benalla Rural City Council was another case. There were four councils in my electorate that were affected by this. Benalla used the words 'endorse' and 'approve' instead of 'abide'. Mount Alexander Shire Council did not actually have a CEO and they wanted to sign it with their new CEO, never dreaming that the government would consider sacking them because they had a desire to sign that with their new CEO. There were other councillors in my electorate that were affected by this. I know Cr Elise Chapman of the City of Greater Bendigo was also affected by the changes, but not the whole of the council in the City of Greater Bendigo was affected.

Councillors have had their names dragged through the mud, and as we all know, mud does stick. This is a particularly unfortunate time for the government to attack these councillors, right before local government elections when people will remember, 'Hang on a minute, all those councillors were about to be sacked. What was that about?'. They will not remember what it was about. They will not remember that it was the government's fault, not the councillors' fault. They will just remember that there was something not quite right about these councillors, and it could affect their chances of re-election.

What did this government do? Instead of admitting that it was their error that caused this problem and that it was their legislation that was the problem, they actually put out a press release that made it appear as if they were the knights in shining armour coming in to save the councillors from their own incompetence. What an insult! Councillors and CEOs are insulted by the way the government has handled this. This is a complete and utter disaster by the Andrews government — something that we expect from Labor governments. They get things wrong, and we are always back here redebating things and reintroducing new legislation to fix their messes.

I remember that when they brought in their changes to public holidays in the Bracks era and we had to redebate that particular piece of legislation three times before they actually got it right. Now we have this local government legislation that is having to be fixed up. We are here debating this piece of legislation today because the Andrews government is incompetent, and it should have admitted that. It should have admitted in its press release that it was the government's fault and that the government had not spoken to councils or given councils the opportunity to get things right when there were only vague instructions on how to actually comply with this legislation. The government should have admitted that, rather than trying to appear as though it was the knight in shining armour and making it appear as if the councillors were incompetent.

Councillors want to abide by these codes of conduct. They all welcome a code of conduct. They are happy to have them, but it is not fair when the government makes its own errors stick to local government and to councillors, particularly right before a council election. We are not opposing this piece of legislation, because it will help the councils to fix the mess that the government has created for them, but I would suggest in future that this particular minister be far more careful about what legislation she brings before this house and that she make sure that there are not errors in it that are going to lead to this type of disaster again.

**Mr MORRIS** (Western Victoria) — I too rise to make a contribution with regard to the Local

Government Amendment Bill 2016. I begin by saying that the only reason we are here today debating this bill is because this government stuffed up. There is no other way to put this. It is a huge mistake by this government, and as Ms Lovell has pointed out, the government is trying to point the blame at local councillors. There are many councils within Western Victoria Region that are caught up in this monumental legislative mistake that has been made by this government, and the sheer fact that we are in this situation is because we saw the minister present a bad piece of legislation.

I note that Ms Dunn in her previous contribution did make a reference to the media release that was put out by the Honourable Richard Wynne, the acting Minister for Local Government, on 16 August. There was another line in this particular media release that I did want to make reference to, and that relates to the fact that there was a deadline for councillors to sign their code of conduct and that councils did not do so. Further on it says that the Andrews government has agreed to amend the legislation as a result of an administrative error of councils.

The council was first notified of the requirements at the end of 2015, and as a result of the huge mistake in this legislation there were many councils caught up in what could only be described as a monumental stuff-up by this government. I do note the contributions by both Ms Dunn and Mr Mulino, who are former councillors and who understand the work that councils do. Indeed, local government is the level of government closest to the people, and I too had the good fortune to serve on a council, a very hardworking council, the City of Ballarat. The City of Ballarat was one of those councils that was caught up in this legislative disaster. I received many calls. I think I spoke to most Ballarat city councillors about this particular scenario. It certainly caused great angst not only amongst the councils themselves but also amongst the families of senior council officers — the fact that this stuff-up had occurred.

What we saw was the government pass legislation that was completely inflexible and that did not give a thought to scenarios that could arise which would see councillors not sign this particular code of conduct. I note that Mr Mulino in his contribution did list the number of times that councils and CEOs were informed of the need for this code of conduct to be adopted in a certain way. However, there was a very clear omission, and that was the notification of individual councillors. There was, certainly from my understanding, not one notification sent to individual councillors about the fact that there was a need for them to sign, to abide by and to have witnessed this — —

**Mr Herbert** interjected.

**Mr MORRIS** — There was not one notification — not one notification.

**Mr Herbert** interjected.

**Mr MORRIS** — No, not one notification whatsoever. I know that in this particular house when we need to update our register of interests each and every member is emailed and it is indicated to them that we have a duty to update that particular register. That was not afforded any of these councillors themselves. CEOs may have been informed, but individual councillors were not.

We speak about councils being informed, but not once in an email and not once in a written letter were individual councillors notified of this. It is an absolute travesty to think that a government can try and kick out individual councillors without even giving them notification of something that they need to do. It really is absolutely astounding. As I say, I have had phone calls from mayors and CEOs across the width and breadth of Western Victoria Region saying that they cannot believe the incompetence of this government in not informing them of the need to sign this document. I was very pleased to see that the Municipal Association of Victoria released a media release to say that they need to bring common sense back.

**Mrs Peulich** — Belatedly, though.

**Mr MORRIS** — Better late than never, I suppose, Mrs Peulich. It is incredible that we have a government that has not seen fit to release the legal advice that it has received with regard to the ongoing consequences of this legislation. There are, I might say, a couple of ratbag councillors across the state. However, the vast, vast majority — —

**Mr Barber** — Mostly Labor members.

**Mr MORRIS** — I would not say they are Labor members, Mr Barber, but you might. The vast majority of councillors are very, very hardworking individuals who put their hands up to serve their local communities and who do what is best for their local communities. Across western Victoria we were going to see the entire Ballarat City Council removed, and we were going to see the entire Central Goldfields Shire Council removed. The Borough of Queenscliffe is a fantastic council, one that remarkably survived the amalgamations. It is a great council that serves its community exceptionally well. To think that this hardworking council that represents its community would be removed due to an administrative error is

something that is difficult to comprehend. However, with this government anything is indeed possible.

I do note that unfortunately in some sections of our community criticising councils is a national sport. We certainly see that councils do tend to be the whipping boys or whipping girls for many people who like to complain about certain things. However, what we have seen here is that this government has become an expert at disempowering councils. They are trying to remove all control from local councils to perform their important roles as local democracies. I think it is important to note that local councils do have performance reviews, just as we in this place and our colleagues in the other place have every four years. So if a community does not like the way a council or councillors are behaving — the work that they are doing — they certainly have the right to not elect them again at the end of their term. So we have a review for that. It is unfortunate that this government does not respect the rights of local people to elect or not elect their local representatives. It just wants a holus-bolus toss out of all of these hardworking councils without due process.

I also note that during one of the earlier contributions, I think it was by Ms Dunn, this process was referred to as a systemic failure. I certainly concur with Ms Dunn in that description, because to see so many councils and councillors across Victoria caught up in this mess can point to only one thing, and that is bad legislation. This is exceptionally poor legislation. I have certainly had raised with me what might happen in a scenario where a councillor finds themselves in a coma and unable to sign the code of conduct. Under this current legislation, and from what I can read, going forward that councillor would be sacked under this legislation. They would be sacked for being in a coma! If a councillor found themself with the need to travel overseas perhaps because a loved one was unwell and unable to return, that councillor would be sacked under this legislation.

The fact that the minister did not see fit to foresee some of these situations, which are not beyond the realms of comprehension, certainly is exceptionally concerning and points to the incompetence of this government. I will close my contribution there. I look forward to hearing other speakers, but I am certainly aghast at the incompetence of this government.

**Mr RAMSAY** (Western Victoria) — I rise to speak on the Local Government Amendment Bill 2016 and note that the shadow Minister for Local Government, the lead speaker on the opposition benches, has indicated that we will not oppose the bill. In fact we are going to fix the problem — a problem that was created by the Andrews government in relation to some poor wording in the earlier act, the Local Government Amendment(Improved Governance) Act 2015, and poor communication to councils on their compliance requirements under that act. This is not a big bill. The act needs to be amended, and we will support the government with the amendment. It will certainly give some satisfaction to those councillors that have been caught unawares due to miscommunication and due to oversight in relation to their compliance when signing a declaration in front of a CEO in supporting or being a willing party to a code of conduct, which I might add had been written by the councils themselves.

It is interesting to note that when I researched some background in relation to how councils were developing their codes of conduct — and obviously 107 councillors were unwillingly suspended or were in danger of being suspended because they did not adhere to the compliance requirements in the act — I found that in fact the codes of conduct varied so much across different councils. To my mind I am at a loss as to why one council would need 50 pages of a code of conduct document while another council would only need 2 pages. So it makes sense to me to provide some uniformity in the way that councils develop a code of conduct, appreciating that there might need to be some differences between the different councils. There should be an overarching code of conduct that all councillors, regardless of what council they come from, should be obliged to comply with in relation to their roles and responsibilities as councillors. To my mind that would make it a lot easier for councils generally across the state and for those councillors that might actually be moving from one council to another or moving from one municipality to another to have a code of conduct that had some uniformity across the state.

I do want to refer to a local council in my electorate of Western Victoria Region. I note that the Andrews government sacked the City of Greater Geelong, so it does not have any councillors. It just has administrators, so councillors will not have to worry about signing a code of conduct until 2017. In the same way, the Andrews government sacked the Country Fire Authority board, sacked all the water boards, sacked all the health boards, sacked the catchment management authority boards, and I could go on. Unfortunately this government has a nasty habit of sacking boards and sacking councils, and inadvertently it sacked 107 councillors in a very poor drafting of legislation prior to this Local Government Amendment Bill.

I did have discussions with the mayor of the Borough of Queenscliffe, whose borough and councillors were

caught up in a potential suspension in relation to them not adhering to the requirements of signing declarations in front of a CEO. Obviously the mayor was quite distraught in that she had given many, many years of service to the borough and to the community of Queenscliffe, as had other councillors, only for it to be foreshadowed that in fact due to a technicality she and others would be suspended and, I might add, not be able to stand for the next election, which is due in October. This is an important moment, I guess, in relation to the debate here today, because we do need to pass this amending bill this week, before 1 September, to meet the time lines.

Can I just say to the government that it actually needs to be more mindful of the fact that when it poorly drafts legislation it starts to impact on our communities and those that are representing our communities through council. They should not be put in a position where they are facing suspension or in fact potentially facing not being able to stand again, regardless of their capacity to provide the knowledge and skills required and the long-term role that they have played previously in local politics and local government. They should be able to continue that work. I am happy to stand here and not oppose this bill. In fact I support its speedy passage given the importance of dealing with this matter so that those councillors that have been caught up in a minor technicality in relation to not complying with the requirement to make a declaration and sign a code of conduct can continue their work. They should be able to stand at the next local government elections in October without their reputations being besmirched through no fault of their own by some legislation that was very poorly drafted and presented to the Parliament.

**Mrs PEULICH** (South Eastern Metropolitan) — I am delighted to get up and speak on this important piece of legislation that was incidentally brought to my attention by none other than Cr Geoff Lake of the City of Monash. Can I say, one would question his service to local government, but he is certainly attempting to use some of the loopholes of this particular legislation to ensnare Cr Theo Zographos. He inspired me to attend a council meeting, along with a number of others who are keen observers of the local government sector and local government legislation and governance.

**Mr Morris** — I thought Cr Lake was in Canberra.

**Mrs PEULICH** — No, he was disendorsed — I must place that on record.

I was assisted by Cr Paul Peulich, who is a very keen and ferocious consumer of the Local Government Act 1989. He provided me with a layperson's assessment of the impact of the legislation. Much to my horror, simply by not signing a document, a code, making a declaration within 30 days and having it witnessed by a chief executive officer, which is a level of witness that does not comply and is not consistent with other forms of legislation — and the bill does not make provision for physical impossibilities of actually complying, and there are a whole range of them that exist — a councillor would find himself or herself disqualified. But they would be not just disqualified, they would be disqualified for life. It is worse than Stalinist Russia. I could not believe that.

One of the provisions, which sets out the process by which councils would need to undertake this process, requires that a council authorises a review, considers amendments, considers all of the other legislative instruments that it may impact upon — other laws, such as occupational health and safety and the like — and adopts the code all within a single special meeting. Now you cannot authorise a review, undertake a review, consider a review and get a legal opinion all within a single meeting. It is just preposterous.

To suggest that a document can only be witnessed by a chief executive officer is also preposterous. What happens if someone has a death and has to fly overseas? An overseas mission is not authorised to witness a document. It is preposterous. And indeed that it would disqualify someone for life goes against the very essence of our constitution and the bulk laws that exist at the various levels. Again it is a preposterous proposition.

When I started making inquiries of the legal branch of the department and started asking questions as to who would be responsible for notifying councillors that they are disqualified in order to avert a mass meltdown of council decisions being made and to prevent the legal challenges that could ensue — whether it be planning permits or be variations in contracts and the like — they did not know. They had not considered it. This is no reflection on the department. This should have been driven by the minister with government direction.

When I eventually spoke with the chief municipal inspector about who would be responsible for actually notifying councillors and determining how many councillors had fallen foul of this new provision, there were no answers. The inspectorate had obviously instigated, then, as a response a compliance audit, because they had no clue as to who had complied and who had not complied, let alone who would be notifying them of their lifetime disqualification.

Once that was done, I for one was not surprised that indeed there were over 100 councillors who would be disqualified and entire councils that would be disqualified, including the City of Frankston, which is obviously in my electorate and very dear to my heart, with some colleagues sitting on that council. Cr Theo Zographos, who was recently overseas, is a very dear friend of mine. There were also the Shire of Cardinia and the City of Ballarat, amongst many others. It was a revelation. The more we dug, the more astonished we were at the level of incompetence. I was relieved and delighted to see that the inspectorate had recommended to the government that an urgent amendment be brought in to avert the trigger date of 1 September — and clearly there is not a lot of leeway in that — and to see that common sense prevails. So obviously there will be a speedy passage of this bill.

To have a meltdown, to have so many councillors disqualified and to not have municipal inspectors in place all within a few weeks of council elections taking place — what a way of besmirching good, honest councillors. Yes, there are bad eggs — there are lots of bad eggs, who from time to time I have raised and taken up issues with — but the vast majority of councillors, and I am not commenting on their capacity, are well intentioned and want to serve their communities to the best of their ability. I for one will not stand for their characters being impugned or besmirched as a result of the incompetence of this government.

I was delighted that the government brought in this bill, but for it then to claim that it is actually helping out councillors is absolutely preposterous. I look forward to raising a lot of serious issues based on a 19-page document, the opinions of a Queen's Counsel, in this chamber to show that not only does this amendment give the government a little bit more time but I think there is a whole issue in relation to the codes of conduct and the variable content therein that needs to be reviewed. I believe that the amendment itself is not sufficient, because there are a number of other factors that have not been addressed. There are a whole range of questions that remain unanswered.

The consequences all fall on councillors, yet as was indicated by the previous speaker, a member for Western Victoria Region, individual councillors were not informed. Chief executive officers were and the onus was on them to actually advise councillors, but individual councillors — who would be disqualified, and disqualified for life — were actually never individually advised. This is certainly a very bad piece of practice. There is no machinery for finding out who has failed to comply, and there is certainly no indication as to who would deem a councillor disqualified. These questions are very serious ones that need to be answered.

Let me just refer to a couple of issues that were raised in this legal opinion. There are a number of scenarios that actually suggest that there would need to be greater flexibility in any sort of legislation of this nature. For example, to disqualify a certain councillor would be a serious derogation, obviously, of his or her electoral rights and a disproportionate response for a technical breach. There are many examples of what these breaches could be caused by. First and foremost, a councillor could make a verbal declaration to the chief executive officer, but not in writing, based on a misunderstanding. The legislation certainly does not clarify that. A breach could occur when a councillor is ill or incapacitated following a meeting so that they cannot then make a declaration, when a council staff member witnesses a declaration in place of the CEO but without a formal delegation under the Local Government Act or when a chief executive officer does not establish a procedure to enable councillors to make written declarations in his or her presence.

In one case a council was dismissed simply because the chief executive officer — and I thought this was fairly reasonable — said to the councillors, 'Please sign and leave in your pigeonholes'. I see no difficulty with that or with the witnessing being fulfilled by any other mechanism under law as occurs with other documents. A breach could occur when a chief executive officer refuses to meet with a councillor to enable a declaration to be made, when a chief executive officer refuses to accept a written declaration, when a councillor provides a signed declaration to the chief executive officer but the chief executive officer fails to advise of the witness requirement, or when councillors simply did not have the opportunity to comply with the section. So there are a whole range of reasons why this blunt instrument fails the system and fails its essential objective of improving governance in local government.

Further serious complications occur, as I mentioned before, in relation to the witnessing. A declaration to the CEO, it may be observed, is not a statutory declaration, which is an alternative to giving evidence by affidavit under the Evidence (Miscellaneous Provisions) Act 1958. A statutory declaration, in contrast, can be made before any qualified witness, and I see no reason why the signing of a code of conduct or declaration should be any different.

Having the CEO witness a written declaration does not take the purpose of the Local Government Act any further than the declaration itself. It only gives the CEO

the role of verifying the bona fides of the declaration. And of course there are a number of conundrums that emerge. It is worth noting that a CEO personally does not have to be the witness. Under section 98(2) of the Local Government Act the CEO of a council can empower a delegation of his duties, and I quote:

> The Chief Executive Officer may by instrument of delegation delegate to a member of the Council staff any power, duty or function of his or her office …

So it is unclear as to how those two interface. Indeed the witnessing role under section 76C(6B) and section 63(3) is undoubtedly a duty or function of the office of the chief executive.

There are many, many other issues but in particular, as I said, the version of the 1 September disqualification of over 100 councillors would have left a number of councils without any local government representation, without an administrator and still without a mechanism to actually find out how the entire system is governed. Does the minister know how many councillors were to be disqualified due to a refusal to sign as opposed to one of the many circumstances that could have led to a code of conduct declaration not being signed? Does the minister know how many councillors would have been disqualified due to the council failing to review the code of conduct as required? There was no system in place to achieve that. Indeed the offending provisions of section 63 say:

> (1) A person elected to be a Councillor is not capable of acting as a Councillor until the person has—
>
> (a) taken the oath of office specified in subsection (1A); and
>
> (b) read the Councillor Code of Conduct and, in accordance with subsection (3), made a declaration stating that they will abide by the Councillor Code of Conduct.

Basically, as I said, that triggers off another provision whereby that councillor would become incapable of serving as a councillor at any future election, and that is in section 29, which reads:

> **29 Disqualifications**
>
> (1) A person is not capable of becoming or continuing to be a Councillor or nominating as a candidate at an election if—
>
> …
>
> (g) he or she is otherwise incapable of becoming or continuing to be a Councillor under this Act.

The local government sector has come belatedly to the party, very late in the piece, with advice from the Municipal Association of Victoria. Maddocks, a respected legal firm, has on its website an article headed 'The code of conduct fiasco'. It goes on to rip into the process, saying:

> There was, and remains, a very credible argument that substantial compliance with the s 76C requirements was enough — that strict compliance was unnecessary.

It goes on to say:

> A councillor who is disqualified under s 29(1)(ea) is ineligible to contest any municipal election. This is clear from the text of s 29(1)(ea) itself. Any state government observations to the contrary are based on a strained interpretation of the provisions and are at odds with the explanatory memorandum to the Local Government Amendment Bill which refers to disqualified councillors being ineligible to become candidates at the October election.

Was this a secret plan? Was it that a bunch of councillors who are difficult or councils that are difficult to govern were somehow going to be led to their demise with the introduction of this? It is either absolute mischief or total incompetence. I have in my 20 years of parliamentary service never seen a bigger stuff-up than this rewrite, and let me say that I am not inspired by the process that I have seen in the review of the Local Government Act. I actually attended one of the sessions. I dread to think of what is going to come back. Rather than being sensible and addressing some of the gaps and weaknesses in the Local Government Act — such as, for example, breaches which carry no penalties and the like — we are now going to throw the baby out with the bathwater. I absolutely dread what is going to come of it, and I would urge — notwithstanding the personal, challenging circumstances of the minister — that the Premier consider putting in someone who actually understands the sector and can actually lead to improvement in governance of the local government sector.

**Mr BARBER** (Northern Metropolitan) — I want to be careful not to destroy any more of what remains of the goodwill associated with getting this legislation passed as quickly as possible. There have been plenty of attempts to apportion blame in the debate so far and very few wanting to take on the responsibility. The fact is that this legislation, or the particular clause that is causing so much of a problem here, actually passed the Parliament not so long ago, and there would be many of us here who actually voted for it. I do not think anybody noticed at the time the potential trip-wire that was being set up and the unintended consequences whereby someone who might have even inadvertently failed to sign the new version of their councillor code of

conduct was actually incapable of then correcting the error, short of jumping in the TARDIS and flying back to a previous time and changing the future.

Yet, as emerged over time as the office of local government made inquiries, huge numbers of councillors had one way or another failed to meet the requirements. We are looking at many, many councillors and in fact a number of whole councils being made ineligible. I guess you could say that was their fault, but again, the government came in — I am not sure why — wanting to defend its own position. It basically claimed that it had put out some memos and a media release and therefore it was absolved of any responsibility. I think this could be one of those occasions when we can all take a little bit of the responsibility and just focus on actually solving the problem. I know that is what the voters would want us to do, particularly as we are now approaching so close the day for a vote for some new local councils.

When you are talking about codes of conduct for local councillors, it is almost impossible to avoid the comparison with the code of conduct that applies to MPs here in this place, which is to be found in the Members of Parliament (Register of Interests) Act 1978. Remember that year for a moment, Acting President Ramsay. I was 12 at the time, but for you, Acting President, 1978 could have been a more memorable year. Anyway, in that particular piece of legislation we have at section 3 a code of conduct for members of state Parliament. No-one has ever been required to sign it on arrival here in the Parliament.

We swear an oath of allegiance to the Queen, and that is about it. Yes, we are bound by the code — whether we know it or not and whether we like it or not — but no-one would suggest for a minute firstly that we have to sign it or else if we do not sign it somehow we are not willing to be bound by it; and secondly that if we fail to sign it, even due to an inadvertent error, that we should be thrown out of Parliament with no way back.

So that is the state of play with regard to state MPs, and I think a little bit more leniency should be given to those councillors who inadvertently failed to sign their code of conduct. No sympathy of course should be given to the Michael Tetis of this world, who to this day still want to thumb their nose at the code of conduct — but I suspect it is the voters of Moreland who will sort him out long before this legislation could do the same.

As has been noted, codes of conduct for local councillors are regularly reviewed. They can be 15 pages. I know of some that are 30 pages. In relation to our own code of conduct, as state MPs we have got paragraphs (a) to (f) in section 3(1). Let us just have a little bit of a look at what they are. First of all the code says:

> It is hereby declared that a Member of the Parliament is bound by the following code of conduct …

There is no requirement to sign it, let alone in any particular person's presence. Then it says:

> (a) Members shall—
>
> (i) accept that their prime responsibility is to the performance of their public duty and therefore ensure that this aim is not endangered or subordinated by involvement in conflicting private interests;
>
> (ii) ensure that their conduct as Members must not be such as to bring discredit upon the Parliament …

Well, with the now very well known issues that this government has got itself into with regard to the conduct of individual members and with the numerous problems that the previous government had in relation to conduct of individual members, you would imagine that we would be falling over ourselves to raise the standards required of state MPs: create a new code of conduct and new ways of ensuring that MPs are aware of it, set up tribunals and put in place a whole range of checks and balances in relation to MPs and their code of conduct. Not at all. In fact when you get down to the very bottom of section 3, it says:

> (2) Without limiting the generality of the foregoing in the application and interpretation of the code regard shall be had to the recommendation of the Joint Select Committee of the Victorian Parliament appointed pursuant to The Constitution … presented to the Legislative Assembly on the 23rd day of April, 1974 …

That in fact is the last time that the Victorian state Parliament decided to review its own code of conduct.

**Mr Finn** — When was that?

**Mr BARBER** — In 1974, Mr Finn.

**Mr Finn** — A very good year.

**Mr BARBER** — You are going to tell me your footy team won?

**Mr Finn** — We won the premiership that year — Richmond won.

**Mr BARBER** — Well, no wonder that year comes to your recollection, Mr Finn — through you, Acting President. But 1974 was the last time this state Parliament took a good, hard look at itself in relation to the conduct of members and the findings of that

inquiry — which I have in fact read, Acting President, it will not surprise you to know, but I do not know how many other members have done so, even though they are subject to interpretation of the code through that particular committee of inquiry. There may not even be one other member in this entire Parliament who has actually even read it. That was what they used to create a code of conduct for members in 1978, and no-one has touched it since.

We are constantly adding to the responsibilities of local councillors, constantly reviewing their code and forcing them to then go and sign it and putting in more and more layers of bureaucracy and trip-wires to the point where you basically cannot even disagree with someone without them making a complaint against you. Yet here in Parliament we have got nothing. We have got paragraphs (a) to (f) and we have got an act that is coming up to 40 years old. If a member is alleged to have perhaps misused their allowance, whether it is an exercise with the fuel card or perhaps sending electorate officers to do party work, well, what happens there?

**Mr Leane** interjected.

**Mr BARBER** — Not that I would suggest or in any way want to pre-empt the findings of the Ombudsman in her investigation now. The government has said they followed the rules. Others have said the rules are unclear. Mr Leane over here said there are no rules. It certainly cannot be all three things; it has to be one of those three, right? We will wait and read the report of the Ombudsman on that particular set of allegations that have been made about the use of parliamentary entitlements, which if misused would certainly be a breach of the code of conduct. A serious breach of the code of conduct, as we read in the case of Mr Shaw, represents a breach of a parliamentary privilege to be punished by the Parliament itself. Yet we have just delayed it by six months and been off to the Supreme Court to decide whether the Ombudsman can ever investigate MPs' use of entitlements. That just indicates the enormously difficult, clunky nature of code of conduct breaches when it comes to state MPs — but state MPs are always ready to pass new rules in relation to local councillors.

