PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-NINTH PARLIAMENT

FIRST SESSION

THURSDAY, 23 JUNE 2022

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU AC

The Lieutenant-Governor

The Honourable JAMES ANGUS AO

The ministry

Premier	The Hon. DM Andrews MP
Deputy Premier, Minister for Transport Infrastructure, Minister for the Suburban Rail Loop and Minister for Commonwealth Games Delivery	The Hon. JM Allan MP
Attorney-General and Minister for Emergency Services	The Hon. J Symes MLC
Minister for Training and Skills, Minister for Higher Education and Minister for Agriculture	The Hon. GA Tierney MLC
Treasurer, Minister for Economic Development, Minister for Industrial Relations and Minister for Trade	The Hon. TH Pallas MP
Minister for Planning	The Hon. EA Blandthorn MP
Minister for Child Protection and Family Services and Minister for Disability, Ageing and Carers	The Hon. CW Brooks MP
Minister for Police, Minister for Crime Prevention and Minister for Racing	The Hon. AR Carbines MP
Minister for Public Transport, Minister for Roads and Road Safety, Minister for Industry Support and Recovery and Minister for Business Precincts	The Hon. BA Carroll MP
Minister for Energy, Minister for Environment and Climate Action and Minister for Solar Homes	The Hon. L D'Ambrosio MP
Minister for Tourism, Sport and Major Events and Minister for Creative Industries	The Hon. S Dimopoulos MP
Minister for Ports and Freight, Minister for Consumer Affairs, Gaming and Liquor Regulation, Minister for Local Government and Minister for Suburban Development	The Hon. MM Horne MP
Minister for Education and Minister for Women	The Hon. NM Hutchins MP
Minister for Corrections, Minister for Youth Justice, Minister for Victim Support and Minister for Fishing and Boating	The Hon. S Kilkenny MP
Minister for Commonwealth Games Legacy and Minister for Veterans	The Hon. SL Leane MLC
Assistant Treasurer, Minister for Regulatory Reform, Minister for Government Services and Minister for Housing	The Hon. DJ Pearson MP
Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business and Minister for Resources	The Hon. JL Pulford MLC
Minister for Water, Minister for Regional Development and Minister for Equality	The Hon. H Shing MLC
Minister for Multicultural Affairs, Minister for Prevention of Family Violence, Minister for Community Sport and Minister for Youth	The Hon. RL Spence MP
Minister for Workplace Safety and Minister for Early Childhood and Pre-Prep	The Hon. I Stitt MLC
Minister for Health and Minister for Ambulance Services	The Hon. M Thomas MP
Minister for Mental Health and Minister for Treaty and First Peoples	The Hon. G Williams MP
Cabinet Secretary	Mr SJ McGhie MP

OFFICE-HOLDERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-NINTH PARLIAMENT—FIRST SESSION

Speaker

The Hon. JM EDWARDS

Deputy Speaker

Ms N SULEYMAN

Acting Speakers

Mr Blackwood, Mr J Bull, Ms Connolly, Ms Couzens, Ms Crugnale, Mr Edbrooke, Ms Halfpenny, Mr McCurdy, Mr McGuire, Mr Morris, Ms Richards, Mr Richardson, Mr Taylor and Ms Ward

Leader of the Parliamentary Labor Party and Premier

The Hon. DM ANDREWS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier

The Hon. JM ALLAN

Leader of the Parliamentary Liberal Party and Leader of the Opposition

The Hon. MJ GUY

Deputy Leader of the Parliamentary Liberal Party

Mr DJ SOUTHWICK

Leader of The Nationals and Deputy Leader of the Opposition

The Hon. PL WALSH

Deputy Leader of The Nationals

Ms E KEALY

Leader of the House

Ms EA BLANDTHORN

Manager of Opposition Business

Ms LE STALEY

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan
Council: Clerk of the Parliaments and Clerk of the Legislative Council: Mr A Young
Parliamentary Services: Secretary: Ms T Burrows

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-NINTH PARLIAMENT—FIRST SESSION