By the way, if the Premier wanted to bring in a new code of conduct for members expanding on what is in the legislation, then he could in fact do that by regulation, because section 11 of the same act — it is quite a short act — actually says:

> The Governor in Council may make regulations prescribing any matters or things authorised or required or necessary to be prescribed under this Act.

So if it was necessary to expand on those paragraphs (a) to (f), perhaps what the Parliament ought to do is establish its own committee to go away and write a more up-to-date, modern code of conduct. If that was to be recommended to the house with support from members, then through the mechanism of regulation the Premier could adopt it and create new rules for MPs.

But I think hell will freeze before that happens, because let us face it, state governments love bashing up local councils. It is just a great day whenever they can take some local council to task. It is 24 hours when they do not have to deal with their own problems, and it is habit forming. Every government, and I detect it with increasing frequency, seems to come up with a reason for sacking another council. It was Geelong in this term, and we had a good old debate about that.

It is a bit addictive, really, is it not, for state governments to externalise their own internal political problems by finding something wrong with a council somewhere and making it the story of the day. The problem is there are only 79 of them, so you cannot buy yourself out of trouble indefinitely there. In my view this has been another example of this. Notwithstanding the good multipartisan support we are getting on correcting this particular matter here in the Parliament, and doing it with some alacrity, we need to do it before the end of today, otherwise people will be in trouble by Thursday, 1 September — and, as noted, we are coming up to council elections as well.

That is my contribution on the bill. There is plenty of blame to go around, both among the councillors and the Parliament — the government which drafted this legislation. I do not think there are too many people out there who can really claim that they saw this particular problem coming, but we are correcting it here. It does, though, bring into focus the need for much greater improvement in relation to our ability to hold ourselves to account through a code of conduct. I look forward to any discussions with other members and the leaders of other parties about how we might implement that before this term of government is out.

**Mr FINN** (Western Metropolitan) — I rise to speak on the Local Government Amendment Bill 2016, and I understand there is some reason for haste on this bill because the government has left this particular matter until the 11th hour. It has known that the problem has existed for quite some time, as I understand it, but it declined to do anything about it. It declined to fix the mess that it had created. This is part of a new phenomenon in Victoria known as Dansaster, and it is something that has been created by a government that just rolls from one disaster to the next. Every day is a

new disaster, and of course the 'Dan' is self-explanatory. People from one end of the state to the other are bemoaning the state of Dansaster that we are suffering in Victoria as we speak.

You have got to say — and I have yet to hear anybody from the other side actually contradict this or even attempt to contradict this — that this is yet another huge Labor stuff-up. I have said this on many occasions now, but Labor just keeps giving us more stuff-ups so I keep talking about them. The Labor Party is good at one thing: it is good at stuffing things up.

**Ms Fitzherbert** interjected.

**Mr FINN** — The money loss, Ms Fitzherbert, is a part of the Dansaster that I speak of. It is part of the Labor stuff-up that it has come to. In Labor terms it is a stuff-up that is a work of art. It is not just your common garden variety stuff-up. When Labor stuffs something up, it stuffs it up good and proper, and that is what it has done on this occasion. I have to say that when I got wind that Wyndham City Council was to be dismissed, when I had a phone call from one of my local papers and the journalist said to me that the Wyndham council was to be dismissed, I said, 'What's the feeling?', and he said, 'There's dancing in the streets'. That really did not surprise me, I have to say. But of course not every council is like Wyndham, which we can all get down on our knees and give thanks to God for, I can assure you.

I had an email from the mayor of Hobsons Bay City Council asking, 'Why are they doing this to us? We have been so very good for such a very long time — since we got rid of Tony Briffa in fact', as the former mayor down there who caused more trouble than I have seen in a fair while. I have to say that the Hobsons Bay council is a particularly good council, and I have to say once again that that council is one that I have not heard any trouble about or from, which is a bit of a rarity because usually when councils start acting up the constituents are on the phone to me quick smart, as they have been in Wyndham in very large numbers over the last year or two. Certainly in relation to Hobsons Bay I have not had that experience. The Hobsons Bay council is a very solid council. It is a very stable council and a very responsible council, yet the Labor Party was going to sack every councillor. Not only was it going to sack every councillor, it was also going to ban every councillor from running for re-election in October. Not only was it going to ban every councillor from running for re-election in October, it was going to ban every councillor from ever running again, forever more. These councillors had technically breached the law in that they thought they had done the right thing but perhaps they had stood on one leg when they should have stood on two or they might have been at the wrong angle or the sun might have been caressing their right cheek when it should have been caressing their left cheek. These are matters that cause the Labor Party to go into conniptions, and of course that is what this legislation is about fixing today. These people are good councillors, they are hardworking councillors and they are good representatives of their communities. They were just told out of the blue one day when the government rang up and said, 'You're all sacked. Get ready — start packing your bags. It's all over', and as you can understand, that came as somewhat of a shock.

I had discussions with a number of councillors from around the state — even, Acting President Ramsay, councillors in your region — who had expressed some significant dismay at the way they had been treated. I had to explain to them that in the state of Victoria, where we have Dictator Dan running the show, that is the way people are treated. There is no room for competence to start with or any sort of consideration for people who are attempting to do the right thing, because this government is in a position where it does not actually know what the right thing is, much less attempt to do it.

We have had this monumental stuff-up that has created havoc throughout the local government community across the length and breadth of Victoria. Here we are at the 11th hour; at the stroke of midnight tomorrow night 13 councils and a number of other councillors as well were going to be sacked. Here we are, the day before, with a government that is finally getting around to fixing it, but only because the opposition put the screws on them; it put the pressure on them in a fairly big way.

It seems to me that there is a trend here. It does not matter what the issue is in this state at the moment, the government does not do much unless the opposition pushes it into it. That is a sad fact of life. The only thing that this particular government has excelled at is stuffing things up, which has become, as I say, almost a daily event — —

**Mr Leane** — You said that.

**Mr FINN** — Yes, I have said that. I am just making sure, Mr Leane, that you get the message. As I say, the only things that they are good at are stuffing things up and fighting with each other, which, I understand, they are particularly good at. I see Mr Leane over there nodding his approval — —

**Mr Davis** — They are getting a lot of practice at the moment.

**Mr FINN** — They have had a lot of practice and I have a feeling, Mr Davis, that they are going to get a lot more practice before they are finished. They are going to get a lot more practice in this Labor Party in Victoria because, as we know, we have a Premier who is desperately trying to save his job at the moment. The walls are closing in on him. He is looking for friends, and friends are very, very hard to come by in his particular situation. Indeed he has looked to the local government community. There are no friends there for him, because they look at him and say, 'Well, look what you have done to us. Look at the position that you have put us in as councillors, as CEOs, as servants of our local municipalities, our local communities. Look at the position that you have put us in, and now you want us to turn around and support you? Well, honestly'. They are saying to the Premier, 'You would have to be joking'.

We have had debates in this place over a number of years now about conduct at various levels of government, but certainly I think local government has been uppermost in our minds. We only have to go back a few years to the Brimbank debacle, when the Labor Party in Brimbank used the council for factional payback for looking after their mates for a whole range of — —

**Mr Leane** interjected.

**Mr FINN** — I have to say to you, Acting President, I mentioned Brimbank and Mr Leane all of a sudden took a great deal of interest. I do not know what Mr Leane's interest is in Brimbank. I do not know whether he has struck up a close friendship with Ms Suleyman, who was the mayor of Brimbank at a time when it was pretty corrupt and pretty crooked. We talk about conduct. We know what the Labor Party do if you are mayor of a corrupt and crooked council, do we not?

**Ms Fitzherbert** — Preselect you.

**Mr FINN** — They give you a safe seat. That is exactly right. You show how to run a council and you show how you look after your mates, and they will give you one of the safest seats in the state. That is what they did with Ms Suleyman, who is in another place, after her stint — or a couple of stints, I think, from memory — as mayor of Brimbank.

I want to congratulate the administrators of Brimbank because I think they have done a tremendous job. John Watson, Jane Nathan and John Tanner have done a brilliant job out at Brimbank. Just a couple of weeks ago I was at the opening of the new Brimbank Community and Civic Centre, and it is something that has to be seen to be believed. You would not have thought that in the middle of Sunshine there would be such a brilliant building — put together, obviously, with the support of the Brimbank council under the administrators and, I have to say as well, the former coalition government. I recall being there the day that the then minister, Jeanette Powell, attended the Sunshine Library to announce that the then coalition government was allocating the millions of dollars necessary to get this project up and running. It just goes to show, in this particular case anyway, that there is a significant legacy to the people of the western suburbs from a Liberal government.

I know that Mr O'Donohue could talk about the legacy from his area when he was the minister. We could go on for quite some time about the enormous legacy that the coalition government left people in the west, but I think possibly the best one is the current administrators, who are finishing up. They have done a superb job at Brimbank. They have turned Brimbank from what was the laughing stock of local government across the nation into something that we can all be very proud of and proud to be associated with. I did not think we would ever say that again, let alone say something of that nature so quickly after the debacle under Ms Suleyman just a few short years ago.

This bill is to fix up, as I said earlier, another Labor mess. I do not mind coming here and doing that every so often, but I have to say that it is getting a little tedious. How many times do we have to come into this place to fix up Labor's stuff-ups? How many times do we have to fix up where Labor have got it wrong and have had to come cap in hand to the Parliament, to the people of Victoria, and say, 'We may have made a mistake here'. They are really good at making mistakes. We, unfortunately, are in a position where we have to spend copious amounts of time fixing those mistakes.

**Mr Leane** interjected.

**Mr FINN** — Mr Leane knows exactly what I am talking about. As he indicates, he knows exactly what I am talking about. I think it is sad that the people of Victoria do not have a government that they can trust to get things right. That is a great pity. In this particular situation it has caused enormous distress to a great number of people across the state of Victoria. I am hoping that this bill will go some way towards fixing their distress and certainly fixing the mess that Labor left us in this particular area.

**Ms FITZHERBERT** (Southern Metropolitan) — Mr Finn has provided a very good introduction and set the scene very, very well. We are here fast-tracking a solution for the government on yet another unedifying day for them. I mean, it is a quarter to 6, and this is what they are dealing with already. First of all there is the backwash, if I could use that term today, regarding the Premier's alleged comments about former Assembly member Donna Bauer. It has already been well said in this place and elsewhere that they were appalling comments, and I note that the Premier says that he did not say them, although there are those who maintain that he did. But here is what people have said about this. It has been called 'a wicked, shameful lie', it has been called 'defamatory, disgusting and wrong', it has been called 'a pretty pathetic attempt' at political payback, and it all came from the Labor Party. It did not come from us; it came from you.

The other thing that I guess you are dealing with today is yet another leak in the press regarding the United Firefighters Union (UFU), this time showing that the Premier's office was indeed written to and made aware of the sort of behaviour that was being shown by members of the UFU in particular towards the minister of the day. And just recently we have had the former minister, Jane Garrett, make a statement in part about this and about the evidently marathon caucus meeting that went on this morning that canvassed some of these issues.

Now we are dealing with fixing yet another mistake made by this government. Here we are on the first day of the sitting week and we are dealing with a — I think the term you used, Mr Finn, was — 'stuff-up'. I think that is a pretty good way of describing it. And it is a stuff-up that we are dealing with quickly, because it has very serious potential consequences and there is a time imperative. So let us see if we can make this bad day for the government a bit better by fixing their problem in relation to councillor code of conduct provisions. Now, I would have thought this was a pretty straightforward thing for a government to be dealing with, but evidently it is not. It has been messed up on a grand scale.

Codes of conduct are commonplace instruments, and it is remarkable that this one has been so profoundly messed up. Many of us in this place have been party to codes of conduct, have been subject to them and have dealt with them. They are very, very common, and they are there for important reasons. Obviously we have well-known examples of inappropriate or improper conduct among councillors. This is regrettable. I think in Victoria it is quite rare, but it is always useful to have a formal reminder of what is appropriate conduct and what is not. As I said, I would have thought that this was a pretty straightforward thing to deal with, but it has been dealt with with incompetence and I would say negligence. The implementation has been criticised by the Municipal Association of Victoria (MAV) in ways that I think are quite reasonable.

We ended up with a situation where it was found by the inspectorate that 13 councils have not complied with the requirements and that those councillors and councils under the current legislation will be disqualified as of 1 September. This would require administrators to be installed, which I imagine would involve more legislation, a gap in terms of governance and additional costs, so that is what we are trying to avoid today. But there is also a particularly onerous provision as a consequence of this disqualification from council — that is, councillors who were disqualified would have been prohibited from running again — which seems to be a very, very heavy penalty as a result of a poor implementation of a code of conduct.

I mentioned earlier the comments that have been made by the MAV, and I am going to go back to these in a bit of detail. Mr Rob Spence, the chief executive officer of the MAV, made some comments about this by press release on 16 August of this year. He made the point that while there were a small number of individual councillors who refused to sign their code of conduct, and they would be dealt with separately, the majority of the 107 councillors who were purportedly facing disqualification believed they were complying — in other words, they were trying to do the right thing. And he goes on to say:

> In most cases, we are talking about a minor administrative oversight, an honest mistake or an instance where the inspectorate's interpretation of the rules differs from a council's understanding of the legislation.

I would have thought it was the government's role to make sure that councils understand the legislation and to provide instruction and outlines of how it is to work in a way that can be easily understood. The MAV says that they broadly support the new laws, which were:

> … intended to strengthen councillor conduct and to resolve instances of poor individual conduct by a councillor.

This point I think is particularly relevant:

> … using new provisions that take effect on 1 September to disqualify councillors on what can best be described as a very minor technicality is like using a sledgehammer to crack a walnut.

I agree with that, but it goes beyond issues of the effect on individuals, many of whom genuinely believed they were doing the right thing, and it goes to issues of

governance for large parts of Victoria in the local government sphere. The work that that level of government has to do, and the variety of activities, contracts and oversights that it needs to deal with, would be thrown into disarray at best, which I think is a polite way of putting it, as a result of the uncertainty because of this error.

As I said, we are here fast-tracking a solution, because we are coming up to midnight on when the very poorly implemented code of conduct effects would start to come into play. There are 13 councils, as I said, who are affected by this and 107 councillors. What we are being asked to do today is ensure that, I guess, an unexpected consequence does not come into play and affect individuals, councillors and therefore the people who work and live within those municipalities and depend on effective government at that level.

I will conclude my comments there and say we are here to fix it this time, but next time can you just put a bit more thought into it and get it right the first time.

**Mr O'DONOHUE** (Eastern Victoria) — I am pleased to join this debate and pleased to have had the pleasure of listening to Mr Finn and Ms Fitzherbert, who have very succinctly and very well articulated how we have come to be here this afternoon. We could be debating things like prisoners not being presented to court, in contravention of court orders; we could be talking about the lack of police; we could be reflecting on the comments of the Chief Magistrate at the Dandenong court that there simply are not enough police in Victoria to respond to the serious problem of young recidivist offenders. But no. What are we doing? We are fixing up another one of the Andrews Labor government's stuff-ups.

We should not have to be here to do what we are doing, but I wanted to make a contribution because of the impact this stuff-up has had on the Cardinia Shire Council. I have spoken to several councillors in the Cardinia shire. I have a good relationship with the councillors of the Cardinia shire. They work hard, and they do a good job in difficult circumstances given the enormous population growth that the Shire of Cardinia is experiencing and given the dearth of resources that the Andrews government has put into that shire despite that enormous growth. This is something which that council did not need, and while we are fixing this problem, it should never have existed in the first place.

It is worth reflecting on why these mistakes can happen. The business of government is demanding, complex and ongoing, but the government's attention has been diverted from the business of government to the business of being at war with themselves and being at war with the Supreme Court of Victoria, for example, over the Labor rorts affair. When you are caught out having misspoken, as Minister Hutchins was found to have in her characterisation of her conversation with the president of the Fair Work Commission, and when you have cabinet members of the government leaking against other members of the government, mistakes will happen.

I thought it was extraordinary that on the Friday after the last sitting week we were reading about what cabinet was going to consider on the following Monday about Uber. The cabinet papers were presumably delivered to cabinet members on the Thursday, and Friday's papers had the details. Can you get any more remarkable than that, when the government is so dysfunctional that cabinet papers get delivered in those secure sealed bags on a Thursday, ripped open and given to a journalist by the Friday? Before cabinet had even considered what the Uber situation was going to be, we were reading about it on the Friday before.

This bill, which seeks to rectify a significant issue that has caused an enormous degree of concern in the local government sector, is symptomatic and reflects a government that does not have its eye on the complex and difficult task of governing. If the government did have its eye on the complex and difficult task of governing, maybe this serious mistake would not have occurred, maybe this issue would not have happened, maybe we could have been debating other issues of consequence to the Victorian community and maybe all that energy, angst and concern among councillors and council staff in the local government areas across Victoria, particularly those that are directly impacted as a result of this issue, and all that energy, those resources, that time and that money could have been put into productive outcomes for local government areas.

As I said, I am particularly concerned for the councillors of the Shire of Cardinia. The Cardinia shire is growing enormously. Every day there are more and more new families moving into the area. There are many demands and many challenges for local government in responding to that growth and that pressure. This issue is a distraction that the council did not need. Again I would like to echo the comments of Mr Davis as the lead speaker on this bill and those of Ms Fitzherbert and Mr Finn. I look forward to this issue being resolved and moving on to other issues of consequence and substance for the people of Victoria.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I was here at the beginning of

the debate to listen to the contribution of Mr Davis, and I did so because Mr Davis and I had a discussion prior to the beginning of the debate. No doubt when we get to the committee stage I will vocalise those discussions that we had. They have been — and I think Mr Davis will agree — discussions in good faith about how we can progress some of the concerns that Mr Davis has articulated to me in person.

Ultimately what the bill aims to do is to repeal one section of the Local Government Act 1989 — that is, section 76C(1), which required councils to amend their councillor codes of conduct earlier this year. As we are well aware, sadly a number of councillors were given incorrect advice by their council executive management, and some other councillors, I might add, also wilfully chose not to sign the code. Regardless of what the motivation or otherwise was, as a direct consequence of that we found ourselves in a position whereby a number of councils were in the somewhat unviable position of being in default of that legislative requirement. What this bill aims to do is ensure that those councillors who failed to make a compliant declaration will in fact not be disqualified on 1 September of this year and that there will be no consequential errors for the council to have to deal with or consider or for the councillors themselves to be disqualified either.

The bill does not affect any other aspect of the governance reforms from last year. It simply seeks to repeal that one section about compliant declarations and disqualifications for the remainder of the term. That means that going forward, with council elections due to occur later this year in October, there will be no subsequent issues for the councils or the councillors to face. It will allow them to make a compliant declaration within, I believe, four months of the council elections being finalised, which of course means it is business as usual.

That is simply what this bill aims to do. It is a pretty straightforward bill. It is unfortunate that it has come to this. There were many, many occasions on which councils were notified of what was required for them to meet this legislative requirement. Councillors were advised as well. It is unfortunate that we have got to this position, but this piece of legislation before us seeks to remedy the situation in a way that ensures that taxpayers at the local government level are not inconvenienced by default, by appointments to the council of administrators or otherwise. So I suggest and recommend to this house that this piece of legislation should proceed and be voted on and supported accordingly.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clause 1**

**Mr DAVIS** (Southern Metropolitan) — I have a number of questions with respect to clause 1, and I know some of my colleagues do too. Can I start with a discussion I had with the minister earlier. In particular one of the commitments, one of the clarifications, that the opposition is seeking is to ensure that there is in the transcript a clear position that councillors who are standing for election at the forthcoming election in October are able to go forward — presuming that this bill passes. The government would not provide legal advice. I sought that at the time of the briefing, and I am happy to put on record my thanks to those who provided the briefing, but we were not provided with that legal advice, and I did flag at the time that we would seek that information from government.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Deputy President, this is the first opportunity I have had in a process such as the committee stage to welcome your appointment to the position and wish you the very best in it.

I am happy to put on the record in *Hansard*, in response to Mr Davis's concerns about the potential disqualification of councillors that have not signed, that that is not going to impact upon their ability to stand for council in the upcoming and forthcoming elections. Furthermore, let me go a little bit further on the question that Mr Davis raised and say again for the benefit of the opposition and *Hansard* that the government's position is to make sure that any concerns that the opposition have about this position going forward will be addressed in the upcoming Local Government Act 1989 (LGA) review. It is the government's intention to work with the opposition to ensure that clarification is made in that legislative review to ensure that well before the next round of council elections the opposition does in fact have comfort — —

**Mr Davis** interjected.

**Mr DALIDAKIS** — Beyond this year's elections. Mr Davis. The government wants to ensure that the opposition does have comfort that if a councillor refuses to sign the declaration post the 2016 election, they are only disqualified for the remainder of that turn,

not from standing again. I wish to reiterate that the government's position is very clear: that somebody refusing to sign the declaration is not disqualified from standing at future local government elections but only for the period of the remainder of that term. I said to Mr Davis earlier that that was the government's position and that in the LGA review we will work with the opposition to ensure that that is absolutely clarified in the legislative rewrite. I would hope that that provides comfort to Mr Davis and addresses his concerns.

**Mr DAVIS** (Southern Metropolitan) — On that matter, I thank the minister for both those points. I do flag that whilst I accept in good faith that the government intends to deal with this matter in the Local Government Act review and the subsequent legislation, it may well be that not all of that legislation is agreed on across the Parliament. I would be cautious to see that we were not left with fixing this problem being contingent on agreement across the Parliament for what is legitimately a whole raft of different points on which different parties and different individuals in the Parliament will have a range of views.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Davis for his question, or rather request for clarification. Let me again make clear that the government's position is that there is nothing in this legislation that would suggest that the position that the government holds — that is, that somebody is unable to stand again at a subsequent council election — is not already in this legislation. The government position is that that is still the case — that people can stand again and that they are not disqualified from standing at future council elections.

The reason for my original response just previously was to provide comfort to Mr Davis that in fact if those opposite felt that their advice or their understanding was somewhat different from that, we would certainly work with the opposition to ensure that they had comfort in that. But the government's position still remains quite clear. We do not believe that the position that is, I think, the favoured position of both government and opposition remains anything other than what it is. But acknowledging that there are concerns, we are happy to try and ensure that those concerns are met. Even though we do not believe they are needed, we are happy to extend that olive branch regardless.

**Mr DAVIS** (Southern Metropolitan) — Deputy President, I was remiss in not congratulating you on your position, so I take this opportunity to do so. Minister, I want to unpack to some extent what has occurred here and the process that has occurred. I want to go back to circulars that were distributed by the Department of Environment, Land, Water and Planning (DELWP) and the relevant section of DELWP and the confusion that resulted from those pieces of correspondence. I particularly draw your attention to circulars 7/2016 and 37/2015. The 2015 document refers to incoming councillors, and the circular specifically states:

> The provisions are coming into force at a later date to ensure that they do not unduly impact current councillors and their councils.

The 2015 guide also stated:

> Again this declaration must be signed and witnessed by the CEO.

That is at odds with the legislative requirement, which only specifies that a declaration must be witnessed by the CEO.

What I am alluding to here is that there was in fact confusion, and I want some recognition of that confusion from the government. I want to understand what steps will be taken to ensure that this sort of confusion does not happen again.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I think the very fact that we are in this position, Mr Davis, I would hope would lead us to the suspicion and acknowledgement that councils or councillors misunderstood or had not been provided with the correct briefings by their own council executive teams or otherwise, given the position we have found ourselves in. Again, having found ourselves in this position, hopefully this will provide an opportunity to ensure that in fact councillors and councils are well apprised of their requirements.

As you have noted, there were indeed a number of circulars that were provided. We would hope going forward that councils, again, would understand their position and requirements in relation to the legislation. However, what the government will continue to do post this election is work with both the Municipal Association of Victoria (MAV) and the Victorian Local Governance Association (VLGA) to ensure that any queries, concerns or otherwise are met and that appropriate advice is distributed amongst their membership body, both at the councillor level and the councillor executive level, to ensure that we avoid being in a similar situation in the future.

**Mr DAVIS** (Southern Metropolitan) — What I am hearing here is that there will be communiqués to explain the new legislative arrangements if the Parliament passes these matters today, so the communication of that will occur. Will the minister's office have some oversight of that to ensure that those checks and balances are there and that these communiqués are sufficient, or is it going to be again left to the local government sector to make these decisions?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — In terms of this legislation and the subsequent communiqués, there is little that needs to come out of this legislation itself because all this legislation does at this point is repeal the provision to undertake that review of the code of conduct and its signing. So by repealing section 76C(1), section 76C(2) becomes the new section 76C(1) and says that a council 'must, within the period of 4 months after a general election', and then it goes on from there. So in effect it just simply removes the provision right now and enables the council to continue its normal, ordinary course of business and to act in accordance with this legislation within a four-month period after the general election in October. That is what this legislation does.

Obviously that will be communicated to the local government sector to provide surety that the councils do not need administrators to be appointed. For councillors who are fearful that they will be in breach, that subsection will be removed. We will need to communicate that to the local government authorities and at the council level as well. In terms of the communication that the minister's office will provide, the minister's office is indeed well abreast of the situation that it finds itself in and is doing what it can to mitigate those circumstances from reoccurring.

**Mr DAVIS** (Southern Metropolitan) — I thank you for that response, but in that context it does not quite explain what role the minister's office will play in this, both in implementing this amendment now but also in the subsequent framework that will be in place as we go forward with a new set of councils in October 2016. How is this to be communicated to those councils, and what role will the minister's office play? Or will it play a hands-off role, as in 'You are over there, local government office. You do that, and I will just watch'?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Unfortunately, as Mr Davis is both sympathetic to and aware of, we had an acting minister at the time, but in terms of my responses I will, in good faith, give responses as if it were the actual minister's office answering per se. Just so that you know, Mr Davis, the minister's office will indeed be involved in the process. They will send out letters across the local government sector, they will work with the peak bodies to ensure that they are aware of the requirements and of course the minister will issue model guidelines to the sector to ensure that they are able to meet those guidelines and are aware, again, of their obligations to meet the legislative requirements.

**Mr DAVIS** (Southern Metropolitan) — If I can just return to the circular of 7/2016, there was a list of items that was put out for action, if I can describe it that way, by councils, and I wonder if there has been some audit or checklist as to which councils have undertaken which of these tasks. Did the government actually follow that through, or did local government offices follow that through? How has that been examined? For example, the councillor code of conduct is on that list, as well as internal resolution processes for addressing contraventions to have an independent chairperson of the audit committee. There are a number of these items. I am just interested to know exactly what mechanisms are there to communicate, given that we have had these failures.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Obviously we are aware of the failures of the individual councillors, and we are aware of the failures of the councils themselves. In terms of identifying and understanding where those failures have occurred, we are of course well across that because we are obviously well aware of who the affected individuals and councils are. Further to that, I am not sure what additional information I am able to provide.

**Mr DAVIS** (Southern Metropolitan) — Thank you, but the failures I refer to are actually failures to communicate this to councils — the failure from the centre to communicate the steps needed to be taken by councils. This is why I am interested in this central failure — not to make the individual councils the target but to understand the list of items on the circular of 7/2016 and whether there has there been some stocktake or audit of those matters or whether the government is just letting that drift.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Mr Davis, we have had, I think, a good faith discussion here. The fact of the matter is that the government on many occasions communicated what was required. Whether or not because this was a new practice there were people that did not understand what was required of them, that does not necessarily reflect on the appropriate level of communication that was undertaken, but it may

necessarily suggest that the failure was, of course, because it was a new process.

Now, what I can tell you is that the government will again issue guidelines on all reforms. The inspectorate has a compliance role, and the government will continue to assist councils in all aspects of their reforms. I can only assume again, as I have said previously to Mr Davis, that the fact that we are in this position already would serve to highlight what exactly is required of the councillors and what is required of the councils going forward. But nonetheless the minister's office will indeed issue notices to the councils themselves and will indeed obviously work with the inspectorate to make sure that those concerns are not going to be founded again following the general elections in October.

**Mr DAVIS** (Southern Metropolitan) — I thank you, Minister, for your response on that. I will just record that I think that is still not quite there. I still do not feel comfort that there is a clarity about the number of new items that were communicated in that communiqué, and given the systemic failure to communicate from the centre and the ambiguity, at best, of some of the communiqués I do not believe that we can have that level of confidence. So I think there is probably a role for not so much the inspectorate but much more Local Government Victoria to actually work there and for the minister to make sure that councils have had communications that are unambiguous.

The second point about this process that I think is important to understand is the role of the inspectorate. There is something that troubles me significantly about the process with the inspectorate. The inspectorate compiled its report, and for the record the community became aware of the report and the matters around individual councils became a matter of public knowledge on the Monday of the sitting week in which this bill was introduced. But what is significant about this is that the document was not released publicly until Wednesday afternoon. Many in the sector did not have a copy of the document. I can indicate that I was provided with a copy of the document on the Tuesday. We had sought that as swiftly as possible. But importantly I do not believe the councils should have been sprung with media comment before they had been provided with a copy of the inspectorate report as it related to their particular council. So I am wondering if you could explain how that process operated. Did the inspectorate release the document, or was it released by the minister's office? How did that actually operate? And why were councils not told the detail before this matter became a matter of media comment?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — What I can advise Mr Davis is, as he would understand, we cannot speak on behalf of the inspectorate, but my recollection of the events is that in fact it was the inspectorate that released the report well in advance of government releasing its intention to put forward this legislation as a way of ameliorating the situation that we find ourselves in.

**Mr DAVIS** (Southern Metropolitan) — I am not sure that that is exactly the sequence that occurred here, and this is why I am troubled about this. I am concerned that somebody, presumably the inspectorate, released the report, but they released it before councils had actually seen a copy of it. I am trying to understand whether that — as a matter of protocol, a matter of good sense, a matter of decency and a matter of respect — is the right way to behave.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I just indicate to Mr Davis that they are all questions that he is welcome to put to the inspectorate, but at no stage can I speak on behalf of the inspectorate. Again I reassert the fact that it was the inspectorate that chose to release that report prior to, of course, us releasing our intention to legislate in the way that we are debating and discussing in the committee stage right now.

**Mr DAVIS** (Southern Metropolitan) — With the greatest respect, I do not think that is good enough. We know that the minister's office had a copy of the report. We know that the report went out before many councils had access to the matters in respect of their own council. I would have thought it was a matter of good governance of the sector for councils to be treated with some dignity and respect in this case, especially since there is a systemic problem going on here rather than a problem of individual councils, as it were, alone. You have got a matter where councils are having to answer media calls about a matter of which they have not been fully informed.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Davis for his question. Again I simply reiterate that the inspectorate are able to undertake their course of business as they see fit, and we do not tell the inspectorate what they can or cannot do. I am sure Mr Davis is quietly happy about that course of action as well. These questions would be best directed towards the officers of the inspectorate themselves because we cannot act or speak on their behalf.

**Mr DAVIS** (Southern Metropolitan) — As I understand it, the minister is not responsible for the inspectorate; a different minister is responsible for it — the Special Minister of State. Nonetheless, it does have a significant bearing on the functioning and operation of the local government sector. If we are in a zone where we have got this overbearing inspectorate that is sort of getting into some sort of overreach in this regard, I think we have got to look carefully at how the inspectorate is actually behaving.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Davis for his question. Again, I simply reiterate to Mr Davis that that is your characterisation of the inspectorate. I understand your concerns, the concerns you have raised now a number of times, but again we are not in a position to dictate what the inspectorate can or cannot do or will or will not say. That is a matter for the inspectorate, and again I can only reiterate that these questions are best served by being put to officers of the inspectorate themselves as to the timing of the release of their report and the decision, the choices and the reasoning behind it. We are not in a position to provide or add anything more to that, other than to simply point you in the direction of the inspectorate for those answers to be provided.

**Mr DAVIS** (Southern Metropolitan) — I will record that I think the minister should have a larger interest in the functioning of the sector than to simply step back. I think that the inspectorate ought to take a good look at itself and make sure that it is able to discharge its important legislative responsibilities in a way that is in the interests of the smooth functioning of the sector rather than in some overly muscular way.

I will just return to another point here. I want to understand a section of the inspectorate's report. I do not know, Minister, whether you have a copy of that report handy. I draw your attention to page 5, table C. I am interested to understand how this table was compiled by the inspectorate and whether there was some checking. I am going to single out one council, just by way of example. My colleagues would obviously have interests in their particular local councils, naturally, as you would expect. If I could perhaps tease out Campaspe shire, that is up near the Murray, as you well know, and as I understand it the inspectorate had been to Campaspe and had given a series of big ticks to the Campaspe shire for its particular code. It sort of looked at it as a best practice or model-type code. So we get the ticks on one hand, but the inspectorate clearly failed to pick up these points — that the endorsement of the code was not witnessed in writing by the CEO and that all councillors signed an endorsement of the code, not a declaration to abide by it. I wonder if in the case of Campaspe you might explain those points made by the inspectorate and reconcile the points made by the inspectorate with respect to Campaspe with the encouragement and endorsement of Campaspe's code by the inspectorate.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I fear that I am going to disappoint Mr Davis on many occasions this evening, none more so than now, because again while I appreciate the question that he is putting, I am not in a position to talk to a report that the inspectorate has released. That is something that the inspectorate needs to be able to talk to in terms of methodology or indeed reasoning. As such, unfortunately I am not in a position to provide or furnish Mr Davis with any information on that.

**Sitting suspended 6.29 p.m. until 8.03 p.m.**

**Mr DAVIS** (Southern Metropolitan) — I should indicate that I was not satisfied with the answer I received from the minister with respect to Campaspe Shire Council. I suspect I am not going to get any further on this, but I do want to record, importantly, that it appears that the government believes somehow that it can bring a bill to the chamber, a bill that is based on a blunder by Local Government Victoria and the minister in terms of implementation in a systemic way and a bill that in part relies on the report of the inspectorate, and yet for some reason the government feels that the inspectorate's role in this and its examination cannot be further examined in this particular forum. I do not think that is good enough, and I think that some brighter light needs to go onto the inspectorate. It is clear they have made a number of statements in this report, and I pointed in the case of Campaspe to where they have relayed inconsistent points. With those comments I will let others ask some questions. I know some of my colleagues have specific questions to ask with respect to councils in their regions.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Can I just state again that I am not passing comment on the questions posed by Mr Davis; I am simply pointing out that the government is not in a position to answer questions as to what the inspectorate were thinking in how they prepared their report or on what level of analysis they provided. We are not in a position to do so. We cannot talk to their actions. We cannot talk to their statements. All I said previously, which I stand by, is that that form of questioning is better pursued directly with the inspectorate because we are not in a position to act on their behalf. They are an independent body from us, and

they undertake their obligations and their operations separately to government. I dare say that if it was anything other, Mr Davis would stand up and probably rightly ask why the government was interfering. We are not. So again, for the record, I respect the questions Mr Davis is posing; however, this is not the appropriate forum for us to be able to answer those questions.

**Mrs PEULICH** (South Eastern Metropolitan) — A couple of questions in relation to the concept of the process as well as the content of the legislation — first of all, the concept. Was it the intention of the government to actually disqualify councillors in perpetuity or just for the remainder of the term for which they have been elected to office?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I am happy to reiterate to Mrs Peulich that I have answered this question to Mr Davis already and that it was the intention — and the government stands by the belief that the legislation does so — to only disqualify that councillor till the end of the term and not to preclude them or prevent them from standing at subsequent elections.

**Mrs PEULICH** (South Eastern Metropolitan) — According to Maddocks — obviously experts in local government law — as well as a number of others, their opinion is contrary. They point to the contradiction between the legislation and the explanatory memorandum. I suggest that that inconsistency be ironed out. Secondly, could the minister explain what the process is of disqualification of a councillor, notwithstanding the fact that you are repealing section 76C(1)? Who is deemed to have the responsibility of actually undertaking that disqualification?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Let me deal with, I think, the first issue that Mrs Peulich raises, and that has got to do with the intent. Again, the government stands by the view that Mrs Peulich put of the confusion raised between the explanatory memorandum and the legislation. I hope I was appropriately or adequately able to deal with that with Mr Davis. In terms of the government's point of view on this, we remain very clear: a councillor should not be disqualified for longer than to the end of their term and they should indeed be able to run again at a subsequent election — indeed the following election if they want to. What I said to Mr Davis was that in the LGA review we are prepared to absolutely work with the opposition to ensure that that is absolutely dealt with in that process to a level of satisfaction and clarity to make it absolutely crystal clear.

In terms of the process and the second part of your question, my understanding is that it is automatic. So it is akin to them not taking the oath in terms of the disqualification of the councillor themselves.

**Mrs PEULICH** (South Eastern Metropolitan) — As the shadow Minister for Local Government alluded to, there is a lack of clarity as to who is responsible for various functions connected with these provisions — who is responsible for notifying the local councillors. I seek an undertaking from the minister, who is obviously representing the minister in another place, that those who are to bear the consequence of not complying should actually receive direct notification. It should not be via a chief executive officer and it should be not via council staff.

**Mr Davis** — Or media.

**Mrs PEULICH** — Or media. It needs to be a direct communication with each and every councillor, because there are so many other extraneous circumstances that can be factors in that councillor not being to comply as per the requirements.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I am not sure whether Mrs Peulich was in the chamber for some of Mr Davis's questions, but to reiterate those early answers: the minister and their office have said that they will directly communicate with correspondence to the councils themselves, and that they will continue to undertake a communications campaign with the VLGA and MAV as the peak representative bodies as well, and that ultimately it is up to the councils to comply with the legislation. Obviously as a result of this legislation coming before us it is clear that that did not occur in the appropriate way, both at an individual level and a collective level, which has seen the need for us to put forward the legislation to repeal subsection (1) of section 76C. So the dialogue, the communication, will continue. The inspectorate will also be included in that communications campaign, but certainly as a government we will look to do what we can with the peak bodies as well as communicating directly with the councils.

**Mrs PEULICH** (South Eastern Metropolitan) — Thank you for that assurance. I think it is critical that councillors be afforded the notice, if indeed the consequences are so stark, and dare I say those consequences without any exemptions or mitigating circumstances are far too stark. There are so many other things that can go wrong. A person can be taken ill or a council can be in a period of transition. I think the need to allow the chief executive officer to delegate the

authority of witnessing statements needs to be looked at. But in particular I think there is a lack of clarity as to who has the power to declare a councillor disqualified.

I have in my hands legal advice which was prepared by a Queen's Counsel. I will paraphrase it because I do not have permission to release it fully. Let me just refer to a couple of sections. The advice states that for an incumbent councillor, it is not their council which decides from 1 September 2016 if that councillor failed to comply. A contravention of subsection 29(1) of the LGA — like subsection 29(2), which refers to councillors disqualified due to convictions — cannot be decided by a council. It must be decided by the judiciary.

Indeed, it goes on to say that a challenge — a challenge, that is, not a disqualification — to the qualification of an incumbent councillor can only be brought by the chief municipal inspector under sections 223A and 223B, under his or her powers of investigation and prosecution. The act makes no provision for the council to determine if one of its own is disqualified. Next, the chief municipal inspector does not have the power to suspend councillors under investigation for breaches of the act. Lastly, it would be inappropriate, in the absence of a court determining the matter on the initiative of the chief municipal inspector, for a council to exclude any particular councillor when the issue has not been determined.

So could I say that there are very serious matters as to who has the power to deem a councillor disqualified, and these are matters that need to be looked at. Mr Davis was absolutely right in saying that the way the act is structured and the way it operates is ineffective. Systemically it is flawed. There is no method of collecting the information as it occurs. For example, yes, once a year a council may review its code of conduct and comply in the manner prescribed — hopefully a little more wisely and a little less rigidly than the current provisions, which have been deleted. But what happens when a council decides to review its code of conduct out of sync? Is it the intention — and this is a question perhaps that the minister at the table can answer — that the same provisions are therefore triggered whenever a council reviews its code of conduct, and how would that information be monitored by whomever is responsible in monitoring the situation?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Let me deal with one of the earlier questions in Mrs Peulich's contribution. The first thing that I can say is that with great respect to the legal advice that you have before you to deal with other provisions within the act, in relation to section 76C, it is almost black and white — which is one of the reasons why we are in the position that we are in today — that if a councillor has not acquitted himself of the requirement, then they cease to become a councillor or they cease to remain a councillor. So from that perspective it is not necessarily an issue about who has jurisdiction or otherwise; it automatically occurs. That is the first thing.

The second thing is that if they continue to act as a councillor in spite of the fact that they have failed to meet that requirement, then in fact they may be dealt with at that point by the inspectorate or the inspector.

**Mrs Peulich** interjected.

**Mr DALIDAKIS** — At that stage if they act as a councillor without having signed the effective oath or the code of conduct, then their conduct becomes a matter for the inspector to deal with, rather than the councillors or the executive at that point, because they have ceased to be a councillor by virtue of the fact that they have not acquitted themselves of the legislation that is before us.

In terms of the concerns that you raised appropriately, then, as I have indicated to Mr Davis on other matters — not the matter that you have just raised but other matters — the Local Government Act review will probably be the most appropriate forum to present those issues and concerns about dealing with other parts of the broader legislation, not dealing with, obviously, the matters that are before us tonight.

**Mrs PEULICH** (South Eastern Metropolitan) — I do not accept your first explanation in terms of who has the power to deem a councillor disqualified, but I will leave that for the department to consider.

Secondly, in terms of who and how that information is gathered or monitored, is there a problem, because if there is an out-of-sequence review of a code of conduct by a council for whatever reason and if there is a single provision that has not been covered as prescribed under the act, it basically means that any decision taken by that council could actually be subject to legal challenge, whether it is a contract, contract variation, planning permit and so forth? It would absolutely be mayhem, so there needs to be some provision in the Local Government Act, some method that is prescribed for the gathering and notification of the qualification of councillors vis-a-vis not just the signing of codes of conduct but the signing of declarations.

Also, there is some confusion, Minister, about whether it is the code of conduct that is signed or whether it is a

declaration that is signed. I just want to place those comments on the record because I think the simple repeal of the provision that is now before us will not address many of the problems that still remain in relation to these matters.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mrs Peulich for that question. What I would like to say, Mrs Peulich, similar to what I said earlier to Mr Davis about some of the concerns that he raised, is that the legislation before us is intended for us to be able to deal with the issue at hand of both the councils and the councillors that were unable to meet their acknowledgement declaration, signing of the code of conduct et cetera. So the expectation of course is that once this is done we will have the general elections in October and then the councils will have the ability to obviously go through that process within four months of that general election being called.

In terms of the other matters that you raised, we have a period of time before the next council elections to be able to adequately deal with those issues through the LGA review. While I may have referred to the LGA review a number of times, not just with you but with Mr Davis as well, I do so noting that obviously that review will be completed and finalised well before the next local government elections are due to occur.

**Mrs PEULICH** (South Eastern Metropolitan) — Thank you, Minister. I am just trying to tease out some of the questions so that when those who are looking at ways of responding to the problems that have now surfaced are cognisant of it and actually can respond. I think the notion of only having the chief executive officer acting as a witness is flawed. Unfortunately, and I am not trying to besmirch or reflect negatively on chief executive officers — —

**Mr Davis** interjected.

**Mrs PEULICH** — That is right. I think that sometimes there are reasons why chief executive officers perhaps may not facilitate certain processes. It may be for a range of reasons, but I think there does need to be a process that a councillor can fulfil and comply with which does not hinge upon a single person. In particular — and I did go through some of these — I think there is a legal view that councillors can also make a verbal declaration to the chief executive officer and that currently the existing provisions caused this misunderstanding. If a councillor is ill or incapacitated following a meeting and cannot make a declaration, I think absolutely you have got to make that provision. Council staff should be able to, under delegation obviously from the chief executive officer, witness such a document. It ought to be possible to do so with teleconferencing provisions in case a person is overseas for whatever personal reasons, be it travel or illness of family members or business or work.

Sometimes a chief executive officer does not establish procedures to enable councillors to make written declarations in his or her presence, whether it is through a misunderstanding or something else. I am aware of one chief executive officer who was contacted by the municipal inspectorate when they were undertaking the compliance audit — or the spot check — who did not inform the municipal inspectorate that a councillor had signed but perhaps not in the prescribed way. That is not his fault, and it was certainly not reflected in the report that has come out. A chief executive officer may refuse to meet with a councillor to enable the declaration to be made. There could even be occupational health and safety reasons as to why the two may not meet. I can certainly think of some colourful examples where that might apply.

A really bad case scenario is that a CEO may refuse to accept the written declaration — god forbid! A councillor provides a signed declaration to the chief executive officer, but the chief executive officer fails to advise of the witness requirement. Quite simply the councillor may not have the opportunity to comply with the section. So there are a myriad of reasons why such a hard and fast regime is doomed to fail and denies natural justice for a whole range of reasons. I ask the minister to ensure that these matters are taken into consideration.

My next question is about the repeal of this particular section. Where does that leave the status of the existing codes of conduct? Does it delete all of them, or does it just delete the amendments to the code as required by the new provisions for the next six months?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I am happy to take on board the issues that you raise. Councillors who are on an authorised leave of absence and unable to make a declaration within the one-month time period can make that declaration when they return from their authorised leave. This has been and continues to be the case. That does not, of course, allow for the other issues that you raised; that is why I began my contribution in response to you by saying that I am happy to take those on notice.

In relation to the issue at hand, the council codes, by the removal of this provision, mean that there is no requirement for them to have been signed in terms of

negative impact upon the councils that failed to do so or the councillors who refused to do so. The removal of this provision means that the only requirement is that within a four-month period of the general election in October the code of conduct is pushed through at that point in time. That is the effect of removing or repealing section 76C(1).

**Mrs PEULICH** (South Eastern Metropolitan) — There is a need for a bit more clarity, if I may, only because there would be quite a few councillors who would be listening to this debate and the detail. Can I say also that a lot of councillors and councils have spent a lot of money getting legal opinion on these things; some of them have incurred a lot of personal expense and a lot of stress and trauma before they realised that it was actually a failing of the system, and there is no provision for them to be recompensed for that. The question that I was going to ask was that there is the declaration and there is the code of conduct, so what you are repealing is a section that requires the amendment to that code of conduct, which becomes the new code. By repealing that, are you leaving the councils without a code of conduct for the next six months, which is four months into the next term?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — What I can say to Mrs Peulich — and I thank her for her question — is that it is my understanding that 80 per cent of councils in fact managed to undertake this process without problem. That said, the code of conduct is a document that is effectively owned or authored by the councils themselves. So if a council already has a code of conduct in place, then the removal of section 76C(1) does not impact upon that code of conduct itself; all it simply does is allow those councils or councillors who did not sign, or who refused to sign, the opportunity to work through until the general election in October. At that point, once the general election has been effectively run and won — or I guess run and lost, depending on who it is — within a four-month period they obviously need to have that code of conduct introduced and agreed to.

That is all that this repeal of section 76C(1) does — no more, no less. It does not impact upon existing codes of conduct for councils that have already authored the document; it simply means that those councils that found themselves in the perilous position of having failed to comply with the legislative requirements, or those councillors who refused to sign on — and in fact there were a number who chose not to do so — are not impacted or affected by the repealing of this section.

**Mrs PEULICH** (South Eastern Metropolitan) — Minister, in relation to councillors who have perhaps chosen not to sign the code of conduct — sometimes for good reason; there are concerns about the nature and content of the codes of conduct — but more importantly under the legislation it is a very truncated process. They need to authorise a review, undertake the review, take on legal advice to make sure that the amendments and the code are compliant with other legislation and adopt the amendments, all within the confines of a single special meeting. It is not feasible to undertake or authorise a review and to obtain any legal advice all within the scope of a single meeting, so it is a flawed process. I bet my bottom dollar that if we unpack that in terms of who was able to comply, the vast majority have not.

Coming back to that, that particular provision never requires the new amended code of conduct to actually be adopted; it just requires the approval of the amendments — not the approval of the new code of conduct with the amendments. So there is a flawed process outlined in that particular provision, and I certainly urge the minister to relay that to the minister who is responsible.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Thank you, Mrs Peulich; so done.

**Mrs PEULICH** (South Eastern Metropolitan) — Lastly, of those councillors who chose not to sign, some of them have chosen not to do so because they believed that the code of conduct did not comply with other legislative constraints, and they are exercising their due diligence. Minister, why should a councillor who is exercising his or her due diligence be potentially penalised if they believe that those provisions, as outlined in the act, have not allowed for him or her to exercise that due diligence?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mrs Peulich for her question. Suffice it to say that this Parliament passed the original legislation, which made such requirements of councillors. If they choose not to sign the code of conduct, then under the legislation, they then cease to be councillors for the remainder of their term.

I cannot speak to the motivations or the views or otherwise of the councillors concerned; that will be an issue for them to deal with. But in the upcoming general election I think the matter is very clear, in terms of the legislation that this Parliament has prescribed across the local government sector, that a code of conduct is to be authored and signed and agreed to

within four months of the general election. As such I presume it will be incumbent upon people putting themselves up for election in the local government elections that they be prepared to adhere by that. Otherwise they are effectively snubbing their nose at not just the will of this Parliament but indeed the will of yourself, Mrs Peulich, and others who voted for this legislation in the first place.

**Mrs PEULICH** (South Eastern Metropolitan) — I would not invite you to do so — I am sure you have better things to do with your time — however, if you chose to read my speech on this, you would note that I chose not to make any comment on the actual substance of the bill because I had grave reservations about its effectiveness. I would urge the government or the minister to consider an audit of how the various codes of conduct that have been adopted by councils shape up and how they are or are not compliant with other legislative instruments and requirements — for example, the Charter of Human Rights and Responsibilities. I think there are many that are problematic, and I think that is the reason why some councillors have been reluctant to sign them.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Thank you, Mrs Peulich. I will certainly take that advisement on notice and relay that to the minister on her return to Parliament and to her role.

**Mrs PEULICH** (South Eastern Metropolitan) — A last point and just harking back to the earlier point that I made, on the website of Maddocks under 'The code of conduct fiasco' dated 25 August 2016 they say, and I quote:

> When sponsoring the Local Government Amendment Bill, the state government had an opportunity to not only amend section 76C but amend section 29(1)(ea) as well. This would have removed the potential for injustice. A councillor who fails to make a declaration that he or she will abide by a councillor code of conduct should hardly be prevented from ever contesting a municipal election.

I think that is just an amazingly sloppy piece of legislation and very sloppy implementation. With lots of work yet to be done, I am not convinced that it will all be done through the Local Government Act review. As I mentioned before, I attended one session. I do not have any confidence in the process. I think the legislation is flawed, but I do not think that the approach should be throwing out the baby with the bathwater.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Again, I thank Mrs Peulich for her contribution. I just want to reflect that my comment previously about you voting on the first iteration of this bill was not a comment about your views or belief about the bill or commentary that you may or may not have made. I certainly was not intending to imply views or ascribe views to you, other than of course that the bill was voted with your support.

**Mrs Peulich** — Without opposing it.

**Mr DALIDAKIS** — Without opposing the bill. I am happy to accept that, Mrs Peulich. So as to your further comments, I am happy to note them. I again just reflect on the fact that should somebody — a councillor elected at a general election — choose not to sign the code of conduct, then they will be doing so knowing that they will cease to be a councillor for the remainder of that term. I just wish to reiterate what I have said to Mr Davis in response to his questioning and what I said to you at the beginning of your questioning, Mrs Peulich — that is, it is not the intention of the government to have that person disqualified from future opportunities to stand for election, that in fact the government believes and maintains that the way the legislation is written those people that do become disqualified by their own actions or inactions can indeed stand. We maintain that to be the position. However, again I reiterate that we are prepared for the sake of clarity to work with the opposition to ensure that in the LGA review that position is absolutely made crystal clear — that people are not disqualified from standing for future municipal elections should they be disqualified by failure to comply with the code as we have outlined through the legislation.