Member	District	Party	Member	District	Party
Addison, Ms Juliana	Wendouree	ALP	Maas, Mr Gary	Narre Warren South	ALP
Allan, Ms Jacinta Marie	Bendigo East	ALP	McCurdy, Mr Timothy Logan	Ovens Valley	Nats
Andrews, Mr Daniel Michael	Mulgrave	ALP	McGhie, Mr Stephen John	Melton	ALP
Angus, Mr Neil Andrew Warwick	Forest Hill	LP	McGuire, Mr Frank	Broadmeadows	ALP
Battin, Mr Bradley William	Gembrook	LP	McLeish, Ms Lucinda Gaye	Eildon	LP
Blackwood, Mr Gary John	Narracan	LP	Merlino, Mr James Anthony	Monbulk	ALP
Blandthorn, Ms Elizabeth Anne	Pascoe Vale	ALP	Morris, Mr David Charles	Mornington	LP
Brayne, Mr Chris	Nepean	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Britnell, Ms Roma	South-West Coast	LP	Newbury, Mr James	Brighton	LP
Brooks, Mr Colin William	Bundoora	ALP	Northe, Mr Russell John	Morwell	Ind
Bull, Mr Joshua Michael	Sunbury	ALP	O'Brien, Mr Daniel David	Gippsland South	Nats
Bull, Mr Timothy Owen	Gippsland East	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
Burgess, Mr Neale Ronald	Hastings	LP	Pakula, Mr Martin Philip	Keysborough	ALP
Carbines, Mr Anthony Richard	Ivanhoe	ALP	Pallas, Mr Timothy Hugh	Werribee	ALP
Carroll, Mr Benjamin Alan	Niddrie	ALP	Pearson, Mr Daniel James	Essendon	ALP
Cheeseman, Mr Darren Leicester	South Barwon	ALP	Read, Dr Tim	Brunswick	Greens
Connolly, Ms Sarah	Tarneit	ALP	Richards, Ms Pauline	Cranbourne	ALP
Couzens, Ms Christine Anne	Geelong	ALP	Richardson, Mr Timothy Noel	Mordialloc	ALP
Crugnale, Ms Jordan Alessandra	Bass	ALP	Riordan, Mr Richard Vincent	Polwarth	LP
Cupper, Ms Ali	Mildura	Ind	Rowswell, Mr Brad	Sandringham	LP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Ryan, Stephanie Maureen	Euroa	Nats
Dimopoulos, Mr Stephen	Oakleigh	ALP	Sandell, Ms Ellen	Melbourne	Greens
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Scott, Mr Robin David	Preston	ALP
Edbrooke, Mr Paul Andrew	Frankston	ALP	Settle, Ms Michaela	Buninyong	ALP
Edwards, Ms Janice Maree	Bendigo West	ALP	Sheed, Ms Suzanna	Shepparton	Ind
Eren, Mr John Hamdi	Lara	ALP	Smith, Mr Ryan	Warrandyte	LP
Foley, Mr Martin Peter	Albert Park	ALP	Smith, Mr Timothy Colin	Kew	LP
Fowles, Mr Will	Burwood	ALP	Southwick, Mr David James	Caulfield	LP
Fregon, Mr Matt	Mount Waverley	ALP	Spence, Ms Rosalind Louise	Yuroke	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Staikos, Mr Nicholas	Bentleigh	ALP
Guy, Mr Matthew Jason	Bulleen	LP	Staley, Ms Louise Eileen	Ripon	LP
Halfpenny, Ms Bronwyn	Thomastown	ALP	Suleyman, Ms Natalie	St Albans	ALP
Hall, Ms Katie	Footscray	ALP	Tak, Mr Meng Heang	Clarinda	ALP
Halse, Mr Dustin	Ringwood	ALP	Taylor, Mr Jackson	Bayswater	ALP
Hamer, Mr Paul	Box Hill	ALP	Theophanous, Ms Katerina	Northcote	ALP
Hennessy, Ms Jill	Altona	ALP	Thomas, Ms Mary-Anne	Macedon	ALP
Hibbins, Mr Samuel Peter	Prahran	Greens	Tilley, Mr William John	Benambra	LP
Hodgett, Mr David John	Croydon	LP	Vallence, Ms Bridget	Evelyn	LP
Horne, Ms Melissa Margaret	Williamstown	ALP	Wakeling, Mr Nicholas	Ferntree Gully	LP
Hutchins, Ms Natalie Maree Sykes	Sydenham	ALP	Walsh, Mr Peter Lindsay	Murray Plains	Nats
Kairouz, Ms Marlene	Kororoit	ALP	Ward, Ms Vicki	Eltham	ALP
Kealy, Ms Emma Jayne	Lowan	Nats	Wells, Mr Kimberley Arthur	Rowville	LP
Kennedy, Mr John Ormond	Hawthorn	ALP	Williams, Ms Gabrielle	Dandenong	ALP
Kilkenny, Ms Sonya	Carrum	ALP	Wynne, Mr Richard William	Richmond	ALP

PARTY ABBREVIATIONS

ALP—Labor Party; Greens—The Greens;
Ind—Independent; LP—Liberal Party; Nats—The Nationals.

Legislative Assembly committees

Economy and Infrastructure Standing Committee
Ms Addison, Mr Blackwood, Ms Couzens, Mr Eren, Ms Ryan, Ms Theophanous and Mr Wakeling.