**Mrs PEULICH** (South Eastern Metropolitan) — I would beg to differ, Minister, in relation to who actually has the power to disqualify a councillor. I would suggest that it would have to be a challenge by the municipal inspectorate and determined by the courts, but we will leave that in abeyance for the time being.

One last point is the declared time limits for the signing of the declaration. It is worth noting that the one-month limitation period is shorter than the time a newly elected councillor has to make their initial declaration of adherence, which is three months. There is a multitude of time frames for like matters that do not somehow invoke the one-month rule, and I would consider that a review of the time frame would be also required.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mrs Peulich for her contribution. I am happy for that to so be included in the LGA review.

**Ms DUNN** (Eastern Metropolitan) — Thank you, Deputy President, and I think this is the first time I have been in committee of the whole when you have been presiding, so my congratulations to you on your appointment.

Minister, just in relation to dates around the inspectorate's review and report, are you able to advise the committee when the minister became aware of the chief municipal inspector's review and outcomes of that review?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Ms Dunn for her new contribution to this debate. I will have to take that question on notice and provide you with that answer, given that the minister is obviously on leave. I will seek that information from her office and forward it on.

**Ms DUNN** (Eastern Metropolitan) — Thank you, Minister, for that. I am pleased to hear your assurances in relation to the fact that councillors will be directly notified in future regarding information that is pertinent to them. There have been some concerns raised by peak bodies in relation to materials provided and the nature of those, so I think a direct distribution to councillors is one part of that puzzle. But I am wondering whether you would be able to give any guidance or assurance around some guidance materials that might be provided to councillors in terms of — I am not suggesting that you dictate the words they use, because they should be their own words — how that code should be laid out, what the signature panel should look like, where the CEO should sign, and what words, particularly in relation to 'abide', should be on there.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I again thank Ms Dunn for her contribution. Let me reiterate that 80 per cent of councils were able to successfully complete this process, so whilst there were a number of councils that strayed from the procedural requirements and whilst a number of councillors chose very specifically to not vote for it, I am happy to consider, I guess from your point of view, anything that you believe will enable the remaining 20 per cent to satisfy those requirements. Short of you and I going to each council and each councillor to personally sit them down and take them through that correspondence, there is only so much that we can do. At some stage we as adults need to be confident that other adults should be able to undertake their duties and roles and responsibilities accordingly, and that includes reading correspondence that we send or provide or reading correspondence that is in fact provided by the MAV or the VLGA. At this juncture, Ms Dunn, I will ensure and confirm for you that we will do all that we can do at our end to provide them with that information to ensure that they are all well aware of the requirements of them, that they meet the legislation requirements and that they are in fact not disqualified to enable them to acquit themselves and the will of the people within the local government elections. However, ultimately there needs to be a level of understanding that they can acquit themselves as adults as well.

**Ms DUNN** (Eastern Metropolitan) — I thank the minister for his answer. I will just put to you a scenario. I am wondering what the consequences may well be for a councillor in this situation. If it takes place in the term of local government, it is certainly well past the general election time. Let us say it is a year into the term, you are a councillor and you have sought a leave of absence from council, so you are away from council for some period of time. If while you are away your colleagues who remain at council resolve to review and amend the code of conduct and therefore, I believe, need to re-sign the code of conduct, what are the consequences for that councillor who is on a leave of absence and is unable to sign that within the period prescribed in the act?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Ms Dunn for her question. I did answer this question slightly earlier for, I believe, both Mr Davis and Mrs Peulich.

**Ms Dunn** — Third time lucky!

**Mr DALIDAKIS** — I am very happy to give you the benefit of the doubt, Ms Dunn, that you missed it. I can tell you that councillors that are on authorised leaves of absence and are unable to make that declaration within the one-month period can make that declaration when they return from their leave period. This has been and continues to be the case, and so I can give you confidence that under that scenario as long as they are on authorised leave it will not impact upon them in a negative or detrimental way.

**Ms DUNN** (Eastern Metropolitan) — Thank you, Minister. Can you advise whether the minister or the department will be speaking particularly to those councils who were looking at disqualification to try to identify what those systemic failures might have been in order to improve communications into the future so we can get a 100 per cent strike rate?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Insofar as looking into your question, Ms Dunn, I will say again that a greater level of communication has been agreed to by the Minister

for Local Government in terms of communication and closer work with the VLGA and the MAV as the overarching bodies within the local government sector. We will do everything we can to ensure that compliance does reach as close to 100 per cent as it can, but of course neither you nor I can commit to that with any great confidence because, as Mrs Peulich indicated earlier, there are a number of councillors who very specifically chose not to sign the code for their own reasons.

We obviously cannot commit to anything as such, but nonetheless we will continue to work with the local government authorities to ensure that they are at least all well aware of what they need to do to comply, and we will ensure that of course at the end of the day we have done everything we can to make sure that this issue does not arise again.

**Ms DUNN** (Eastern Metropolitan) — I thank the minister. That is reassuring to hear. In relation to the findings of the inspectorate, there are 13 councils that failed to fully comply and were looking at disqualification — and I hope will no longer should this bill pass. In 8 of those 13 cases those councils used the terms 'signed an endorsement', 'signed a commitment', 'reaffirmed their commitment' and 'failed to sign a declaration to abide by the code of conduct'. Do you and the government still stand by the comments that those actions were 'gross incompetence' for that simple error?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I just seek clarification from Ms Dunn. Is the comment attributed to the inspectorate, or is she attributing that to the government?

**Ms DUNN** (Eastern Metropolitan) — That comment was made by the acting Minister for Local Government, Richard Wynne.

**Mr Finn** interjected.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I am just chuckling at the commentary by Mr Finn about my colleague the Honourable Richard Wynne, who is doing a fine job, may I add. In relation to his comments obviously Minister Wynne, as the acting minister at the moment, is afforded a far greater level of detail than I have at my disposal. I can only assume that Mr Wynne had reasons to make that comment when he did.

**Mr FINN** (Western Metropolitan) — In reference to this matter, you would have to admit this is a total and unmitigated stuff-up, as I might have mentioned earlier during the second-reading debate. I am very anxious to know how this happened in order to avoid it happening again. I would be interested to know: in terms of the Hobsons Bay City Council, where apparently all councillors signed an endorsement of the code but not a declaration to abide by it, could the minister tell the house the difference between the two?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Finn for what is a fine question; however, the question, as fine as it may be, has little to do with clause 1 of the bill before us. As I said, the 80 per cent of councils that managed to sign the code themselves were able to do so. All this legislation simply does is repeal paragraph 1 of section 76C, which ensures that those councillors that did not sign, including those from Hobsons Bay City Council, which I believe is in the electorate that Mr Finn represents, along with that council, do not suffer the consequence of the errors that may have been made. By repealing that section it ensures that that council is not affected. It continues to carry on until the general election in October and then simply requires the four months from the date of that general election for the code of conduct to be adopted.

**Mr FINN** (Western Metropolitan) — I would have thought in fact that the purpose of the bill would very much cover the question that I just asked. It surprises me a little that the minister has responded in the way that he has. I think it pretty important that we do know and we do find out what the difference is between an endorsement and a declaration, because if we are to avoid this sort of situation happening again, we obviously need to know. I ask the minister whether he can provide some sort of guidance. I do not necessarily want a lengthy diatribe, but if he could provide some sort of guidance as to what the difference between an endorsement and a declaration is, that, I think, would go some way towards easing the confusion that may have already occurred.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Finn for his question. My understanding is that if he wishes to understand the issues at Hobsons Bay in particular, the inspectorate's report is able to better avail him of that. That is why, obviously, the inspectorate undertook their report in the way that they did. Obviously in relation to the issue of declaration, that is the requirement of the legislation before us, but if you like, I am happy to take that question on notice and seek a very detailed answer for you to enable you to better understand those differences for yourself in relation to the issue within Hobsons Bay.

**Mr FINN** (Western Metropolitan) — Very good indeed, Minister, and I thank you for your offer to do that. I believe that these are matters that should be examined in depth, because we want to avoid this sort of thing happening again. We do not want to be here at 10 to 9 on a Tuesday night in the future fixing up Labor's stuff-ups.

**Mr Dalidakis** interjected.

**Mr FINN** — We will be here doing other things, but we do not want to be here fixing Labor's stuff-ups, as has already been mentioned.

We have discussed the difference between an endorsement and a declaration, and we have discovered that there probably is a difference but that we do not actually know what it is. I now move down to Wyndham City Council. We have got some interesting councillors at Wyndham. I am sure Mr Melhem would agree that there are some interesting councillors at Wyndham, and I would have thought that some of them would not know what the code was if it jumped up and bit them on the head. At Wyndham City Council all councillors signed to reaffirm their commitment to the code but did not sign a declaration to abide by it. Is there any chance at all that the minister just might be able to tell me the difference between reaffirming their commitment to the code and declaring they would abide by it?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Finn for his question. Another honourable member for Western Metropolitan Region, none other than Mr Melhem, who shares the great joy of representing the Western Metropolitan Region with your good self, Mr Finn, assures me that in fact Wyndham was compliant. My understanding is that the council regularly provides an audience for you, Mr Finn, to pursue matters in relation to Wyndham on a variety of levels, on a variety of topics and at a variety of times in this place. That said — and I am sure you enjoy that opportunity as one of your roles and responsibilities as the Liberal member for Western Metropolitan Region — I am not sure that on this particular bill at this particular time it is such an opportunity to attack Wyndham at this juncture.

**Mr FINN** (Western Metropolitan) — I am not, in fact, taking this opportunity to attack Wyndham council, otherwise I would make reference to the fact that when word came through that we thought they were going to be sacked there was dancing in the streets. It is a fairly strange answer that I have received from the minister, because if you go to the papers that have been supplied with the speech, in table C — —

**An honourable member** — That is the inspectorate's report.

**Mr FINN** — That is the inspectorate's *Review for councils compliance with Code of Conduct*. I do not know whether you have read this, Mr Dalidakis, but this is in fact the inspectorate's report. In table C on page 6 it refers to the Wyndham City Council, and it says:

> All councillors signed to 'reaffirm their commitment to the code'; not a declaration to abide by it.

This is table C of the document from the inspectorate. I would really love to know, as I am sure a good number of people in Wyndham, including most of the councillors, would love to know, how reaffirming their commitment to the code is different from signing a declaration to abide by it.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Finn for his commentary. May I give again the answer that I gave to Mr Davis earlier where I prefaced my remarks by suggesting that he may be disappointed with my response — and I indicate that I understand that you will be disappointed with my response — that is, it is not for me to provide commentary on what the inspectorate wrote in the report. Indeed it is a matter for you to interrogate with the inspectorate themselves, because I know that you are a dear and strong supporter of the institution of democracy as implemented by none other than Ronald Reagan.

Obviously the inspectorate is there to undertake their role, and no doubt you would be aghast if we as a government were to interfere in the inspectorate's work or tell them what they should or should not write or what they should or should not do. Given that we have that division and given that the inspectorate wrote that report, I will leave it to you to interrogate the inspectorate as to the meaning of whatever word they chose to use in that report, the meaning behind it, the processes that were undertaken and the review that was completed.

**Mr FINN** (Western Metropolitan) — I cannot help but agree with the minister that the great Ronald Reagan was a great contributor to democracy over the years and indeed throughout the world. What that has to do with local government in Melbourne in 2016, I am not exactly sure, but perhaps that is a question we can ask a little bit later on. But I am not actually asking the minister for commentary. I am not asking the minister for judgement. I am not asking the minister to condemn or otherwise judge the inspectorate. All I am doing — —

**Mr Somyurek** interjected.

**Mr FINN** — He looks happy tonight, doesn't he? You can't wipe the smile off his face. That is Mr Somyurek, for the benefit of Hansard. He cannot help himself.

I am not asking any of that of the minister. All I am asking is for a definition from the minister of what it is to reaffirm a commitment to the code as distinct from signing a declaration to abide by it. Is there a difference? Is there no difference? I am really keen to know, because as I said, we do not want to be back here next year perhaps doing the same thing again.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Finn for his question. Again I refer Mr Finn to the fact that 80 per cent of councils were able to satisfactorily fulfil the requirements placed upon them by this Parliament, including through your vote, which helped to support the initial legislation. I thank you for the support of that original legislation. All this bill before us does, Mr Finn, is repeal section 76C(1) of the Local Government Act 1989 to remove the requirement for them to meet that code of conduct requirement, and it means that the four months to have that code of conduct in place begins at the general election in October. That is what we are debating here tonight.

As I have indicated to your colleagues Mrs Peulich and Mr Davis, greater levels of communication directly from the minister's office and from local government authorities, including the VLGA and the MAV, will endeavour to ensure that councils are advised of what is required to meet their obligations. Given that 80 per cent were able to do so, clearly we need to focus on that 20 per cent to make sure that they meet and acquit themselves of the requirements, with the exception of course of the individuals that Mrs Peulich and Mr Davis mentioned and that I have spoken about, who have specifically and deliberately chosen not to sign the code for whatever reason of their own volition. That is a very different issue at hand.

**Mr FINN** (Western Metropolitan) — I take on board what the minister says. I am certainly not referring to those councillors who have deliberately decided not to sign the code, but I would have thought, and in my view any reasonable person would have thought, that if a councillor signs to reaffirm their commitment to the code, that would have been sufficient. The fact that it is not sufficient should concern us all, and I would like to know why signing to reaffirm a commitment to the code is not sufficient and what would make it sufficient. What is the difference between a reaffirmation and a declaration? I am not trying to be difficult; I think it is important that we try to avoid this happening again. If people are aware of the difference between the two, then I think we are in a far better position to ensure that we do not go there again.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank the member concerned, obviously Mr Finn. What you are essentially debating, Mr Finn, or what we are having a discussion about at this point, is a judgement that has been made by the inspectorate. I can ask the inspectorate what their view is in terms of the difference in definition that you are seeking. I am happy to take that on notice and pass it on to the inspectorate to seek the clarification for you. I would be delighted if I could in some way play my part in resolving that issue for you. Can I just say for the record in *Hansard* and for those in years to come that the mighty Saints had a wonderful win over the Tigers a couple of rounds ago, but I hope that that does not mean, Mr Finn, that your and my friendship abates any further, given that you are a fanatical Richmond supporter.

**Mr FINN** (Western Metropolitan) — If you are going to get dirty, Minister, I can only say that we really need an answer to this. This goes to the very core of the legislation. Going back to local government in this state now, if we do not know the difference between a reaffirmation and a declaration, and if we do not know the difference between an endorsement and a declaration, then how can a government be taken seriously when it goes out to local government and says, 'We want you to sign this thing. We're not sure what it is, but we will have a chat to the inspectorate about it'? What we need is a definitive statement here tonight in the house as to what the differences are between an endorsement and a declaration as well as between a reaffirmation of a commitment to the code and a declaration to abide by it.

After legislation passes through this house *Hansard* is often read to inform those in the judiciary who may be making judgements on it at a later time, so I think it is important that the minister makes his position and makes the government's position very, very clear tonight. He should not palm it off to the inspectorate but tell us tonight exactly what he means, what the government means and what the legislation means. He should also tell us what the difference between an endorsement of the code and a declaration to abide by it is, as well as the difference between an affirmation of a commitment to the code and a declaration to abide by it. In my own opinion we are playing with words, and I think if words matter, it is really important that the

minister inform the house tonight what these words mean.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Again I thank Mr Finn for his question. Can I suggest that Travis Cloke is worth at least two first-round draft picks for Richmond and that that will reunite the Cloke family name with the mighty Tigers.

Can I also suggest, Mr Finn, that as much as you would like me to provide this answer, this is absolutely an answer for the inspectorate to provide, as it was their judgement. So I am not looking to deflect, I am not looking to avoid; I am looking to reaffirm in your own mind that this was a distinction made by the inspectorate. It was their judgement and so, given that they are obviously the arbiter in this matter, as we are discussing, it is important to have that question asked of them so that they can resolve in your own mind what the difference was in their perspective. However, that said, in the interests of, I guess, good faith and moving along, I am certainly happy to take that on notice again and seek that feedback and that response by the inspectorate for you.

**Mr FINN** (Western Metropolitan) — Is this legislation being put forward to this house by the government or by the inspectorate?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — The repeal of section 76C(1) is obviously being put forward by the government, and that is to resolve the situation that we found ourselves in. What you are in fact referring to, Mr Finn, is a report that was undertaken and prepared and written by the inspectorate in relation to the matters that have resulted in this legislation being put forward. So they are two separate issues. But what we are trying to do is resolve the issue that has arisen.

Mr Finn, I do not have a problem with your line of questioning, but I simply point out that that line of questioning is best pointed towards the inspectorate. This legislation is trying to best resolve the issue at hand, and removing section 76C(1) is, in our view, the best way of doing that so as to not provide a greater burden on councils that have not been able to comply with the legislation as it was prepared — and passed by this Parliament — and also to ensure, Mr Finn, that those councillors that were also affected by that failure are not unfairly affected, but more importantly, that ratepayers are not unfairly impacted by the issues before us. Again, repealing section 76C(1) will enable us to move forward and will enable local government to move forward, given that obviously the general election is not too far away, in October.

**Mr FINN** (Western Metropolitan) — It seems to me that the minister at the table is taking exactly the same stance that created much of the problem here in the first place. He is refusing to take responsibility for the wording of the legislation, or indeed the impact of the legislation. Now, all I am asking is: what does this mean? That is so that the people who are supposed to abide by the law actually know what to do. I would not have thought that that is something that is beyond the scope of a legislator — to know what the law means, to make clear to people what they should do. If the minister cannot do that and he wants to palm it off to the inspectorate, then I think we have a problem. We have a problem again of a minister and a government that just will not take responsibility. They stuffed it up once; they would not take responsibility. We are here at the 11th hour, when we should have had this fixed months ago — months ago — and now the minister is here at the 11th hour and he will not tell us what this means. He will not tell us what councillors are supposed to do to abide by this law. Now, if the government cannot tell councillors what they should do to abide by the law, how are they supposed to abide by the law? I mean, it is the government that makes the law; it is not the inspectorate. It is the government that makes the law, so if the government cannot tell councils and councillors what is going on, I have to ask you, Minister, how do you expect them to abide by the law?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Finn for his contribution, and again I stand by my earlier remarks.

**The DEPUTY PRESIDENT** — Order! Any further questions?

**Mr FINN** (Western Metropolitan) — One more question — I think. We have seen over recent times, and I have had councillors come to see me, send me emails, call me — —

**Mrs Peulich** — Even Labor councillors.

**Mr FINN** — Yes, even some Labor councillors — exactly right. I had one on the phone this afternoon in fact.

They have been exceedingly distressed by what has happened over the last few months. I mean, we have had people who have had their lives almost uprooted. These are people who live for the council. They are totally committed as local councillors yet are told that they are to be dismissed for reasons that are beyond

their understanding at this point, and clearly beyond the minister's understanding as well. So if a minister does not understand it, I do not see how the councillors can understand it. What we need to know, and what I would really like to know, is: will the government do the right thing by these people and apologise? Will they apologise?

In the instance of the Hobsons Bay City Council, they should certainly apologise to the councillors. There is some suggestion out at Wyndham that they should apologise to the community for not sacking the council, but I will leave that to one side. But for those councillors who have been put through the wringer, whose lives have been up-ended with the emotional stress and the strain on them and their families, I think it is only reasonable that they get an apology from the government for this monumental stuff-up. Will the minister give us a guarantee, an assurance here tonight, that that apology will be forthcoming?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Finn for what was a colourful contribution. Let me point out that his love of all things Wyndham and opposition to all things Hobsons Bay is most distressing to those in Hobsons Bay and, may I add, probably most distressing to those people in Wyndham as well. That said, I am not sure that there is a reason for the government to apologise when 80 per cent of councils were indeed able to satisfactorily complete this. I accept that Mr Finn wants to put forward his own special interpretation of the events, and I appreciate that. The repeal of section 76C(1) is there to enable the remaining 20 per cent to finish out their term in order to ensure that those councils are not affected or not impacted by that in any way and so that we can move forward to the general elections of our local government community in October.

**Mr MORRIS** (Western Victoria) — My question to the minister actually relates to Mr Mulino's contribution earlier today. Mr Mulino in his contribution stated that there were many times that councils and CEOs were informed of the requirements for the signing of this code of conduct. I am hoping the minister might be able to inform me how many times individual councillors were informed of their obligations under the changes to the act?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I think there are a number of implied questions there, including whether or not councillors were advised by their executive team in the council or informed by their local government advocates, being the VLGA and the MAV, or of course by other means, including the government. What I am happy to do is take the very specifics on notice in relation to government, because of course government cannot respond accordingly to the issues raised by other individuals, organisations or associations. I am happy to come back to you on that.

**Mr MORRIS** (Western Victoria) — The second question I was hoping to ask the minister is: what support will the government provide to councils in the future to ensure they do not find themselves in the situation that councils found themselves in due to the government's stuff-up with legislation?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I cannot agree with the characterisation made by the member. The fact of the matter is that 80 per cent of councils were able to satisfactorily acquit themselves of the requirements under this legislation that the member himself voted for. The legislation that they now call absurd, they voted for in this place. What I will say is that this absolutely is a matter for the councillors to deal with, and I think that they can. I might also add, though I am not sure whether the member was here earlier — I had a similar question from Mrs Peulich and Mr Davis that I am happy to reiterate for him — —

**Mr Finn** — I didn't ask it.

**Mr DALIDAKIS** — In fact I did not get this question from Mr Finn. What I am happy to indicate is that, as further information becomes available, the minister, or the acting minister should the minister not be back in time, will provide direct communication at that point and also continue to work with local government representatives to make sure that enhanced communication is undertaken by the VLGA and the MAV. We will endeavour to work with their peak bodies — —

**An honourable member** interjected.

**Mr DALIDAKIS** — I will take that interjection up because I had already started my answer by saying that the minister has indicated that they or the acting minister will communicate directly but that we will also endeavour to provide enhanced communication for the peak bodies as well. That has hopefully nicely responded to the member's question.

**Mr MORRIS** (Western Victoria) — I have heard the minister state on a number of occasions that members on this side of the house voted for the legislation that saw this monumental stuff-up, and I am curious as to whether or not the minister may be able to

enlighten the house as to whether or not there was a division on the initial legislation.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — If the member is wishing to debate whether or not a division was required or whether, by the absence of a division, his support was implicit in the vote, I am happy to support his view that he decided not to vote against the legislation.

**Mr MORRIS** (Western Victoria) — My question went to as to whether or not the minister can enlighten the house as to whether or not there was a division on the initial legislation.

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I will happily refer back to *Hansard* and provide the member with the information. If he cannot remember whether he voted on the bill, then I am happy to look into the matter and provide that answer to him.

**Mr MORRIS** (Western Victoria) — It was not so much about my memory; it was about holding you, Minister, to account for your responses to the answers that you have provided. I did want to ask just one final question, and that relates to exceptional circumstances. With regard to circumstances, I have heard you, Minister, refer to circumstances where a councillor may have been provided with a leave of absence — —

**Mr Dalidakis** — Authorised leave.

**Mr MORRIS** — An authorised leave of absence. We have not seen the legal advice, but they may not be subject to disqualification as a result of that. I can imagine numerous scenarios in which there might be exceptional circumstances in which a councillor may not be granted an authorised leave of absence but, through no fault of their own, is unable to sign a declaration. What do they have to do? Abide?

**Mr Finn** — Reaffirm.

**Mr MORRIS** — They have to reaffirm and abide —

**Mr Finn** — Declare.

**Mr MORRIS** — and declare their devotion to the code of conduct. I am hoping the minister might be able to enlighten me as to what might happen in a circumstance where a leave of absence has not been provided to a councillor but it is through no fault of that councillor that they are unable to sign a declaration with regard to the code of conduct. Is there going to be any ministerial discretion with regard to that as to whether or not a councillor would be disqualified?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank Mr Morris for his question. I had a similar proposition put to me by Mrs Peulich, who asked for us to take those issues under advisement and deal with them during the Local Government Act review. I am happy to have a look at that.

*Honourable members interjecting.*

**Mr DALIDAKIS** — What I was going to say in response to Mr Morris — I am sorry to interrupt; if I may continue, so you do not miss this, Mr Morris — is that I just wish to reiterate that it would be improper for a minister to be able to interfere with the process. What we have done is we have ensured that in regard to the questions or matters raised by Mrs Peulich related to the Local Government Act review, we would take those under advisement. I can only reiterate to you, Mr Morris, that councillors who are on an authorised leave of absence and are unable to make that declaration within the one-month time period can make the declaration when they return from their authorised leave. I accept that there are matters that have been raised by both you and Mrs Peulich that may sit outside that authorised leave period, and as I said, we would take those under advisement during the Local Government Act review.

**Clause agreed to; clauses 2 to 4 agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Motion agreed to.**

**Read third time.**

## CRIMES AMENDMENT (SEXUAL OFFENCES) BILL 2016

*Second reading*

**Debate resumed from 23 June; motion of Mr HERBERT (Minister for Training and Skills).**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I am pleased to rise this evening to make a contribution on the Crimes Amendment (Sexual Offences) Bill 2016. It is interesting to go to the nature of the subject matter of this bill, the areas it seeks to

cover, and put it in the context of what is happening with law and order or the lack thereof in Victoria, because this piece of legislation — and I will come to the detail of it later and indeed intend to consider quite a bit of it in detail in committee when we get to that stage — is largely a technical rewrite of the statute, elements of the Crimes Act 1958, in relation to certain largely sexual offences, as is reflected in the title.

The intent of the bill is not largely to change that regime of sexual offences but rather to change the way in which they are codified. As I said, it is quite a technical piece of legislation that does not substantially change the statute here in Victoria. For that reason it needs to be kept in the context of what is happening with law and order in this state, and it raises the question of why, when so many things are going wrong with law and order in Victoria, we have the government giving priority to this piece of legislation, which is in effect a technical rewrite of the existing sexual offences statute, rather than addressing the real issues, the more pressing issues, which are in the community for many Victorians today, because — —

**Mr O'Donohue** interjected.

**Mr RICH-PHILLIPS** — As Mr O'Donohue says, the closure of the Endeavour Hills police station, and I will come to that in the course of the contribution.

**Ms Shing** interjected.

**Mr RICH-PHILLIPS** — I am happy to take Mr O'Donohue's interjection, and I am happy to take Ms Shing's interjection.

**Ms Shing** interjected.

**The ACTING PRESIDENT** (**Mr Finn**) — Order! I ask Ms Shing to respect the standing orders in that we would prefer that she did not have conversations across the chamber and indeed not lead Mr Rich-Phillips into temptation by interjecting during his speech.

**Mr RICH-PHILLIPS** — Acting President, thank you for delivering me from evil. As I was saying before Ms Shing's interjection, this bill does not address the key issues of law and order in Victoria. We have seen over the last 18 months a decline in law and order in this state and we have seen a substantial escalation in the concern among many Victorian citizens about law and order issues in Victoria, but what we have prioritised with this bill is a technical rewrite of the sexual offences statute rather than addressing those issues which are concerning Victorians today in our community.

We have seen the law and order agenda in this state fall away. We have seen a number of steps taken by the Andrews government which have weakened our law and order framework in this state — some very early decisions taken by this government which have weakened law and order in this state — and we are now seeing the consequences of that. These consequences are being felt right across Victoria, right across my electorate in south-eastern metropolitan Melbourne. Right across the west of the state, across western Melbourne and across country areas of Victoria we are seeing the implications of this government's failure to address law and order in an effective way in Victoria.

An example of this that we have seen is the changes that were introduced by this government with respect to bail laws and the offence which was introduced by the previous government relating to minors who breach their bail and the creation of the offence of breaching bail. This is something which has come back to haunt this government. They introduced these changes early in their term in government and there have been negative consequences from those changes that were introduced by the Attorney-General, with people on bail committing serious offences and being in breach of bail but not suffering the consequences of an offence of breach of bail as a consequence of those changes. We saw the Attorney-General in an embarrassed situation in the media earlier this year, having to defend those changes which have been a retrograde step in law and order in this state.

This government has a clear left-wing agenda on law and order, as we have seen over the last 18 months with the rollback of a number of provisions which had been previously introduced, and the Attorney-General was embarrassed by that. With the events that occurred earlier this year as a consequence of those bail changes, the government was on the back foot and the Attorney-General was on the back foot, but we have still not seen the government move to correct and redress those changes which it introduced to the detriment of the state and to the detriment of the citizens of Victoria.

Another example we saw of these types of changes was the repeal of the move-on laws. This was a framework of legislation put in place by the previous coalition government which gave Victoria Police members the power to move on, typically in a protest environment, offenders who were causing disruption. Those were laws which were introduced with the support of Victoria Police, with the support of Police Association Victoria and with the support of the Victorian community. They were strongly supported by members of the Victorian community who were sick of having

their day-to-day lives disrupted by unreasonable protest activity — by people blocking intersections, picketing intersections and disrupting the day-to-day lives of Victorians who just wanted to go about their business. They were not getting involved in violent or disruptive protests, and those laws were put in place to protect the interests of those Victorian citizens who were going about their day-to-day business rather than to protect the interests of the feral protesters who had been causing so much disruption.

So what did we see? We saw very early on in the life of this government that one of the first things it did was repeal those move-on laws. Of course as a consequence of that we have seen an escalation in the sort of lawlessness and protest activity that was causing disruption to the Victorian community and is now causing disruption to the Victorian community on a larger scale. We have seen recent race-related protests and conflicts between various groups citing and supporting various race-related outlooks. The police have not had the capacity that they previously had under the move-on laws to address those conflicts. You have rival sides in protest meeting in conflict, and the police no longer have the capacity to address that through the move-on laws they had been previously given by the last coalition government.

It really highlights this government's approach and focus on law and order that it thinks it is appropriate to remove provisions such as the move-on laws and provisions such as the breach of bail offence which had been previously introduced. The only beneficiaries of those two repeals in this state are criminals. People who are breaching the law are the only beneficiaries of those two repeals, not the ordinary Victorian citizens who are trying to go about their business and get on with their lives in a safe environment. They do not benefit from the repeals introduced by this government; it is the criminals who benefit from the repeal of those provisions.

We saw last sitting week this chamber debate and pass legislation to address the issue of no body, no parole. This was a bill advanced by my colleague the Honourable Edward O'Donohue, a former Minister for Corrections and current shadow Minister for Corrections and shadow Minister for Police, which sought to address the very distressing situation for families who have had a loved one murdered in circumstances where the killer has not disclosed the location of the body. The purpose of that legislation was to send a very clear message that in circumstances where somebody has been murdered and the location of the body has not been disclosed, the perpetrator would not be eligible for parole. It would send a very clear direction to the Adult Parole Board of Victoria that parole would not be considered for someone in those circumstances.

This was a piece of legislation that was passed through this house on the last sitting week. It is something that would have meant a great deal to those families who found themselves in what must be an incredibly difficult and heart-wrenching situation — to have a loved one murdered and then to be denied the opportunity to farewell them because the location of the body has never been disclosed. So what we passed last week in this place was a very sensible piece of legislation that would have given some comfort to those families who are in that situation, that of knowing that the perpetrators of those crimes would not be able to be released on parole while they continued to not disclose the location of the body.

What did we see in the other place? When the bill reached the house in which government is formed, the Legislative Assembly, we saw that bill summarily defeated. The government used its numbers to defeat that piece of legislation which would have given comfort and would have given support to those members of the community who found themselves in that unenviable situation of not knowing the location of their murdered loved one — and for no good reason. Yet again we saw the government siding with the criminals, not siding with the ordinary Victorians who want to live and work in a safe environment but siding yet again with the criminals and putting the interests of murderers ahead of the interests of the victims of those murderers. That is an indictment of this government, which yet again reinforces the left-wing, anti-law and order and anti-Victoria Police agenda that this government is continuing to perpetuate.

We will see tomorrow in this place another initiative from the coalition, from Mr O'Donohue, which is a bill with respect to the offence of carjacking. Without anticipating the debate tomorrow, the bill the house will look at seeks to create a new offence of carjacking, an offence related to using force against a person to steal their motor vehicle or to attempt to steal their motor vehicle, in short. The question has to be asked: why is that carjacking bill coming before the house tomorrow? It is coming before the house tomorrow because we have seen in the last 12 months a dramatic increase in the number of attempted carjackings and carjackings taking place, particularly across metropolitan Melbourne. It is an indictment of this government's approach to law and order that that problem has escalated and has been allowed to escalate over the last 12 months with no intervention from the government and no intervention from the Attorney-General or the

Minister for Police. The government has been happy to allow that to happen.

It has taken this initiative, yet again from the Liberal-National coalition, to bring forward legislation to specifically address the issue of carjacking, and it will be fascinating to see tomorrow whether the Labor Party yet again adheres to its anti-law and order agenda and yet again sides with the criminals and votes against that legislation rather than actually siding for once with the Victorian community and seeking to support the bill's passage. But I would say, having seen the record of this government over the last 18 months, it does not augur well for the government's support for the introduction of that new criminal offence of carjacking, which has become so necessary because of the government's failure to adequately intervene on law and order and policing in this state over the last 18 months.

Of course the consequence of that failure to adequately run a law and order agenda and to adequately resource Victoria Police is that we have seen a massive escalation in gang-related offences. This is something that has been occurring particularly in my electorate in the south-east of Melbourne, where we have seen organisations such as the Apex gang becoming more and more prevalent and more and more brazen in their attacks on law-abiding Victorian citizens.

As I said, we have seen an escalation in carjackings and we have seen a massive escalation in home invasions, and these are things which absolutely go to the heart of the Victorian community's concerns about their safety. If you have citizens living in an environment where they cannot even be confident that they are safe in their own house and where they cannot go to bed at night knowing that their house will not be subject to an invasion by a gang because this government is not willing to act and intervene, that is an absolute indictment. The fact that this is a growing problem and has been a growing problem for a good 12 months should be a source of much regret for all members of this house, and it should be a point of shame for this government that it has failed to intervene and failed to resource Victoria Police in a way in which this can be addressed.

So lacking have we seen the support for Victoria Police and the resourcing of Victoria Police that we are now in fact seeing groups which have been described as vigilante groups, but which are in reality groups of concerned citizens, undertaking their own patrols. We see groups in the western suburbs, in estates like Caroline Springs, who have been forced, through the lack of support from the government flowing through to Victoria Police and the lack of confidence that if incidents occur they will get a response, to form their own groups to undertake their own patrols in those communities — to detect and report criminal activity and hopefully see the criminals apprehended. What message does that send? What does it say about this government's approach to law and order when citizens in Caroline Springs are needing to set up their own groups to undertake their own patrols and investigations because this government has dropped the ball?

We have had a change in police minister over the course of this year. What we have not seen is an improvement in the support and management offered to Victoria Police. We are seeing an increasing number of police station closures. We have seen the new police station at Hastings opened, in the sense of members of Victoria Police being assigned to it. But it is no good if you are a citizen resident in Hastings and actually want to get service from that station, because if you go to the Hastings police station you will discover that there is no service offered to members of the local community, despite a new police station being provided.

As Mr O'Donohue said before, we have seen, again in my electorate, Endeavour Hills police station having its hours cut back. Endeavour Hills police station is one of the busiest police stations in the south-east, in the heart of the Endeavour Hills-Hallam-Dandenong area. It was opened on the commitment of a 24-hour police station, and we are now seeing its hours scaled back to not even 12 hours but less. This is happening across the state.

We saw the situation in Waurn Ponds, which is near the Minister for Police's own electorate, where police station hours were cut back. Because it was her own electorate, the minister was forced to undertake community consultation about the reduction in police station hours at Waurn Ponds. I would have to say I think it is pretty clear what the community's view is going to be in respect of that cutback at Waurn Ponds. But it raises an interesting question: will the minister now undertake consultations in respect of all other police stations where she has overseen a cutback in hours, or is it only for her own constituents in her own electorate where the consideration of community consultation will be undertaken?

I can tell the house what is happening at the Endeavour Hills police station. The residents of Endeavour Hills, Hallam and Dandenong would like to be consulted about that cutback in police station hours, and it will be very interesting to see whether the minister, in her rushed announcement of consultation at Waurn Ponds to placate her own constituents, will now follow that

practice more broadly across all other stations where she is seeking to cut back hours.

I turn now to some specifics of the bill. As I indicated, it is quite technical in recasting and in some respects updating the statute law relating to a range of sexual offences. At some point during the committee stage we will drill down into the implications of some of these changes in the construction of the statute versus the construction that currently exists in the Crimes Act. In his second-reading speech the Attorney-General highlighted that 'problems with Victoria's sexual offences laws have led to numerous appeals and retrials', and he went on to talk about the way in which the Crimes Act currently defines a number of sexual offences only to the extent of some elements of the offence and relies upon the common law with respect to the balance of defining the offences. He explained that this has subsequently led to a base of case law around these offences and how there have been a large number of appeals and challenges in respect of the interpretation of those offences in the Crimes Act.

The Attorney-General set out the intent of this legislation in more descriptively codifying those offences to get around that problem, and while it is understandable that that is the Attorney-General's intent — and I have already reflected on whether this should be the highest priority, given the other problems that we have in Victoria with law and order — what is not at all clear is whether it is going to be effective.

I spent a number of years as minister in the WorkCover portfolio, where codifying decisions of the court, modifying the existing statute to address unintended consequences arising from decisions of the court and indeed filling in and clarifying areas of the statute which had been subject to judicial interpretation which was not consistent with the intention of the legislation certainly highlighted that it is far from a precise science. While the Attorney-General seeks to provide certainty versus what the current content of the Crimes Act provides, it is not at all clear that the new statutory construction the Attorney-General seeks to pass with this amendment bill will actually give that certainty. That is something I will seek to explore with the minister at some length in the committee stage in order to understand how and why the government believes this construction of the legislation will be more effective than that which has been the subject of judicial interpretation as currently set out in the Crimes Act.

The bill covers a number of areas including sexual offences against children, child pornography and child abuse material. It addresses the issues of incest and sexual offences against persons with a cognitive impairment or mental illness, and that is to reflect the more contemporary language around mental illness than perhaps is reflected in the original Crimes Act. It inserts a new offence of sexual activity directed at another person, and it covers a range of other sexual offences. It also addresses the issue of jury directions with respect to consent and reasonable belief of consent. The matters it covers are quite technical and relatively narrow in the areas that they seek to prescribe. As I indicated, I will have a number of matters to cover with the minister in committee as to the construction that has been landed upon in this bill versus the current Crimes Act construction, and on that basis the coalition is not seeking to oppose this legislation.

We do highlight that to bring this legislation forward now as the Attorney-General's priority seems inconsistent given the crisis we are seeing in law and order in this state. Nonetheless, the coalition is happy to allow this legislation to proceed, but we indicate we expect to see from the government a new commitment with respect to law and order. It is a dire situation when Victorian families do not feel safe in their own homes. This is a direct consequence of the actions of this government in rolling back legislative reform of the previous government, and it is a result of the inaction of this government in relation to properly supporting and properly resourcing Victoria Police. It is an indictment of the way this government operates, and it cannot be allowed to stand.

**Dr CARLING-JENKINS** (Western Metropolitan) — I rise today to speak to the Crimes Amendment (Sexual Offences) Bill 2016. I wish to commend the government for bringing greater clarity to this complex area of legislation. Protecting vulnerable members of our society is our highest calling as elected representatives, and this bill is an example of an attempt to fulfil this goal. I certainly support the intent of this bill, and I look forward to, I guess, the technical interrogation of this bill, which Mr Rich-Phillips has flagged he will do during the committee stage to clarify the working of this bill. But I will be supporting this legislation, and while it is broad ranging and comprehensive, I will restrict my comments tonight to just a few points.

Firstly, I would like to speak to and address the issue of sexual offences against children in our community and my hope that this legislation will assist victims in finding the justice that they deserve. Child abuse and neglect is a huge social problem here in Victoria, and this cannot be denied. The Australian Institute of Health and Welfare *Child protection Australia 2014–15* report found that despite the incidence of under-reporting of

child abuse and neglect, 42 457 children are abused and/or neglected each year. As Act for Kids points out, that is one child every 13 minutes in Australia suffering physical, sexual or emotional abuse or neglect, often by someone they know and should be able to trust, most often in their own homes, and there are thousands more cases that go unreported. This bill seeks to address in greater detail sexual offences against children.

Child sexual abuse and incest are particularly insidious crimes. Speaking in the past to adults who have suffered from child sexual abuse and/or incest has highlighted to me the importance of appropriate convictions for offenders. Recovery for these individuals can be greatly assisted when victims know that their perpetrator has been forced to face what they have done. The maximum penalty for sexual penetration of a child under this act has been increased to 15 years from 10 years, and I believe that this better reflects the seriousness of such offending. I hope it is more in line with community expectations as well.

I also note that this bill addresses in great detail child pornography and child abuse material. The crime of child pornography and child abuse material sickens me. I cannot find any other way to describe it. This is a crime with a ripple effect. It starts with a child being sexually abused for the pleasure of the perpetrator and the profit of a producer. This abuse is filmed or photographed for both the profit and the pleasure of sick individuals who purchase and watch this material. I have been told that about 30 per cent of all data transferred across the web is pornography and that 20 per cent of this involves trafficked children. To be a victim of child sexual abuse is extremely difficult. To know that there are images out there of your abuse compounds this difficulty. So I am very pleased to see that a significant amount of work has been done within this legislation to introduce, to strengthen and to pay more attention to offences throughout this industry — from perpetrators to producers, to administrators of websites, to distributors of material and to those found in possession of child pornography. Offenders in the online environment have become increasingly sophisticated in the areas of offending, distributing, encrypting and so on. My hope is that this bill will go a long way towards authorities being able to investigate and more successfully prosecute offenders in this area.

Then I turn to the part of the bill that addresses sexual offences against persons with a cognitive impairment or mental illness. People with intellectual disabilities and people with mental illness are amongst the most vulnerable and exploited members of our community, and the incidence of abuse, including sexual abuse, within these populations is completely out of proportion with the rest of the population. People with Disability Australia describe this:

> Women and girls with disability are overrepresented as victims of rape and sexual assault. In 2011, a quarter of rape cases reported by females in Australia were perpetrated against women with disability, and it is estimated that up to 70 per cent of women with psychosocial disability in Australia have experienced past sexual abuse including child sexual assault.

We also know from People with Disability Australia that:

> Police and lawyers frequently do not investigate and prosecute incidents of abuse as crime, meaning that people with disability have no mechanism for justice or redress. This can be due to attitudinal barriers including a lack of disability awareness and a failure to recognise people with disability as reliable witnesses. The result is that people with disability are more likely to experience multiple episodes of abuse because perpetrators perceive little likelihood of sanction or police intervention if caught.

This bill contains reforms and new offences. It also updates the language around disability and mental health. It is hoped that this bill will lead to greater disclosure of abuse as people with disability feel more confident to disclose and to be understood within the law. However, more work needs to be done to educate and disseminate this information in an accessible form. I commend the Attorney-General for paying particular attention to the abuse of people with disability by people in positions of power over them.

Earlier this year Bianca Hall wrote about judges imposing extremely lenient sentences in this area. In fact this has been the subject of many articles in this past year, particularly after or as part of the inquiry that the joint committee conducted earlier this year into victims of abuse with disability.

Miki Perkins, for example, described the anguish of a mother who had tried to advocate on behalf of her son with a disability, who she had suspected was a victim of abuse. Ms Perkins said:

> … her concerns were not acted upon quickly. By the time police were alerted it was too late to gather forensic evidence.

She quoted the mother of this victim as saying:

> You need to be able to speak with confidence and be taken seriously. It should not be the norm that people with disabilities are abused …

This is not an uncommon story. It should be, but it is not. The Victorian government inquiry, as I said, highlighted the reality of a culture of abuse within services — abuse suffered by people with disabilities at alarming rates in our state.

I would like to just reflect a little bit more on the abuse of children. I want to reflect on something that Bianca Hall wrote about judges imposing lenient sentences for incest. She said this:

> Victorian judges are imposing 'extremely lenient' sentences for incest convictions, according to the state's highest court.
>
> The Court of Appeal on Wednesday recommended that judges hand down higher sentences in incest cases, to better reflect the 'objective gravity' of incest and the long-term harm done to victims.
>
> But it declined to overturn a five-and-a-half year sentence given to a man convicted of incest against his two stepdaughters, and impregnating one of them at just 13.
>
> The Director of Public Prosecutions had appealed the sentence, describing it as 'manifestly inadequate', particularly given the 13-year-old had been forced to terminate the pregnancy.
>
> Fearing repercussions if she told anyone the truth, the girl instead said she had been having sex with a boy at school. She then had to endure her abusive stepfather continuing to live with the family as a result of her lie.

That ties in with disability as well, because the girl's sister had a mild intellectual disability and was 15 or 16 when her stepfather committed incest against her and also indecently assaulted her.

In its written judgement, the Court of Appeal said:

> Sentencing for incest must reflect society's denunciation of the sexual abuse of children and the profound harm which it causes.

I think this is a serious role for this Parliament. Certainly the Attorney-General in his second-reading speech made it clear that protecting children and people with disabilities from this type of abuse is of primary importance.

Of course we must never lose sight of prevention strategies, but once the abuse has taken place we must have legislation in place which is consistent and comprehensive in nature. This bill seeks to do just that by replacing existing sexual offences with a comprehensively reformed set of offences.

**Business interrupted pursuant to standing orders.**

**Sitting extended pursuant to standing orders.**

**Dr CARLING-JENKINS** — I do not have much more to say. I am sorry; this is a very difficult subject to talk about. I just wanted to say in conclusion that I find sexual abuse to be abhorrent; I find sexual abuse of children and people with disabilities to be especially abhorrent. The abuse and exploitation of children through child pornography is one of the most sinister threats to our future generations. We must all work together to protect the most vulnerable in our society. I believe that more can be done and that more should be done, but this bill is a step in the right direction. I want to commend the government for bringing this bill to the house. It has my support.

**Mr MELHEM** (Western Metropolitan) — I also rise to speak on the Crimes Amendment (Sexual Offences) Bill 2016. In doing so I echo the sentiments of Dr Carling-Jenkins and support her contribution. I think she has done a great and excellent job in describing the intent of the bill and going into it in detail, as well as speaking on this issue with some passion. I want to commend her for her contribution, adopt her contribution and commend the bill to the house.

**Mr FINN** (Western Metropolitan) — It gives me — well, I was going to say 'pleasure', but it does not really give me pleasure at all to speak on the Crimes Amendment (Sexual Offences) Bill 2016. And having listened to Dr Carling-Jenkins's contribution it gives me even less pleasure, because I think what Dr Carling-Jenkins has brought to this debate and to this house tonight is a reality check for us all in that we are not just talking about words on a piece of paper and we are not just talking about laws that will be sent off to a library to be studied and off to courts to be filed; in fact we are talking about the impact these laws will have on real people.

What we have in this world of ours today is some pretty sick puppies. We have some people around who probably do not deserve to be. When I see and hear of the sort of foul sexual abuse — or indeed any abuse but particularly sexual abuse — of children and those who are vulnerable, those who cannot defend themselves, it gnaws at my very being. It is something I find intolerable, something that none of us in this house or anywhere else, I believe, should be prepared to put up with in any way, shape or form.

I spend, as I am sure you are aware, Acting President, a fair bit of my life defending those who cannot defend themselves. That is something I wish I had been out of the room for when it was handed out, because it would make my life a lot easier if I did not feel that way, but I do. I cannot stand to see particularly children hurt in any way. I hate to see bullying, I hate to see people with disabilities being picked on and I hate to see people being taken advantage of in any way. For a person to think that they can take it upon themselves to sexually abuse another human being is abhorrent in every way. It is something that, yes, this bill goes some way to

addressing, but it is a subject that we really need to take on on a much larger scale in the community.

Like Dr Carling-Jenkins, I have a bit of trouble speaking about this. It is to me a very emotional subject and one that hits some pretty raw nerves with regard to what we see and hear happening. Every day we see reports of children being abused by their mother's boyfriend or their stepfather or somebody else. We have seen reports recently of young girls having been murdered in their own beds after being sexually abused. It is beyond my comprehension. I cannot possibly understand how anybody could do that to another human being, much less a child. So I welcome this bill. The only criticism that I would offer in this legislation is that it does not go far enough.

I would like to see much harsher sentences for this sort of pond scum that we are talking about, because as far as I am concerned these creatures have forfeited their humanity and should receive the full wrath of our community. I was going to say our legal system, but the full wrath of our legal system does not tell you all that much. It is nothing to write home about because since Rob Hulls was Attorney-General and made all the judicial appointments for 11 years our justice system — it was a justice system once; it is not a justice system any more — is now a legal system, and the benches of Victoria are occupied largely by civil libertarians and people who put the rights of criminals ahead of the rights of victims. Is it any wonder that a good number of Victorians have given up believing in our legal system and our justice system? They know that the ordinary person — the ordinary man, woman or child — has no chance, they believe, of getting real justice in this state.

I have to say it does bewilder me, and I know there are some in this house who may be able to enlighten me at some stage, how somebody can go into a courtroom, put on a cloak and a wig and be paid a huge sum of money to defend a scumbag, to defend a murderer, to defend a child molester, to defend a drug dealer — to defend people who cause such enormous pain, who cause such enormous agony to so many in our community. I just put that on the record for the benefit of those who may be able to, as I say, enlighten me at some stage. Many have tried over the years, I hasten to add, and many have failed, so if people would like to give that another shot, please feel free.

The comments that Mr Rich-Phillips made in his contribution I think are very true. He was spot on the mark — that is, the attitude to law and order in this state has softened to an extent where we now have people, predominantly young people I am saddened to say, who are from countries where law and order is not the norm, who commit crimes in Victoria and who are out on the streets within hours after the police arrest them, because of a magistrate who feels sorry for them or is committed to looking after the offenders. And they think they can do it all over again.

We have people — I am loath to call it an underclass, but it almost is — particularly young people, who have no respect for the law. They have no respect for other people. They have no respect for other people's property. They believe they can do anything as long as they are strong enough, fast enough and big enough to do it. You know, we have seen home invasions on a growing scale. Just a few weeks ago I spoke at a rally at Caroline Springs along with Mr Melhem and with Mr Iddles of Police Association Victoria, and there were 1000 people at that rally. Now, you know, it was a relatively pleasant Saturday morning. To get 1000 people at Caroline Springs on a Saturday morning means that something is wrong. People know that something is wrong if you can get that number of people out on a Saturday morning when there is so much happening. You know, you could be doing your shopping, you could be doing your gardening or you could be taking the kids to the basketball or the footy or whatever it may be. There is so much on, and yet close to 1000 people came out on that Saturday morning to show their concern. It was more than concern; it was anger and it was fear.

We have heard reports of vigilantes around the place, because people are terrified and are keen to protect their families. I have to say that I cannot blame them for that. They have been put in that situation because they feel, if they ring the police, the police are in no position to come.

**Ms Crozier** — They're flat out.

**Mr FINN** — They are flat out. They are absolutely flat out. Having spoken to a number of the police in the western suburbs, it is clear they are absolutely run off their feet. We see situations where in large sections of the western suburbs — I am only talking about the west here, but I know it applies to other parts of the metropolitan area and to other parts of the state as well — there is no police response. There can be no police response, because the police in the van — and there might only be one van out on the streets on any given night — are busy with a domestic or with some act of violence. All you need is one incident, and that could be enough to take the police off the streets. So there is a genuine fear, and to my way of thinking a justified fear, among a lot of people as to what is happening on our streets and in our homes.

As Mr Rich-Phillips said, it is a disgrace that so many people are afraid to live in their own homes and to sleep in their own beds. This is something that condemns our society, I believe. It is an indictment of our society. It really concerns me, given the number of people who feel it necessary to take matters into their own hands, that at some stage soon somebody is going to be killed. Whether that be one of the hooligans or one of the victims, I do not know. It could be both. Who would know? But my very great fear is that if you have people using weapons in the streets, whether they be firearms, whether they be baseball bats, whether they be cricket bats or whether they be knives, whatever they might be, that has the potential for causing major trouble. When I turn on the news every morning I fear that we will have lost somebody overnight as a result of the lawlessness on our streets and the inability of police to do anything about it because there are just not enough of them.

In the western suburbs we are almost used to being understaffed in terms of police. Down in Werribee it has been that way for as long as I can remember, and it does not appear that that will change anytime soon. So there are a number of areas that people are concerned about — indeed that they have every reason to be concerned about. I believe that we need to strengthen our laws, and I am pleased this law that we are debating tonight will do that. But we also need to give our police the resources and the authority to do their job, because there are a lot of police who are concerned that if they do their job the way they should, they are going to end up before the beak. That is something that they are genuinely concerned about. That is something that they should never have to worry about.

Of course, as I touched on, the third thing that we must be very aware of and very concerned about is the way the judiciary in this state is letting law and order go to hell in a handcart.

I join with the opposition in not opposing this bill. I urge the government to take up the three areas that I have proposed this evening, because I think it is something that is truly terrifying for a good number of Victorians. We as legislators have an obligation, a duty, to protect all Victorians.

**Ms PENNICUIK** (Southern Metropolitan) — The Crimes Amendment (Sexual Offences) Bill 2016 is a very important piece of legislation for us to be discussing tonight. It is in fact a very complex area of the law and a very concerning and sensitive area of the law as well, and that is reflected in the bill itself in that it is a complex bill. It is a technical bill which mainly makes amendments to the Crimes Act 1958, the Summary Offences Act 1966 and the Jury Directions Act 2015 and also makes amendments to 18 other acts. It is a comprehensive, complex, technical bill dealing with a very important area of the law that covers offending that can have profound and lifelong effects on people who are the subject or the victim of that offending.

As the Attorney-General outlined in his second-reading speech, it is some 25 years since sexual offences in general have been amended in the state of Victoria and more than 20 since the child pornography laws were introduced. It is 12 years since the Victorian Law Reform Commission 2004 report into sexual offences and problems with the law was tabled. That report pointed out that problems with these laws had led to many appeals and retrials and that the sexual offences laws as they currently existed were not always clear to the courts, the judges, the juries, the lawyers, the victims and the public in general.

Much of the terminology that is used is outdated and can be vague in the use of terms such as ‘indecent’ and ‘obscene’, which are very unclear terms and certainly subjective. In the time span that I have been alluding to there have been quite changed family relationships, the issues of domestic violence and child abuse have come much more to the fore — and rightly so — and there has also been massive change in technology that has also impacted on this area of the law.

According to the second-reading speech, the aim of the bill is to ensure that sexual offences under the law are as clear, consistent and effective as possible, and of course we would all support that. The Greens broadly agree that the bill does this, as do the major interested stakeholders — for example, the Victorian Centres Against Sexual Assault (CASA) Forum, the Law Institute of Victoria and the Federation of Community Legal Centres, although some specific and particular concerns have been raised around some areas that the bill goes to.

The major areas that the bill addresses are sexual offences against children, child pornography and child abuse material, incest, sexual offences against persons with cognitive impairment or mental illness, new offences of sexual activity directed at another person and jury directions on consent and reasonable belief in consent. These are all very important areas and, as I said, in need of updating and clarification to make it easier for the courts to deal with these mostly very distressing cases that come before them. In fact the bill, as the Attorney says, overhauls and modernises more than 50 sexual offence laws across the acts I mentioned earlier.

The key aspects of the bill are to insert new definitions under clause 5 and in particular to insert a new subdivision (8B) pertaining to sexual offences against children, which will replace existing sexual offences against children with a comprehensively reformed set of offences. This will cover sexual penetration of a child, sexual assault of a child, sexual activity in the presence of the child, causing a child to be present during sexual activity and encouraging a child to engage in sexual activity. These offences will apply to children under 16 and to children aged 16 or 17 under the care, supervision or authority of the accused.

There are some other particular offences, and the provisions contain various defences to offences and exceptions which specify when an offence is not committed. This includes the element of consent where the child is at least 12 and the age difference is no more than two years under new section 49V, but sections 49D, F and H, where the child is at least 12 and the age difference is no more than two years, do not provide for the defence of consent. This is a recognition of the inability of children to provide informed consent.

One of the issues that has been raised, and I will ask the minister about this, is the use of the term 'community standards', which I think is not as precise a term as we could use in this area if the aim is to have clarity and consistency. We are getting rid of some vague terms, but I think that is perhaps introducing another vague term. We will be questioning the minister on the background regarding that.

Generally we support these reforms so that the laws will comprehensively address all sexual offending against children and also ensure that the penalties reflect the gravity of the offending. The bill increases the penalty for sexual penetration of a child under the age of 16 from 10 to 15 years.

Another key area where the bill makes changes is the replacement of the term 'child pornography' with the term 'child abuse material'. The definition of child abuse material includes all material depicting a child as a victim of torture, cruelty or abuse, whether or not it is in a sexual context. This change will bring Victoria in line with other Australian jurisdictions. Of course just to think about depicting a child as a victim of torture, cruelty or abuse is somewhat disturbing. As previous speakers have said, the fact that this type of offence appears to be increasing is of huge concern to the community. I agree with Dr Carling-Jenkins, who spoke earlier on this bill, that it is good to see more attention being paid to these issues, but the community needs to be aware of the growing incidence and the growing insidiousness of them as well.

Under this particular new division, subdivision (8D), there is the introduction of two new offences, which are the offence of distributing child abuse material, which recognises that distribution can happen online through simply making material available, such as by uploading a file to a file-sharing website, to an email account or even to a chat room, and the offence of accessing child abuse material, which will target the intentional viewing of child abuse material. This offence will also apply to the intentional viewing of physical child abuse material and to other forms of technology, such as mobile phone applications that are designed for one-off viewing. Both of these new offences will carry a maximum penalty of 10 years imprisonment. The same penalty will apply to child abuse material offences, such as production involving a child and possession, and also provides for sexual conduct directed at a child through the use of technology such as Skype or Snapchat.

Exceptions to children apply that were introduced following the parliamentary inquiry into sexting and have been clarified and simplified in this bill. Other exceptions and defences have had increased safeguards applied — for example, preventing the use of a defence where an image depicts a criminal offence punishable by imprisonment. The bill also reforms the process for disposal of child abuse material, allowing a court to order the disposal of encrypted or password-protected data where the court is satisfied there are reasonable grounds to believe the data contains child abuse material. We are very supportive of these reforms, as are the major or key stakeholders who have been involved.

I should say that the genesis of this bill goes back to the previous government. Submissions were made to the previous government by the stakeholders that I mentioned earlier and indeed have been made as recently as early this year and only a couple of months ago on some of the provisions of the bill. The Attorney said there has been extensive consultation on the bill — we do accept that — and of course there should be with the particular organisations that I mentioned, who are in daily contact and are dealing with these types of issues on a daily basis.

One of the things to note, of course, is that with the changing of the terminology from 'child pornography' to 'child abuse material' the CASA forum have stated that they are supportive of that proposed change. However, they have expressed that the influence of adult pornography is playing an increasing role in how young people learn about, think about and experience sexuality. The community needs, I think, to turn its

mind to the increasing effect that this material is having on certain sections of the community in a negative way.

The bill also inserts a new subdivision (8C) with regard to incest and, as the Attorney says, seeks to clarify and modernise incest offences to more clearly reflect the variety of family structures covered by the offences and to protect children within all families. It makes it clear that stepchildren by marriage and stepchildren by domestic partnership are given equal protection from sexual penetration by a step-parent or a lineal ancestor. It expands the coverage of the offence of sexual penetration of a stepchild and introduces an exception for sexual relationships between adult stepchildren and step-parents where the stepchild has never been under the care, supervision or authority of the step-parent and no sexual activity has occurred between the step-parent and the stepchild when the stepchild was under 18.

There have been some submissions and comments regarding the incest provisions. For example, in their submission to the Department of Justice and Regulation earlier this year, the Federation of Community Legal Centres Victoria outlined their concerns. Key to the point they were making was that the key aspect of the crime of incest should not be the fact of the relatedness per se but rather the coercion, power or exploitation involved and that the familial relation is more, in their view, an added factor that makes the crime more heinous. You could call that an aggravating factor.

So they have proposed that what is needed is to have the same schedule of general sexual offences for non-familial sexual offences but specifically also applied to situations where the accused and the victim are defined as family members, therefore attracting a higher penalty than for non-family sexual offences and without the availability of exceptions or defences. They posit that the retention of incest as a separate section or category of offences could lead to potentially anomalous outcomes.

In considering that issue I think there is value in what they are pointing out in terms of the way the bill has basically been structured. While a whole rewrite of certain sections of the legislation has been done, this one has not necessarily been rewritten in the same context, I suppose you could say. It should be noted, too, that the Court of Appeal has recommended that judges hand down higher sentences in incest cases to better reflect their gravity and the long-term harm done to victims, particularly child victims.

The other major area the bill goes to is in new subdivision (8E), which relates to sexual offences against persons with a cognitive impairment or a mental illness. The reforms in this subdivision adopt new terminology and a structure to ensure that the offences will work effectively in the new service environments of the national disability insurance scheme and localised mental health treatment as well as in traditional service environments such as residential care, and will include sexual offences that are not tied to the location in which the services are delivered. The offences are based on the vulnerability of the persons in the context of the care-giving relationship, so they are not dependent upon or precluded by the legal capacity to consent. Where a person does have the legal capacity to consent, the offences of rape and sexual assault will apply.

New offences have been introduced, such as targeting sexual activity in the presence of a person with a cognitive impairment or mental illness and causing a person with a cognitive impairment or a mental illness to be present during sexual activities. Both of these new offences will have a maximum penalty of five years imprisonment. The Greens support these reforms to protect persons with cognitive impairment or mental illness and to hold perpetrators to account. We note that the CASA forum are also supportive of these reforms and refer to the Women with Disabilities Victoria 2014 research paper, *Voices Against Violence*, which revealed that women with disabilities are at greater risk of experiencing violence compared with both men with disabilities and women without disabilities. Further, it was found that women with intellectual disabilities are at a considerably heightened risk of experiencing sexual assault compared with other women with disabilities.

The CASA forum also suggests that more work is needed to support people with cognitive impairment or mental illness in reporting sexual abuse and increasing their access to therapeutic counselling and support services. Again, it is disturbing that people in such a vulnerable situation can be at risk of the offences that we are talking about here this evening.

Another new offence covered by the bill is in new section 48. A new offence will apply where a person engages in a sexual activity intending that another person will see it and experience fear or distress. Clause 15 also creates offences of procuring a sexual act by threat or fraud, inserting new section 45 into the Crimes Act 1958 to make it a crime to procure a sexual act by telling lies or half-truths. The Scrutiny of Acts and Regulations Committee (SARC) raised some particular concerns about this section, which I may return to during the committee stage.

There is also new subdivision (8F), which replaces existing sexual servitude offences by largely replicating

existing sex offences. This has been redrafted for consistency in structure and style. Also, some of the offences will introduce a new limb — that is, where a victim is not free to leave the place where commercial sexual services are provided.

The last major area of the bill is jury directions on consent and reasonable belief in consent; part 4 of the bill amends the Jury Directions Act 2015. The trial judge will be able to inform the jury that experience shows that there are many different circumstances in which people do not consent to a sexual act, that people react differently and that there is no typical, proper or normal response to non-consensual sexual acts. People can be involved in sexual activity on some occasions but not consent to a particular act with a particular person on others. Also, on the reasonable belief in consent, the trial judge may direct a jury to take into account personal attributes and characteristics of the accused, such as mental impairment. Also, in assessing whether reasonable belief was reasonable the test will involve considering what the community should reasonably expect of the accused in the circumstances. A further new direction is that a stereotypical belief in consent based solely on a general assumption about the circumstances in which people consent is not reasonable.

In a previous bill on this particular topic the Greens did move an amendment which stated that these jury directions should in fact be mandatory and not discretionary because this is an area where the community is not always fully apprised of the particular directions a judge may give. Relying on the barristers to request it, we think, will fall short of the mark until we get to a point where the community is much more aware of the issues around these particular areas of consent and reasonable belief, because they are not well understood by the community. Therefore in terms of making sure that juries and everybody in the court dealing with these issues actually understand what is at stake, judges should be required to give these directions to make sure that juries are on top of what they are dealing with in these very complicated and often very disturbing cases.

It is worth congratulating the Scrutiny of Acts and Regulations Committee and its secretariat staff for the very comprehensive report they wrote on the bill — 15 pages. They wrote to the minister raising a large number of questions about some of the issues that I have touched on already. Members may recall that the minister's response, which itself is six pages, was only tabled last week. I had said to the government that given the very complex and important area of law the bill is dealing with and the quite extensive overhaul of the existing laws it proposes it would be of benefit to members to have some time to actually read what the Attorney-General has said in response to some of the issues raised by the Scrutiny of Acts and Regulations Committee.

I note that the Attorney-General in his response to the Scrutiny of Acts and Regulations Committee has I think comprehensively answered most of the questions raised by SARC, but not all of them, and has made the comment in certain instances — in fact on three occasions in his response — that those particular issues will be addressed in further legislation.

I spent some time last week going through this, and on Friday I wrote to the Attorney-General asking him to delay the bill. I basically said that after considering the bill, the SARC response and the minister's response to SARC I was of the view that there were still certain aspects of the proposed legislation that raised concerns and would benefit from further consultation with key stakeholders. The issues I raised were: the incest provisions, which still seem unnecessarily complex; the language used in clause 24 dealing with indecent or offensive exposure, and which the minister stated in his response may be considered in a later bill; and also the provisions on sex offences against children where there is a similarity in age, as the application of the defence of consent requires further clarification, as does the term 'community standards'.

I made the point that:

> Given the bill overhauls sex offence laws in Victoria, ideally any amendments required to improve these laws should not be left to later legislation. This is a complex area of law and it is imperative that all areas of reform undertaken by this bill do improve the criminal justice system and ensure that the law is clear and fair, with minimum requirement for further amending bills.

So where the minister has said, 'We'll bring in another bill', I would have thought it would have been better, if he is intending to make the change, to just make the change by way of house amendments, which could have been done this week, rather than waiting for a future date, given that this is a comprehensive overhaul of the laws in this area.

I also made the point that:

> This bill also provides the opportunity to include all necessary reforms such as amending the failure to disclose provision under section 327 of the Crimes Act 1958 with a provision that ensures that the particular vulnerability of women who are victims of family violence is taken into account —

in terms of that provision, which imposes a duty on all people to report sexual offences against children but

does not include that particular vulnerability in terms of the Crimes Act 1958.

The Attorney-General very quickly wrote back to me on Monday. He mentioned, in terms of the issues I raised in terms of incest, that the provisions in the bill would clarify and simplify the current provisions by making it clear which family relationships are covered and would ensure that certain people are excluded from the offence provisions, such as victims of child sexual abuse in the new section 50J(2), and that refers to where a person who is a victim of child sex abuse but then becomes an adult and is still involved in that abuse cannot then be caught up under the new law. But he did not go to the other complexities that have been raised by others regarding those provisions.

With regard to indecent exposure he said:

> The government proposes to clarify the wording of this offence, and will ensure that those amendments commence at the same time as the proposed new sexual offence provisions.

So perhaps a new bill will be rushed in to deal with those. He went to quite a level of detail regarding the new section 49 and all its variously numbered provisions that I think take up the whole alphabet, basically. It is a bit of an issue with this bill, the renumbering and lettering of the bill — it is something I have raised before — particularly if you are going to go to the trouble of overhauling a whole section of the law, or of the act, and still be introducing all these provisions with letters at the end and new provisions. If you go through this new section 49V, there is an awful lot of cross-referencing between new sections 49A, B, C, D, U, V, T and S, and I am not sure that that does entirely simplify things. Simplifying is an aim of the bill and clarification, consistency and effectiveness are aims of the bill, and I am not sure that we have got simplification as well as we may have got clarification and consistency.

With regard to the failure to disclose offence, the Attorney-General said that the Royal Commission into Institutional Responses to Child Sex Abuse is expected to release a consultation paper early next month, which will consider, amongst other things, the effectiveness of reporting offences such as the failure to disclose offence under section 327 of the Crimes Act. The commission's final report on criminal justice matters will include recommendations and is expected next year, and the government will carefully consider all the recommendations. The Attorney-General believes it would be not appropriate to pre-empt the commission's findings on this issue and delay debate on this bill. Well, I take that as read. I am glad the Attorney-General said that he will take it into consideration, because it certainly is an area where people can be caught up due to their particular vulnerabilities and sometimes horrific domestic situations.

While there are some specific areas of the bill where some concerns or queries have been raised, I also indicate that the Greens will support the bill. We generally feel that mostly it is going to improve this area of the law and make it easier for the courts to deal with it, but it is something that the government will definitely have to keep an eye on to make sure that that is in fact happening.

**Ms PATTEN** (Northern Metropolitan) — I am very pleased to rise to speak to this bill. I will speak fairly specifically to a number of areas, but I am very pleased that this bill, as many of the other speakers have said, aims to modernise and simplify a wide range of the sexual offences in our legislation at the moment. It also changes a lot of the wording to make the wording a lot more simple and a lot clearer not only to the general community but also to juries and legal practitioners.

It also goes on to talk about what exceptions to defence can be used and what defences cannot be used, and I think when we have looked at some of the previous circumstances we have seen appeals to a number of sex offence trials in the past, and they have been due to that lack of clarity around a number of defences. This legislation will provide a lot more clarity in that area not only, as I say, for the general community but also for magistrates and judges and of course juries, and the bill does go further into providing greater clarity in jury directions. I acknowledge that this is the result of work from a Victorian Law Reform Commission report that dates back to 2004, so we are slowly moving forward. We have seen numerous changes in the previous Parliament and also changes that we saw last year relating to this bill and particularly to sex offences.

I would like to touch on just a couple of areas, firstly, around the child abuse material in new subdivision (8D). The bill replaces 'child pornography' with 'child abuse material'. As many of you would recall, this is something that I have argued and campaigned for not only within this Parliament but certainly outside. I am pleased to feel somewhat vindicated that, apart from Mr Purcell, every member of this chamber opposed the change of the wording 'child pornography' to 'child abuse material' last year, and it sounds like we all will be supporting it this year at this time. I am very pleased to hear that, as I am sure Interpol, the Australian Federal Police, the Internet Watch Foundation and numerous other organisations

will be very pleased to see Victoria coming into line with international best practice in this area.

The word 'pornography' is in our lexicon in so many different ways. Pornography in its standard common-man understanding is adult material that adults like to watch, so to somehow link it to child abuse is really misguided and horrendous. I think to try and link consenting adult sexual material with child abuse is something that we should have changed. It is completely inappropriate, and in some ways I think it trivialises the experiences of those children and trivialises the heinous and horrible crime of child sexual abuse and the recording of that abuse, which we will now be calling 'child abuse material'.

Research tells us that quite often offenders will lie about their child abuse and their activities. When we start calling it 'porn', they start to trivialise their own offending. We have got shelf porn, we have got food porn, we have got political porn — the word 'porn' is so commonly used, so I am very pleased to see that finally we are renaming this material for what it is: abuse of children. Changing the name from child pornography to child abuse material enables us to fully recognise the seriousness of these crimes and also stop offenders from in some ways denying the nature of the seriousness of their offending. As a number of speakers have mentioned, this term is no longer used in most states in Australia, so I commend the government on finally bringing Victoria into line with this. There have been a number of speakers on this bill, and you yourself, Acting President Finn, and certainly Dr Carling-Jenkins have shown the emotion that this bill can bring and the seriousness of the crimes against our most vulnerable people, those being children or those with serious mental and health disabilities.

I would just like to raise a couple of concerns I have with the reworking of some parts of this bill, in particular clause 15, which inserts new section 45, headed 'Procuring sexual act by fraud', into the Crimes Act 1958. That is what it used to be. In fact now this is not just procuring a sexual act by fraud; it does not even mean procuring a sexual act. This new section of the Crimes Act says that you commit an offence if you make a false or misleading representation that may lead someone to consider having sex with you — not having sex with you, just considering it. All right; to lie about being single or what religion you are or what culture you come from is bad form — I will grant you that — but I am not sure we need legislation on bad form. This now makes it kind of illegal to lie about being married or not married. We got some very fulsome advice from the department, and I commend and thank its staff for providing us with great briefings and allowing us to come back. They suggested that this would not occur and that a little white lie would not lead to an offence under new section 45. I disagree with that. The bill is very clear in indicating that this is exactly what would happen.

I would never go home with a married person; never. It may be on that person's dating site or in their dating profile, but married people need not apply. If someone was to then suggest that they were not married when in fact they were, that would be a misrepresentation. I do not think that in the general community we would consider that fraud, but we would consider it false or misleading representation. Should we send someone to jail for five years for lying about being married or not? One of the more common ways to try to persuade someone into a bedroom is to say, 'I love you. I promise I love you. I will love you in the morning'. Under this bill that would be a misrepresentation. It would be a false statement.

Yes, these are somewhat frivolous hypotheticals, but nowhere in this legislation does it say that someone could not bring on a complaint on the grounds that they truly felt that that person was not married and then only in the morning, in regret, found out that that person was married, or in fact that that person was not an astronaut. While I, and I am sure you, Acting President Finn, have never used such false or misleading representations about our occupation, people have been known to exaggerate their occupation so as to mislead someone to maybe be more enamoured with them over an evening.

I suppose my concern in introducing legislation about this is that it is not about protecting people from harm, particularly. It is about policing human interactions. I certainly do not want people lying to or misleading others, but I am not sure that directing people to not lie or not mislead is a role for this legislation.

**Business interrupted pursuant to standing orders.**

**Sitting extended pursuant to standing orders.**

**Ms PATTEN** — I certainly understand that some of the areas that the department has listed are about someone suggesting that they would possibly fail to pay for sexual services in a situation with a sex worker. That is actually theft, or that is obtaining financial advantage by deception. I think we probably have measures to deal with those types of crimes within other sections of not only this act but other legislation.

I am concerned when we try to use legislation to get people to behave better. I think we can use education to do this. There are many other ways that we as a society

can try and get people to behave better, be kinder to people and possibly not lie or, to use an unparliamentary term, be a dickhead.

The other area that I do have some concerns about is new section 46, which is headed 'Administration of an intoxicating substance for a sexual purpose'. This used to be the administration of 'a drug, matter or thing' for a sexual purpose. This offence requires a person to administer an intoxicating substance with the intention of rendering someone impaired in their ability to withhold or withdraw consent to a sexual act. On the face of it that sounds very sensible. Previously the legislation said 'to render the other person incapable of resistance'. I appreciate the changes that we have experienced, the growing understanding of what consent means in our community and our greater understanding of the vagaries of consent and the fact that we all must be very clear about consent, but then we start to change this legislation to include an intoxicating substance.

Any member of the community who sees the words 'Administration of an intoxicating substance for a sexual purpose' would immediately think, 'They're going to sneak a Rohypnol, they're going to put some tranquillisers in your drink, they're going to sneak that in and it's the date rape drugs that we are talking about and that we are concerned about', and we are certainly very concerned about this. But this legislation now includes, I am assured by the department, alcohol as well.

I support the intention behind this offence and I understand that it is the reworking of a previous offence, but the inclusion of a licit substance like alcohol removes some of the clarity that, prior to these amendments, the previous legislation provided. I think our community would treat alcohol very differently to other licit substances like Rohypnol. Alcohol's role as a social lubricant means that policing its use in the same way as a predatory individual slipping someone a knockout drug would be policed is questionable.

This new offence focuses on an accused's intention to impair person B's capacity to give, withhold or withdraw consent to a sexual act. This includes impairment of the said person's mental functions and decision-making ability, not just their capacity to physically resist, as in the previous legislation. This is clearly in line with our modern understanding of rape and clearly designed to support a model of communicative consent. We are all on the same page at this point. But when is it impairing and when is it 'I'm just getting in the mood'? This section does not require someone to be forced to consume the alcohol, it does not require somebody to be tricked into consuming the alcohol; it just requires someone to give you a drink, hoping that you may find them more attractive after that drink, and many of us have possibly experienced that in the past.

I am concerned about the breadth of this section of the act. Again, as I said, sex does not need to occur for you to be guilty under this section of the bill. You just have to be giving someone a drink in the hope that they will find you more attractive and want to go home with you. Making a law is a very blunt instrument when we are trying to change behaviour or cultural norms, and I find that this section of the bill is a very blunt way of trying to change people's behaviour. I believe that education and other means would be far better than introducing laws around buying someone a drink in a pub.

I do not want to trivialise this issue; I do appreciate its seriousness and I do appreciate that the bill's motives and objectives are to really broaden that recognition of what consent really means in the 21st century. I commend the bill for that.

I am very supportive of the aim of the bill and, as previous speakers have spoken about, the aims of the other sections of the bill that really take up and grapple with some of the most heinous crimes in our society — that is, crimes against children. I certainly think the bill does this with great clarity, and I respect and commend it for that. But when we are trying to codify through legislation how people behave, how they should behave and how we want them to behave, I think that is a discussion for outside the law. I do not think we should be legislating for people's personal responsibility. Nonetheless, I do commend this bill to the house.

**Ms FITZHERBERT** (Southern Metropolitan) — I am very pleased to be able to speak on this bill this evening and will do so fairly briefly. There has been an extensive debate. A number of speakers have gone into a range of parts of the bill in quite a deal of detail, and I am conscious that there is more to come as well. It is an enormously important bill that focuses on an issue that we know concerns many Victorians, and that is forms of crime.

The bill concerns sexual offences and updates the existing legislation in a number of ways. It clarifies and shows that, for example, in various ways our law is keeping up with the use of technology as part of sexual offending. It also, I think, brings in a number of changes because of our increasing understanding of the complexity of many sexual offences, and this is a way that legislation tends to address that and to make the position of many vulnerable people safer and to

introduce appropriate penalties when that trust is breached.

I want to speak more broadly about what I think is one of the ironies of this bill, which is that we are talking about changing criminal law at a time when we know we have very quickly rising rates of crime in our community, and it appears that we do not have sufficient resources to respond to this. So while we are creating new legislation and new crimes and aspects of criminal law, we know that out in the community there is, it would appear, less and less capacity to actually administer this kind of law. We have police stations that are reducing their hours or that are not open at all. We know that Victorians are worried about rising crime rates, and we have a range of excuses from the Andrews government and the latest Minister for Police as to why this is the case.

The crime figures speak for themselves. According to the Crime Statistics Agency, the offence rate per 100 000 population rose by 10 per cent between March 2015 and March 2016. In the suburb of Brighton, in my electorate of Southern Metropolitan Region, there were 84 crimes against the person in 2014. That has risen to 165 this year, which is a very, very significant increase. Property and deception crime also increased in Brighton from 894 instances in 2014 to 943 instances in 2016. In the City of Port Phillip, where my electorate office is located, it is a similar story; crimes against the person rose from 1274 instances in 2014 to 1501 instances in 2016. Drug offences rose from 613 instances to 916 instances. Property and deception crimes rose from 7487 instances in 2014 to 8398 instances in 2016.

The evidence of rising crime is all around us. We see gang members rioting during Moomba. We see people looking for ways to arm themselves to protect themselves, their families and their property, and we see communities actually working together to be more vigilant to ensure that their communities are safe. Some of these are very practical expressions of a genuine sense of community; others verge on being vigilantism, which I think is becoming a very dangerous issue in itself. But it should not need to be this way. The first duty of government is to protect its citizens, and in this duty the Andrews government has definitely failed. One reason it has failed is that rather than being focused on the needs of the citizens it governs and whose safety it is responsible for the Andrews government is utterly consumed by its own internal war.

At this point I would like to commend Mr O'Donohue for his efforts in opposition to create greater protection for citizens and some comfort for victims of crime. I am referring to his two private members bills, one of which has already been dealt with in this place and the other of which is still to be considered.

Having made those general comments about crime, I want to return briefly to the bill. A number of speakers have spoken about how the bill deals with sexual offences against those who are particularly vulnerable in our community, in particular children and those who may have some form of disability, including limitations on cognitive ability, for example. It is pleasing to see that we have increased some penalties, that we have some appropriate changes in terminology and that we have extended, for example, how we deal with the practice of grooming and other aspects of that abhorrent practice. I very, very strongly support those.

I was listening earlier to the debate from my office, and I was listening in particular to Mr Finn and Dr Carling-Jenkins. Both spoke with a lot of passion and feeling about the sections involving offences against those with mental illness or cognitive impairment, or possibly both. It reminded me of a professional experience of mine some years ago when I was representing employers in a series of unfair dismissal claims which had been brought by employees of hospitals and nursing homes who had sexually assaulted patients in their care and had been dismissed as a result.

These were quite nightmarish cases. They involved people who had profound disabilities. I am thinking in one case of a woman who was unable to speak, so when she was assaulted by a nurse who was supposed to be caring for her, she had no way to actually verbalise her lack of consent or to call for help. As I said, these were truly nightmarish cases. The employers had dismissed staff for assaults, including rape, after a careful investigation of the circumstances, and this of itself was a very upsetting experience I think for everybody involved. Generally what happens in these situations is that the employment issue will be dealt with way before the criminal proceedings really get underway, although I think in every instance a report was made to the police very shortly after the incident was discovered.

These gave me quite unforgettable insight into how difficult it is to deal with cases of sexual assault that involve people who have a disability, possibly cognitive impairment, who lack the same sorts of protections that many of us have and are fortunate to have and also lack the ability to stand up and say what has actually happened to them and to seek help. These were horrendous circumstances, and they were at their heart quite an awful abuse of those who needed

protection rather than abuse, and it is because of the intent of this bill, which is to address some of these horrendous circumstances to ensure that it is easier to deal with often complicated crimes that are distressing and horrendous but need to be dealt with, that the opposition is not opposing this bill.

**Ms CROZIER** (Southern Metropolitan) — I am pleased to be able to rise this evening to speak to the Crimes Amendment (Sexual Offences) Bill 2016. In doing so, I want to make a number of comments in relation to this bill, as others have done, because it is an important piece of legislation. For the purpose of *Hansard*, the bill is some 190 pages, so it is a very extensive bill, and it brings together a number of areas that are important and that members have been debating this evening.

Can I say that this is an important piece of legislation not only in the life of the Andrews government; these reforms have also been conducted over the life of a number of governments, and of course the coalition government undertook some significant reforms. I would like to place on record the work of the former Attorney-General, Robert Clark, in the other place, for his work in relation to the reform of sexual offences in the Crimes Act 1958, and that is what this legislation we are debating tonight also undertakes to do. I note that in his second-reading speech the current Attorney-General also acknowledges the work of former governments. As other members have said, this is an important piece of legislation that modernises elements of previous legislation to deal with issues that we face in 2016.

It is very important that we are speaking to this piece of legislation, the Crimes Amendment (Sexual Offences) Bill 2016. Hardly a day goes by when we are not reading about in the newspaper or seeing on our television screens or in other media crimes that are occurring across our state. We have had a recent crime wave, and crime statistics across the state are going up. We have got some serious issues in relation to dealing with the shortfalls of the current government, which are reflected in the inadequate numbers of police resources on the front line and the closing of police stations. As we know, there are young and not so young offenders committing very serious and in fact quite terrifying crimes across our suburbs at an alarming rate. These crimes have been in the news recently, including the many instances of carjackings and home invasions. I am certainly very cognisant of this in my electorate of Southern Metropolitan Region, where there have been some very, very serious and violent crimes, which have included carjackings and home invasions. I would like to note that the current government needs to be doing more in that regard.

I note that Mr O'Donohue is in the house today, and I would like to put on record and acknowledge the work that he is doing in relation to this very important area. In fact only last week the Corrections Amendment (No body, no parole) Bill 2016 was brought into the house. Unfortunately it was not supported by the government, which was an extraordinary decision. I still am bewildered by the government's decision to reject such an important piece of legislation. It must be beyond the comprehension of the families of the poor victims as to why on earth the legislation was rejected, and it is beyond me too.

Nevertheless, if we can return to the piece of legislation that we are discussing here tonight, as I said this is a very important piece of legislation. I will go to the main parts of the bill. I will not go through every element of it, because I think there are around 50 reforms in the legislation. Clause 5 of the bill relates to changes to family relationships, including domestic partnerships. The explanatory memorandum states that:

> The definition of domestic partner now applies irrespective of gender identity to recognise transgender and intersex status.

There are some other definitions contained in this clause which I will not discuss. The Scrutiny of Acts and Regulations Committee (SARC) report went into some detail in relation to this, which I noted when I was reviewing various elements of this legislation. SARC discuss these in great detail.

I will also make reference to clause 16, which speaks of new offences of encouraging children to engage in sexual activity. This clause targets predatory behaviour. As the explanatory memorandum says, this offence is in line with existing offences. It states that:

> In line with existing offences, consent is not an element of sexual offences against children. Sexual contact with a child under the age of 16, or aged 16 or 17 under care, supervision or authority of a person, or aged under 18 in the context of the sexual performance offences, may constitute an offence irrespective of whether the child consents or not. This recognises that children, due to their dependency and immaturity, cannot give consent to sexual activity in the same way as adults.

That is a very important part of the bill to acknowledge, and I note that others have spoken about in particular children with disabilities or mental impairments. These are some of our most vulnerable children, and to think that they could be exploited in such a manner is completely abhorrent. One just cannot fathom how anybody could possibly commit such a crime against those who are the most vulnerable. This particular

clause, as I said, relates to the consent of children, and it really goes further than a grooming element.

Whilst the Royal Commission into Institutional Responses to Child Sexual Abuse is occurring at the national level, I was heavily involved in the Victorian parliamentary inquiry, and after hearing and reading hundreds of submissions from adults who were once abused children, I have no doubt that the lifelong implications are profound. During the course of that inquiry we learnt a great deal about the long-lasting and damaging effects of that abuse. It was not so long ago — in the late 1930s or early 1940s I believe — that the crime of buggery of a child carried the death sentence. It was regarded as a very serious matter, and it should still be regarded as such. Anyone perpetrating such a heinous crime on a child must be dealt with. We are currently seeing various issues connected with these crimes throughout our society, and the bill goes a long way to dealing with many of those issues.

The bill also looks at terminology, and it replaces the term 'child pornography' with 'child abuse material', which contemporises what we are dealing with in 2016 and looks at the technological aspects that many children are dealing with. In the bill 'material' is defined as:

> … any film, audio, photograph, printed matter, image, computer game or text, or any electronic material, or any other thing of any kind. This broad definition highlights that the term material is intended to be inclusive, and not limited to any particular media.

I think this is really important in the context of what we are dealing with, and I note that a recent article reported what children and schools are doing in relation to some of the online chat forums and some of the material that is being uploaded, with children not really understanding the full implication of what they are doing. The article was in the *Age* in Melbourne, but I am quoting from the *Sydney Morning Herald* article*:*

> More than 2000 photos of students from at least 70 Australian schools were reportedly uploaded on the online chat forum, which was taken down on Friday by police. Some of the images exposed young girls engaged in sexual acts. The majority were nude selfies taken in the privacy of their bathrooms or bedrooms and shared by former partners, without the girls' consent.

Those acts and those numbers are absolutely frightening, and the bill tries to address the dangers that exist for our young people. They do not realise what they may be doing by their actions. In 2013 the then Law Reform Committee undertook an inquiry into sexting and looked at this issue, but even in the three years from 2013 to 2016 we have seen much more explicit images exhibited through media technology, through Snapchat or Skype. Although under current law a child has to be physically present for the offence to occur, this piece of legislation expands the provision so that the victim does not have to be present and an offence occurs if images of the child are viewed on an electronic medium. So I think that is a very important element, and I would just hate to see so many young children having these very personal, explicit images being violated and abused in the way that they currently are.

The same article states that a number of children have been involved in this, possibly unknowingly. A quote from the article says:

> The ramifications are much greater than writing someone's name on the toilet door at your school. It's around the entire world and that is much more scary.

We have to do more in the education system to alert children to the potential damage that such images can do and how they can be used if they fall into the wrong hands. Those images can be plastered all around the world. For many young women who have, if I can use these words, fallen prey to some of these acts, it is a terrible thing to know that those images will be out there forevermore.

I think that is a very important area that the bill does address, and it is incredibly important that we acknowledge important areas of the bill. Just finally, I know the bill goes to other areas, including in relation to the judiciary and jury directions. I will not go into the entire technical elements due to the time that I have left, but I would just like to acknowledge that this is a technical bill, as others have said. It brings together some reforms that have been made by previous governments. It takes steps towards what needs to be done here in Victoria in relation to protecting children, especially our young and vulnerable children, who might be exposed to these heinous crimes. As other members of the opposition have said, we will not be opposing the bill.

**Mr O'DONOHUE** (Eastern Victoria) — I am pleased to make a few remarks in relation to the Crimes Amendment (Sexual Offences) Bill 2016. Let me pick up where Ms Crozier has left off. This is indeed a substantial body of work before us in this bill, and for those who have worked in the Department of Justice and Regulation on putting it together, it is no small feat. It does build on previous reforms that have taken place with different elements of the offences regime. This bill, in a holistic way, attempts to contemporise many of those offences and reflect some of the modern challenges that technology presents and some of the new ways of offending that have been made more

available as a result of ease of access through technology.

The second-reading speech by the minister describes some of those issues and also cites the *Betrayal of Trust* report and the ongoing Royal Commission into Institutional Responses to Child Sexual Abuse. As has been cited on many occasions, the *Betrayal of Trust* report by the Family and Community Development Committee, then chaired by Ms Crozier, has become a foundation document for much reform in this area.

The creation of the new offences against children is welcomed by the opposition, and as I said, this is a significant body of work that should help the application of justice in a contemporary setting in relation to these offences. Just before I came back to the chamber to speak on this bill I was emailing a response to a constituent who had sent me and other elected representatives a long email describing his community safety concerns living in the south-eastern suburbs of Melbourne, in Eastern Victoria Region, and how the perception of safety in his community has changed dramatically in recent times as a result of a number of burglaries, home invasions and other crimes that have taken place in the immediate vicinity of his family and in the suburb where he lives. I think that just reflects the concern that is now in the community about crime in Victoria.

So whilst this bill is welcome, and other members of the opposition have articulated the opposition's position, there is so much more that needs to be done. When you have, for the first time in Victoria's history, more than half a million offences committed in the 12 months to 31 March, as we did this year, when crime is up by 12.4 per cent, when the number of victim reports is up by 12.5 per cent, when weapons and explosives offences are up by 18.5 per cent, when theft offences are up by 16.1 per cent, when burglary and break-and-enter offences are up by 13.7 per cent and when carjackings are up by 80 per cent using an accepted matrix, we have a serious issue with law and order and community safety in Victoria.

Despite the good things that this bill will deliver, the simple fact is the government is incredibly flat-footed, is doing nowhere near enough, is distracted with its own issues and is not focusing on this law and order crisis that Victoria is currently experiencing. It is just an absolute disgrace that, at this time when crime is up in the ways I have just described, we had two police stations last week in busy areas — Endeavour Hills and Waurn Ponds — having their opening hours cut. This comes on the back of a string of other police stations that have either been closed by this government or have had their opening hours to the community cut.

While the government may say that this is delivering a better service to the community, what the community tells me when I travel around Victoria and in my own electorate is that the police station is closed and they do not see police on the streets or on the beat like they used to and like they want to. And that is reflected in the statistics, because according to the most recent Victoria Police statistics there are 82 fewer frontline police at police stations across the regions in Victoria than there were in November 2014. Since that time Victoria's population has grown by 150 000 people. We have had the resource implication associated with the two-up policy — a legitimate decision by the Chief Commissioner of Police — but no additional resources provided by the government to make up for that operational decision.

So we have a situation in a place like the City of Casey where the population is growing by between 7000 and 10 000 people per year yet one of the three police stations, Endeavour Hills, is having its opening hours cut. The crime rate across the city is up nearly 20 per cent, and there are fewer police attached to those police stations now than there were in November 2014. It is no wonder that the constables driving the divisional vans around our growth corridors are struggling to keep up with the demand; it is no wonder that places like Caroline Springs and Melton are holding public rallies to demonstrate over the lack of police in their communities. Many communities, particularly around the urban growth areas of Melbourne, are considering forming citizen patrols to protect their families, their properties, their property and their community. The government is doing precious little to address this issue. Even with the extra police allocated in this year's budget, over the two-year cycle that they are to be delivered the number of police per capita will continue to go backwards with the strong population growth that Victoria is experiencing.

On the other side of the equation, what is the government doing to address in a legislative sense the community safety issues that are out there? The Attorney-General, Mr Pakula, talked about reforming the community corrections regime months ago. The Bolton decision of the Court of Appeal was handed down in December 2014, a matter of weeks after the government came to office, and still nothing — nothing to address that decision and nothing to address what Mr Pakula said would be legislative change. The community corrections system is under significant pressure, with enormous growth in the number of offenders on orders, as Minister Herbert would know.

The government has done nothing to address that in a legislative sense.

As Ms Crozier said, I am still staggered that the government would vote against the Corrections Amendment (No body, no parole) Bill 2016. Despite all the words that the government members said, and all the excuses, the simple fact of the matter is that when it came to a vote government members voted against the Corrections Amendment (No body, no parole) Bill — a bill that in part emulates what the South Australian Labor government did and is designed to deny parole to murderers who fail to assist the authorities to identify the location, or the last known location, of the victim. It just beggars belief that anyone would vote against a bill such as that — quite a discrete piece of legislation, quite a simple piece of legislation — that has been proven to work in other jurisdictions, but members of the government, every one of them, voted against it. I think it is an absolute disgrace.

We have not seen anything from the government, despite the promises of Minister Neville, to address the government's repeal of the move-on laws. Minister Neville has talked about addressing the consequences of the government's repeal of the move-on laws, but again here we are in late August — about to turn into September — after months of talk, and nothing.

Again, after I announced that the opposition would be introducing legislation to make carjacking a specific offence, the government the next day said it would do the same. Over the winter recess I had a bill drafted, and it is before the house. What has the government done? Zip-a-dee-doo — nothing — no bill, no details, just talk.

So when it comes to these issues of community safety, the opposition believes that the bill that is before us is a worthy bill. It contemporises the language in some of the historical offences, it creates some appropriate new offences and it responds to the emerging challenges from the accessibility of information technology. But in so many other ways on issues of community safety, the government — despite swimming in revenue growth — has consciously chosen not to make the investments required to deliver more police to our growth corridors or to ensure that busy police stations where crime has skyrocketed, like Endeavour Hills, are kept open. Instead it is having their opening hours cut.

The government has failed to provide the legislative response to the community safety challenges that have now been known about for months and months — to address the issues with community corrections orders, to address the issue of the repeal of the move-on laws, to address the issues arising from the weakening of the juvenile bail laws and to introduce carjacking and home invasion specific offence legislation, as the government has promised now for months, for a considerable period.

With those words, I note the opposition will not oppose this bill. We welcome what it does, but goodness me, the government has a lot of work to do. I would implore government members to stop leaking against each other, to stop fighting each other, to stop this circus that the Andrews government has rapidly descended into being and to focus on the things that matter to the community. Principally at this time among the most important are issues of community safety, issues of law and order and issues of people being safe in their own homes. That is what the government should focus on, rather than focusing on themselves.

**Mr HERBERT** (Minister for Training and Skills) — Can I thank all those who have provided genuine support for this bill and for the sometimes moving speeches that were made and which showed heartfelt empathy for many of the issues addressed in the bill.

I should start, though, with Mr O'Donohue's commentary. He urged the government to get on with legislation on a range of areas — of home invasion, carjacking et cetera — and indicated that the government had not done anything. Maybe you should get up early and read the papers tomorrow, Mr O'Donohue. You will probably find something of interest there in terms of your comments. You may want to then read your speech and see how accurate it was.

*Honourable members interjecting.*

**Mr HERBERT** — In the morning get up and read the papers. That is all I can say. I am sure you will find it interesting.

This really is an important bill. It demonstrates the government's and the Parliament's commitment to keeping Victorians safe from sexual offending. The bill contains over 50 offences. It will modernise and simplify a range of sexual offences, including sexual offences against children, child pornography offences and sexual offences against persons with a cognitive impairment or mental illness. They are very serious matters.

Victoria Police have been very closely consulted on the bill. The bill has been prepared with assistance from an expert advisory group comprised of members of the judiciary, the magistracy, Victoria Legal Aid and the

Office of Public Prosecutions. That is important because what this bill tries to do is simplify and clarify the current law, as we have heard. It sets out each element of offences and exceptions and defences rather than leaving some elements open or implied. It closes the gap in the law — that is, with a new offence of encouraging a child to engage in sexual activity. Other offences address predatory behaviour, and there is the new offence of sexual activity directed at another person, which will ensure that sexually intimidating behaviour is appropriately captured. It updates offences to avoid discriminating on the basis of marital status or gender identity. It will modernise offences to ensure that they cover offending in new technologies, as we are constantly trying to keep up with the use of new technologies in exploiting people and particularly predatory behaviour against children.

The bill will also ensure that some conduct is not inappropriately criminalised — for example, the new exceptions to the incest offences will protect victims of child sexual abuse. They will ensure that if a person has been sexually abused by a parent or step-parent when they were under 18 and the abuse continues into adulthood, the victim of the abuse will not be subject to the incest offences.

The bill also amends jury directions on consent and reasonable belief in consent to give juries greater guidance on applying the rape and sexual assault reforms which commenced in 2015.

There have been comments during the debate about more needing to be done; there will be more work that needs to be done, more clarification. I guess what I would say is that it is very difficult getting these things perfectly correct in perpetuity. I do not think anyone would think you can do that. Times change, technology changes, predatory behaviour changes and social expectations, beliefs, norms and mores change, and it is up to us to constantly look at the laws we have and try to adapt those laws to changing circumstances of community safety. This very substantive bill, which tries to do that, does that very well, I think. I am pleased that it has broad support within the Parliament, and I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clause 1**

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — On clause 1, I would like to start with some of the principles of the legislation and start with reference to the minister's second-reading speech where he set out the rationale for this legislation. I discussed that in the second-reading debate around the construction of this bill — the codification that this bill seeks to achieve in moving from what is currently in the Crimes Act 1958 to this construction we are dealing with tonight. The minister in his second-reading speech indicates, and I quote:

> Despite the valuable work of the Victorian Law Reform Commission in its report *Sexual Offences: Final Report* (2004) … problems with Victoria's sexual offences laws have led to numerous appeals and retrials, and have been the subject of criticism over the years.

Can the minister clarify who he was referring to with the reference to 'criticism over the years'?

**Mr HERBERT** (Minister for Training and Skills) — In the general sense, the technical nature of the bill is about simplifying and clarifying, making it easier for judges to provide juries with instructions that are easily understood and applicable.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for his answer. But I am seeking to get to the rationale the Attorney-General has given for this bill, which is criticism of those provisions over the years. Is this criticism from the judiciary? Is it criticism from the bar? What is the basis of the criticism that the Attorney-General is seeking to address?

**Mr HERBERT** (Minister for Training and Skills) — I thank Mr Rich-Phillips for his question. Certainly over the years is a long time, is it not? It could be a very long and varied time, but in answer to the question, criticism over that time, a long time, has come from the courts, legal practitioners, academics and stakeholders such as the centres against sexual assault, I am advised.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for that answer. What has been the nature of the courts' criticism of the existing provisions in the Crimes Act and how does the bill address the courts' criticism? Are there particular cases the minister can indicate to the committee where the courts have been critical of the current provisions in the Crimes Act which are being addressed so we can

get a sense of the flavour of the courts' criticisms of the existing Crimes Act provisions?

**Mr HERBERT** (Minister for Training and Skills) — I do not have specifics with me right now. But I do say, as I said in my summing up, that this bill has been prepared with expert advisory groups comprising members of the judiciary and magistracy, Victoria Legal Aid and the Office of Public Prosecutions. There are many ingredients that make a good cake. If Mr Rich-Phillips is after specific examples, I do not have them at hand.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for that answer. But the question goes not to the development of this bill; rather, it goes to the criticisms that this bill seeks to address. I am obviously conscious of the time and the need for this committee stage to be adjourned shortly. Can the minister perhaps provide an undertaking, given we expect this committee stage will be adjourned until later this week, to come back to the committee with information about cases where the judiciary has been critical of the provisions of the Crimes Act in ways which are now seeking to be addressed by these provisions?

**Mr HERBERT** (Minister for Training and Skills) — I am happy to have a look at it and where possible come back with some specifics.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for that answer. I must say, Deputy President, I am concerned at the quality of the advice you might be receiving from your table assistants at the moment, given the calibre of one of those individuals to your right.

**Mr HERBERT** (Minister for Training and Skills) — I think it is something to do with the ties that people are wearing today to be perfectly honest, Mr Rich-Phillips.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I restate the point, Deputy President, about the advice you are receiving from the person on your right. Can I move on further in the minister's second-reading speech to where he says:

> The current problems with sexual offences are threefold. First, an increased number of sexual offence trials and a disproportionate number of appeals means that legal issues concerning the elements of sexual offences and defences are being scrutinised and tested in ways that they have not been before.

Can the minister elaborate on what the Attorney-General, or he as the responsible minister in this place, means in respect of those provisions being tested in ways that they have not been tested before, and also equally the reference to the disproportionate number of appeals? What is meant by that? What evidence can the government provide that there is a disproportionate level of appeals related to these offences that we are looking to change under the Crimes Act?

**Mr HERBERT** (Minister for Training and Skills) — We live in a complex world. In terms of those questions, I think we all know that technology and changes in predatory behaviour often require laws to change more rapidly to stop the evolving sexual abuse that occurs among some in our communities, and the second-reading speech clearly refers to that. On the issue of disproportionality, what that refers to is the increasing number of sexual offences being heard in the courts compared to other offences.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I thank the minister for that response. I will just go to the first element of the response in respect of technology and the role it is playing in enabling sexual offences and predatory behaviour to be committed. In her contribution Ms Crozier referred to things like Skype and the way in which sexual offences can be committed over Skype et cetera. Is that what is meant by the laws being scrutinised and tested in ways they have not been before, rather than challenges to those laws? Essentially, are you saying it is because of different types of offences rather than different types of challenges to the interpretation of the law?

**Mr HERBERT** (Minister for Training and Skills) — I think to, as ever, be really honest, there are changing practices in directions given to juries, the interpretations of them and the capacity of juries to understand the law in a contemporary context. I think they are all linked in, to be perfectly honest, Mr Rich-Phillips. Without being too forensic about this matter, it is clear that with many laws, particularly laws relating to sexual offences, we have to review the way they are interpreted, the way they are applied and the way people are approaching directions to juries from time to time, and that is what this bill seeks to do.

**The DEPUTY PRESIDENT** — Order! According to standing orders, we have to interrupt business and I have to report progress.

**Progress reported.**

**Business interrupted pursuant to standing orders.**

# ADJOURNMENT

**The PRESIDENT** — Order! The question is:

That the house do now adjourn.

## Goulburn Valley Health mental health services

**Ms LOVELL** (Northern Victoria) — My adjournment matter is for the Minister for Mental Health and is regarding the need for more mental health services, particularly child and adolescent mental health services, to be made available at Goulburn Valley Health. My request of the minister is that his government provides additional investment in Goulburn Valley Health's child and adolescent mental health services, prioritises mental health services as an integral part of the Shepparton hospital redevelopment and establishes an investigation into the recent report and allegations regarding cuts to youth mental health services.

I am constantly hearing from people in the Shepparton community about their need or the need of their family and friends to access mental health services and the difficulty they are experiencing in accessing these services due to limited availability at Goulburn Valley Health. The under-resourcing of mental health services locally is so significant that it has been reported there were at least two instances of mental health staff walk-offs in June this year, with the lack of resources cited as a major reason. Over the weekend the issue came to a head, with local media citing an inside source at the hospital who claims that youth mental health services have been 'radically cut' and staff have been told to discharge patients. The informant alleged that 'parts of the system were working on a skeleton staff as a result of mass resignations' and said that staff 'stress leave is through the roof'. Allegations include bullying concerns, significant resignations and low staff morale.

Shepparton and the surrounding area is a region that suffers significant disadvantage. It is a low socio-economic area with high refugee, Indigenous and single-parent populations. These factors contribute to a greater demand for mental health services and intervention at the earliest possible time, particularly during childhood or adolescence, which is the ideal time for giving both individuals and the wider community the best possible chance for better mental health outcomes.

A midyear Department of Education and Training survey of year 7 to 9 students showed that more than one-quarter of students were bullied, and Greater Shepparton students experienced the fourth highest rate of school bullying in Victoria. These are scary figures. Yet a recent study undertaken by Melbourne University also showed that many young people are still reluctant to talk about mental illness or to reach out for help. Mental illness issues are rife throughout our society, but thankfully they are now being treated with the seriousness and acceptance they deserve. Breaking down stigmas and opening up dialogues can only do so much; treatment and services are also needed to help people who are struggling.

Mental health services are under significant demand pressure at Goulburn Valley Health, yet these services have been completely left off the Goulburn Valley Health Shepparton hospital rebuild plan. My request of the minister is that his government provide additional investment in Goulburn Valley Health's child and adolescent mental health services, that it prioritise mental health services as an integral part of the Shepparton hospital redevelopment and that it establish an investigation into the recent report and allegations regarding cuts to youth mental health services.

## Government procurement policy

**Ms SHING** (Eastern Victoria) — I rise to raise an issue for the Treasurer, Mr Pallas, in the other place. It relates to the way in which paper products are sourced by government departments and in particular the way in which Australian Paper with its Maryvale mill and operation is positioned to be able to provide 100 per cent Australian-made recycled paper. This is as a consequence of the change to an issue which had previously arisen whereby the provider COS was not in a position to supply 100 per cent Australian-made recycled paper and is now in a position to do so. On that basis I would ask that the Treasurer give positive consideration to the way in which procurement can take place to ensure that we are supporting 100 per cent Australian-made recycled paper products, as well as providing assistance to jobs, employment, industry and investment in and around the Latrobe Valley and in Gippsland more generally.

Australian Paper has a very proud tradition and proud history of employing people in the pulp and paper industry in the Latrobe Valley and also has a number of indirect employees and contractors who depend upon it for their livelihoods. On that basis and consistent with the Premier's recent Jobs and Investment Panel and Jobs and Investment Fund work, I would ask that the Treasurer provide confirmation that there will be active consideration given and all steps taken to maximise opportunities for 100 per cent recycled Australian paper to be purchased as part of government procurement activities.

## Street burnouts

**Mr BOURMAN** (Eastern Victoria) — My matter tonight is for the Minister for Roads and Road Safety, Mr Donnellan, in the other place. The current road toll should give everyone cause for concern and encourage the government to pursue any and all methods to try to reduce that toll. As a result of my time as a crossbencher I have come to make the acquaintance of the now ex-Senator, Ricky Muir. Mr Muir, as part of his mantra, pushes a message of 'Keep it off the streets'. This message means that behaviour that is unacceptable and dangerous on public roads can be undertaken safely on private facilities with appropriate safety measures. The behaviour that can be undertaken safely on private, dedicated facilities can be drag racing or burnouts. Whilst it may seem strange to some that the spinning of the wheels of cars would be considered a sport, it is quite real and is taken very seriously by some. The expenditure on these cars can be from the hundreds to the tens of thousands of dollars, if not getting close to the hundreds of thousands, all for a dedicated burnout car.

There is a speedway facility out Avalon way, near Geelong, that has been considered for a burnout pad, but they need some assistance getting the idea over hurdles. I urge the minister to contact Mr Muir so the government can give what help it can to ensure that anyone that wants to undertake burnouts can do it in a legal and safe environment and not on the roads.

## Rossbridge bridge

**Mr MORRIS** (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Roads and Road Safety, Mr Luke Donnellan, and it relates to a particularly important piece of road infrastructure in western Victoria, being the bridge at Rossbridge. Rossbridge, for those who are unaware, is between Maroona, Tatyoon and Willaura. The bridge at Rossbridge is in a parlous state of repair. I have no doubt it would have been the type of bridge that would have been upgraded under the country roads and bridges program, as Ms Lovell rightly pointed out, which was terribly unfortunately scrapped by this Labor government in favour of the Stronger Country Bridges program, which fixed bridges in, I believe, the seat of Mulgrave.

The bridge at Rossbridge is a critical piece of infrastructure. It is prime agricultural land in and around Rossbridge, and this bridge carries a significant amount of truck traffic. I am well aware that this bridge has been brought to the attention of the minister previously; however, with the passing of time the bridge is falling further into a state of disrepair. It is certainly incumbent upon the government to ensure this is remedied. The action that I seek of the minister is that he attend to the state of the bridge at Rossbridge and ensure that it is safe for the many agricultural transport vehicles that are going to be needing to use it in the coming months.

## Family violence

**Mr EIDEH** (Western Metropolitan) — My adjournment matter today is for the Minister for Families and Children, the Honourable Jenny Mikakos. The issue of domestic violence is something that our government has taken very, very seriously. The Andrews Labor government is providing more support for women and children experiencing family violence in Victoria. This is why the government announced a $5.65 million statewide funding boost for Child FIRST and integrated family services. The funding will be used to develop further partnerships with family violence services and to prioritise family violence responses to Aboriginal children and families.

In the past year 55 per cent of all new referrals to Child FIRST and integrated family services across Victoria had family violence recorded as an issue. The funding directly responds to a recommendation of the Royal Commission into Family Violence which called for more funding to be provided to integrated family services so they can respond to family violence, pending the establishment of support and safety hubs. This funding is on top of the $48 million boost to Child FIRST and integrated family services in the Labor government's first budget — part of the biggest boost ever to the child protection budget. This funding will be critical to the providers within my electorate, so I ask the minister to advise me which providers within my electorate will be receiving funding.

## Drug harm reduction

**Ms HARTLAND** (Western Metropolitan) — My adjournment matter is for the Minister for Mental Health. During the 2015–16 festival season six young people lost their lives at festivals after taking party drugs. These deaths occurred as a result of overdose or contamination with lethal mixing ingredients. Many such deaths and the suffering they bring on families and loved ones are preventable. While we cannot bring back those who have lost their lives, we have a responsibility in this place to ensure that these tragedies are not repeated.

Around the world pill testing using advanced scientific equipment has been shown time and time again to

reduce party drug-related harm and deaths while having a tangible impact on rates of use. Moralising on the issue does nothing to stop young people dying. Alongside pill testing at festivals and events, the government must move urgently to ensure information on dangerous pills and substances is shared with the public and potential users.

The Dutch Drugs Information and Monitoring System, which has operated for 25 years, has been responsible for saving lives and reducing the risks associated with drug taking. Much of the information needed to establish a similar system in Victoria is already collected by Victoria Police. We must expand this and make sure that the data is publicly available and that public health warnings are issued when particularly harmful drugs are released.

Our current laws already contain provisions that can give mobile pill testing facilities and laboratories the legal protection they need to operate. The Drugs, Poisons and Controlled Substances Act 1981 already authorises certain individuals and testing facilities to handle drugs of dependence, with authority to approve these testing facilities given to the Chief Commissioner of Police. Under current laws the government could roll out pill testing and improved data collection quickly.

Evidence from overseas shows that mobile and centralised laboratory grade pill testing facilities can be purchased and staffed at a very limited cost. For less than a million dollars annually Victoria could have a proper pill testing regime and health warning system that would save many lives per year. Avoiding one preventable death in Victoria is worth the money.

Considering the legal framework to implement pill testing programs already exists in the state of Victoria, the action I am seeking from the minister is to establish a properly funded harm reduction program, including pill testing, in time for the upcoming festival season.

## Indented Head bus bay

**Mr RAMSAY** (Western Victoria) — My adjournment matter is for the Minister for Public Transport, Jacinta Allan, and relates to the safety of motorists using an Indented Head street where a Public Transport Victoria (PTV) bus bay is to be constructed. Last week I visited home owners at Indented Head Vincent and Margaret Dawson, who contacted me regarding concerns with the proposed bus bay outside of their property on Batman Road. The home owners feel this shelter will not only compromise the streetscape but also block visibility for motorists, including drivers of large trucks turning into the street from Ibbotson Street. It should be noted that housing developments are underway in Indented Head, and traffic from these new residents will feed into the aforementioned intersection. It would seem more appropriate to move the bus bay 50 to 100 metres west of the intersection to satisfy the Dawsons' concerns for motorist safety.

The Minister for Roads and Road Safety, the member for Bellarine in the Legislative Assembly and PTV have not been able to provide a solution to the concerns raised by Vincent and Margaret Dawson. The action I seek from the minister is that she request PTV to do a review of the site in relation to its necessity and placement on the busiest stretch of Batman Road and potentially relocate the bus bay shelter further down where those road safety concerns are addressed.

## Homelessness

**Mr PURCELL** (Western Victoria) — My adjournment matter tonight is for the Minister for Housing, Disability and Ageing. I commence by congratulating Melbourne on again being awarded the honour of being the most livable city in the world, but I am of the opinion that 2016 will be the final year that Melbourne wins.

Two days ago, on Sunday afternoon, in broad daylight at approximately midday I was approached by a homeless beggar who was obviously after something from me, but I could not understand what he wanted, and I walked on. To my surprise I soon found his arm around my throat. I was not harmed or worried, but it may have been different if he had been carrying a knife in the other hand. The porter from the Westin hotel raced to my aid to make certain I was okay. Yes, this happened in Collins Street, just up from Swanston Street, in the centre of Melbourne in broad daylight.

In my life I have travelled to over 100 countries throughout the world, including some very seedy places through Asia, Europe and the Americas. I have travelled to Panama; the drugs capital of the world, Colombia; and Brazil, and I have never once been physically assaulted like I was in the centre of Melbourne.

In August last year I raised this issue of homelessness and beggars on Melbourne's streets and was assured that the issue was under control. Since then the numbers in Melbourne's streets have significantly increased and the problem has certainly worsened. If this issue is not addressed, Melbourne can kiss the title of the most livable city goodbye and, much worse, there will be somebody who will get seriously hurt. I urge the

minister to do more than just pay lip-service to this issue and to work to provide housing and other assistance that has worked to significantly reduce these problems in other major cities of the world.

## Aboriginal youth support service

**Mr ELASMAR** (Northern Metropolitan) — My adjournment matter tonight is for the Minister for Families and Children, the Honourable Jenny Mikakos. Recently two local organisations in my electorate — the Victorian Aboriginal Health Service and Dardi Munwurro — partnered and were successful in their application to deliver an Aboriginal youth support service in the north-eastern Melbourne area. The aim of this program is to intervene early and help young Aboriginal people at risk of entering the youth justice system to get back on track. I ask the minister to come out and visit those organisations in my community to see how they are helping to improve outcomes for local young Aboriginal people.

## Mount Hotham and Falls Creek police numbers

**Mr O'DONOHUE** (Eastern Victoria) — I raise an adjournment matter for the Minister for Police. The action I seek from the minister is that she provide a clear commitment and guarantee that there will be 24-hour policing at Mount Hotham and Falls Creek for the ski season next year. By way of background, earlier this year, prior to the ski season and even after the ski season started, there was confusion and uncertainty about the level of police resourcing that would be on mountain this winter.

Traditionally police have been stationed on a 24-hour, 7-day-a-week basis at Mount Hotham and Falls Creek because of the need for immediate response in case of emergency. This year, no doubt due to the police numbers crisis that is confronting Victoria, there was a plan to reduce resourcing and to only provide police on mountain on a permanent basis on weekends, with a sporadic presence for the rest of the time. Following pressure from the resort management board, local traders and other key stakeholders such as local doctors that decision was reversed, but the consequence of that uncertainty has been significant. It has caused enormous concern within the mountain community. The search-and-rescue role that police play is a critical one. When the temperature is minus 5 or even minus 10 and the weather is inclement a quick response can be the difference between life and death.

The member for Benambra in the other place, Bill Tilley, has been engaging with all of these stakeholders — talking to them, listening to their concerns and talking to the 43 licensed premises owners on the mountain. Mr Tilley and I have formed the view after consulting with these people that it is imperative that the minister give a clear and unequivocal commitment that there will be a 24-hour, 7-day-a-week police presence on mountain next ski season. It should also be provided prior to the end of this ski season, which is now only a couple of weeks away, so that those people who are leaving the area this year can have full confidence during the off-season that when they return next year the safety of the resorts will be maintained with a 24-hour, seven-day-a-week police presence.

## Western distributor

**Mr MELHEM** (Western Metropolitan) — My adjournment matter tonight is directed to my colleague in the other place the Minister for Ports and Minister for Roads and Road Safety, the Honourable Luke Donnellan. I commend the minister for recently announcing that the western distributor project will have a minimum of 89 per cent local content. This includes the design and construction of the tunnel, roadworks and elevated structures.

While contractors will be required to maximise the use of local steel, the project will also require 82 per cent local content in the supply and installation of the electronic land use management system. Added to this is the fact that 10 per cent of the hours worked on the project will be provided by Victorian apprentices, trainees or engineering cadets. This is a fantastic initiative which will give young Victorians more opportunities for local jobs.

The project's local content requirements will undoubtedly benefit both small and big businesses, from the suppliers of the concrete right through to the cleaning and catering companies supporting the project's staff. On that note, the action I seek is for the minister to specifically outline to me some of the businesses in my electorate of Western Metropolitan Region that will benefit from the government's announcement.

## Gladstone Park Senior Citizens Centre

**Mr FINN** (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Public Transport. It follows a visit that I made last week with Mrs Peulich, the shadow Minister for Multicultural Affairs, to the Gladstone Park Senior Citizens Centre, which doubles with the Gladstone Park Uniting Church, in Carrick Drive. We did meet with the

Sri Lankan senior citizens group and, later on, the Italian senior citizens group, and one of the things that they are deeply concerned about is the fact that there is no public transport that actually services that centre. I have to say that that is something that does mystify me, because it would make a great deal of sense. Given that this centre is the home to, I think, 11 or 12 different senior citizens clubs throughout the region, it seems to me it would make sense that that centre would be serviced by public transport.

There are many very elderly people going to the senior citizens clubs. We like to say from time to time that people who have lost their ability to drive properly should be encouraged to give up their licence, but of course if we do not provide public transport for them, what other option do they have? I spoke to a number of people at the centre last week who expressed a very strong desire to be able to catch the bus to the centre.

Now, there is a bus that travels from Broadmeadows through Gladstone Park to the airport and to Sunbury as well, but the trouble is with that bus that the route takes it around about 2 kilometres away from the centre. My very strong suggestion to the minister is that it would make sense to reroute the bus to enable the users of the centre to have access to that bus service. So I ask the minister to speak to the people at Public Transport Victoria, who might care to have a chat to the Sikavitsas family, who own Tullamarine Bus Lines, and reorganise that route so that the elderly folk from various multicultural backgrounds will have the opportunity to use public transport to get to their senior citizens group each week.

## Western Victoria Region bushfire preparedness

**Ms TIERNEY** (Western Victoria) — My adjournment matter is for the Minister for Emergency Services in the other place. It is in relation to fire safety in my electorate of Western Victoria Region. Fire season is fast approaching, and it is important for all people across the state to be prepared. Fire brigades within my electorate and across the state do outstanding work protecting the lives and property of people. For example, the Warrnambool fire brigade attends an average of 600 incidents annually. While this is an incredible achievement in terms of protecting the people and property of Victoria, there is always a need for improvement in resources and systems. Therefore the action I seek from the minister is for him to outline his plan for the measures that will be taken to further increase the protection of my constituents, their property and their businesses from fire.

## TBM Training

**Ms BATH** (Eastern Victoria) — I rise tonight with an adjournment matter for the Minister for Training and Skills, the Honourable Steve Herbert. In May 2016 the minister talked about reforms to registered training organisations, and he said he wanted to:

> … build a training system that meets our economic needs and the community needs and that provides jobs for people, real outcomes for people and real productivity for businesses.

The action I seek from the minister is that he meet in person with a number of students, many from the Latrobe Valley, who have been affected by the sudden closure of TBM Training. It is imperative that the minister hear firsthand the plight of these students and find agreeable solutions to their multifaceted and unresolved issues.

I will outline a couple of issues for these students, such as Lisa Hunter, who is a single mother. She undertook a diploma in early learning in 2015 through TBM Training. As her training facilitator failed to upload any of Ms Hunter's assessments or learning outcomes, her successful completion of the 12-month qualification remains unrecognised. Her 180 hours of placement also remain unrecognised. There are three other students who are all individually enrolled in a course in aged care. Having contacted the government's preferred training facility, Federation Training, regarding transferring across to complete their qualifications, all the students were advised that their current workbooks and assignments would not contribute to any course credits. In addition, the students were advised that they would each need to pay $7000 to fund the cost of their new course. This is a frustratingly disappointing prospect for these people, considering that, at the instigation of the minister's office, student fee waivers were originally forthcoming.

Many former students were advised that their individual assessments and work placements would be taken into account in terms of prior learning. However, having contacted the new training providers, they were then advised that they would have to start the courses again. One constituent was forced to switch course providers. This person, who is a self-funded student, has been advised by the Department of Education and Training to contact the provider's insolvency administrator to be listed as a creditor. We all know that unsecured creditors have very little, if any, chance of receiving any form of compensation from an insolvent organisation.

Again I reiterate that there is a need for the minister to hear firsthand the plight of these people. They are

individuals. He has written to them, but they feel like they are not getting anywhere with the department or the new preferred training providers. They have enrolled in these courses in order to either fulfil their passions in terms of their careers or else meet early childhood legislation requirements. It is very important that the minister hear from these people, and I would be happy to pass on their names to him for that measure.

## Dr Stanley Cochrane Memorial Kindergarten

**Ms CROZIER** (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Families and Children, and it relates to Dr Stanley Cochrane Memorial Kindergarten in Mitcham. The kindergarten was established in 1957, and it has been part of that community for almost 60 years. It has educated thousands of young Victorian children in their early years and provided a great source of community engagement for many parents who have had their children attend this kindergarten.

In 2014 the kindergarten applied for a grant as part of the children's facilities capital program, and at that time, under the former coalition government, it was granted a sum of $227 000. The kindergarten community also raised some additional funds to expand the facility to provide for new amenities to cater for parents dropping their children off and having meetings and the like. The money that was provided was to build new toilet facilities, a meeting room, a storeroom, an office, an adult bathroom and a cloakroom, and it was to be paid in three separate instalments.

The first two instalments of the $227 000 granted in 2014 have been paid, but the final instalment of $12 000 has not yet been received. The president of the kindergarten has written twice to the Department of Education and Training requesting information as to why the final funding has not been provided for the renovations and explaining that they are now out of pocket. The action I therefore seek from the minister is that she follow up on the whereabouts of the $12 000 as a matter of urgency and have it released to Dr Stanley Cochrane Memorial Kindergarten as was agreed to in 2014 so that they can finance their facility properly.

## Responses

**Ms MIKAKOS** (Minister for Families and Children) — This evening I have received adjournment matters from Ms Lovell directed to the Minister for Mental Health; from Ms Shing directed to the Treasurer; from Mr Bourman directed to the Minister for Roads and Road Safety; from Mr Morris directed to the Minister for Roads and Road Safety; from Ms Hartland directed to the Minister for Mental Health; from Mr Ramsay directed to the Minister for Public Transport; from Mr Purcell directed to the Minister for Housing, Disability and Ageing; from Mr O'Donohue directed to the Minister for Police; from Mr Melhem directed to the Minister for Roads and Road Safety; from Mr Finn directed to the Minister for Public Transport; from Ms Tierney directed to the Minister for Emergency Services; and from Ms Bath directed to the Minister for Training and Skills. I will refer all of those matters to the relevant ministers for response directly to those members.

In relation to the matter raised for me by Mr Eideh, I propose to respond to the member in order to discharge the matter. Mr Eideh raised with me the issue of a recent announcement in support of women and children experiencing family violence. He specifically referred in his adjournment matter to a funding allocation of $5.65 million for Child FIRST and integrated family services, which are a really critical part of our support for vulnerable families and vulnerable children in our state. They really are at the coalface, at the front end, of the first contact that many families will have with support services, whether they are experiencing family violence or other vulnerability. In fact just in the last year 55 per cent of new referrals to Child FIRST and integrated family services had family violence recorded as an issue.

The funding that has been provided is in direct response to one of the recommendations of the Royal Commission into Family Violence — a royal commission that is guiding our government in terms of how we better support victims of family violence in this state and also how we reform our social services across this state so that they are better joined up and are looking at providing holistic support to families. Therefore this particular funding, which I should point out comes on top of $48 million of additional funding in our first budget last year, will provide Child FIRST and integrated family services with additional resources right across our state.

Of course that will also benefit our services in the western suburbs, including directly in Western Metropolitan Region, which Mr Eideh represents. I can inform the member that Moonee Valley City Council, the Victorian Aboriginal Child Care Agency, Anglicare, Baptcare family services, CatholicCare, cohealth, MacKillop and ISIS Primary Care Ltd are all agencies that deliver these services in Mr Eideh's electorate and have received additional funding in direct response to this particular funding.

I thank Mr Eideh for his continued interest in the issue of family violence — an issue that is not only an issue of relevance in Mr Eideh's electorate but an issue that is of course facing our whole state and in fact our whole nation. I can assure the member that we are a government that takes this issue very seriously, and we have prioritised this issue. We have put in more funding in response to family violence than any government before. It is something that we should be very proud of as Victorians that there is more than half a billion dollars of investment just in this budget alone.

In relation to the matter raised by Mr Elasmar, I also propose to respond to his adjournment matter by way of discharging it. Mr Elasmar referred in his adjournment to a recent announcement I made to support young Aboriginal people to help to divert them from our criminal justice system. Mr Elasmar, of course, shares an electorate with me that is home to many Aboriginal families. In fact the northern suburbs of Melbourne, which we are very proud to be local members for, have the largest Aboriginal community in metropolitan Melbourne. This is an issue that is very much at the heart of the Aboriginal community in the northern suburbs, and that is because, sadly, Aboriginal young people make up only 1 per cent of young Victorians aged between 10 and 18 but constitute around 13 per cent of the young people in our criminal justice system.

I can assure Mr Elasmar that this is an issue that I am very concerned about and am actively working directly with Aboriginal organisations to address, because we want to make sure that our Aboriginal young people have a sense of hope and have a sense of a future, that they can be connected to services such as education, which I know Mr Elasmar is so passionate about, and that we can ensure that they engage as active members of our society.

I am very pleased that recently I was able to announce $1.2 million of funding for Aboriginal-controlled organisations to coordinate Aboriginal youth support programs in the north-eastern suburbs of Melbourne but also in the Mallee as well. So those two particular areas will receive the benefit of this particular program. In this, the Aboriginal Youth Support Service is an important component of the early intervention and diversion services available to young people in Victoria.

As the member indicated in his adjournment matter, there are two local organisations that have partnered in his electorate, and they are the Victorian Aboriginal Health Service and Dardi Munwurro. I would be very happy to visit these services with Mr Elasmar in the future to see the good work they are doing in supporting Aboriginal young people.

I thank Mr Elasmar for his interest in this matter. I know that he is a member who is deeply interested in education services and how we provide educational opportunities for young people in our state. I am sure that the people involved in this program will be appropriately linked into education and training and other appropriate supports.

I also refer this evening to an adjournment matter raised with me by Ms Crozier. She referred to the Dr Stanley Cochrane kindergarten in Mitcham. She referred to a grant that this particular kindergarten was able to receive in 2014. She referred to the various instalment payments that have existed in the past and continue to exist in terms of the funding and service agreements that kindergartens are required to meet — their obligations.

Ms Crozier queried the issue of a final instalment in the amount of $12 000. I obviously do not have information at hand in terms of what has occurred in relation to that particular final instalment, but I can assure the member that I will be raising this issue with my department and ensuring that they make contact with this kindergarten as quickly as possible to resolve this particular issue.

Obviously not being privy to exactly what the problem may well be, all I can say to the member and to assure the kindergarten is that we will look into this matter very quickly. I do also point out to Ms Crozier that, as she would be well aware, our government is very proud of the commitment we are making to our kindergartens in terms of infrastructure funding through $60 million of funding invested already over our first two budgets. This is a significant improvement in terms of what was made available in budgeted infrastructure for kindergartens by the previous government. I look forward to being able to provide the member and the kindergarten with an explanation about this matter.

I have received written responses to adjournment matters raised by Ms Lovell on 26 May, Mr Ramsay on 7 and 8 June, Ms Lovell on 22 June and Mr Purcell on 22 June.

**The PRESIDENT** — Order! The house now stands adjourned until later today.

**House adjourned 12.42 a.m. (Wednesday).**