Environment and Planning Standing Committee
Ms Addison, Mr Fowles, Ms Green, Mr Hamer, Mr McCurdy, Ms McLeish and Mr Morris.

Legal and Social Issues Standing Committee
Mr Angus, Mr Battin, Ms Couzens, Ms Kealy, Ms Settle, Ms Theophanous and Mr Tak.

Privileges Committee
Ms Allan, Mr Carroll, Ms Hennessy, Mr McGuire, Mr Morris, Mr Pakula, Ms Ryan, Ms Staley and Mr Wells.

Standing Orders Committee
The Speaker, Ms Blandthorn, Mr Fregon, Ms McLeish, Ms Settle, Ms Sheed, Ms Staley, Ms Suleyman and Mr Walsh.

Joint committees

Dispute Resolution Committee
Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula, Mr R Smith, Mr Walsh and Mr Wells.
Council: Mr Bourman, Ms Crozier, Mr Davis, Ms Symes and Ms Tierney.

Electoral Matters Committee
Assembly: Ms Hall, Dr Read and Mr Rowswell.
Council: Mr Erdogan, Mrs McArthur, Mr Meddick, Mr Melhem, Ms Lovell, Mr Quilty and Mr Tarlamis.

House Committee
Assembly: The Speaker (*ex officio*), Mr T Bull, Ms Crugnale, Mr Fregon, Ms Sandell, Ms Staley and Ms Suleyman.
Council: The President (*ex officio*), Mr Bourman, Mr Davis, Mr Leane, Ms Lovell and Ms Stitt.

Integrity and Oversight Committee
Assembly: Mr Halse, Mr Maas, Mr Rowswell, Mr Taylor, Ms Ward and Mr Wells.
Council: Mr Grimley.

Pandemic Declaration Accountability and Oversight Committee
Assembly: Mr J Bull, Mr Eren, Ms Kealy, Mr Sheed, Ms Ward and Mr Wells.
Council: Ms Crozier and Mr Erdogan.

Public Accounts and Estimates Committee
Assembly: Ms Connolly, Mr Hibbins, Mr Maas, Mr Newbury, Mr D O'Brien, Ms Richards and Mr Richardson.
Council: Mrs McArthur and Ms Taylor.

Scrutiny of Acts and Regulations Committee
Assembly: Mr Burgess, Ms Connolly and Mr Morris.
Council: Ms Patten and Ms Watt.

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Thursday, 23 June 2022

The SPEAKER (Hon. Colin Brooks) took the chair at 9.32 am and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The SPEAKER (09:32): We acknowledge the traditional Aboriginal owners of the land on which we are meeting. We pay our respects to them, their culture, their elders past, present and future, and elders from other communities who may be here today.

Bills

JUSTICE LEGISLATION AMENDMENT (POLICE AND OTHER MATTERS) BILL 2022

Introduction and first reading

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police) (09:33): I move:

> That I introduce a bill for an act to amend the Sex Offenders Registration Act 2004, the Victoria Police Act 2013 and the Aboriginal Heritage Act 2006 and for other purposes.

Motion agreed to.

Mr BATTIN (Gembrook) (09:33): May I have a brief explanation of the bill?

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police) (09:33): The bill amends the Victoria Police Act, the Sex Offenders Registration Act and the Aboriginal Heritage Act. It introduces a range of policing reforms that will improve Victoria Police practice and policy and keep the community safe. It also clarifies how the Aboriginal Heritage Act operates.

Read first time.

Ordered to be read second time tomorrow.

Business of the house

NOTICES OF MOTION

The SPEAKER (09:34): I wish to advise the house that government business, notices of motion, 1, and general business, notices of motion, 26 to 28, will be removed from the notice paper unless members wishing their matter to remain advise the Clerk in writing before 2.00 pm today.

Petitions

Following petition presented to house by Deputy Clerk:

MOUNT BEAUTY WATER SUPPLY

> This petition of residents in Victoria draws to the attention of the Legislative Assembly that North East Water (NE Water) plans to build a new raw water off take facility in Mount Beauty to secure a sustainable water supply for the local communities. The community fully supports the plan to build a new facility but has grave concerns about some of the proposed sites. Their concerns specifically relate to proposed sites 1, 2 and 6 listed in the Multi-Criteria Assessment Report (MCA Report) for the Mt Beauty Raw Water Offtake. The proposed sites are located within a highly valued recreational precinct, a place of natural and valued beauty, along the West Kiewa River on Embankment Drive. The precinct attracts tourists and visitors which supports local businesses and brings the small community together, enhancing the health and wellbeing of residents and visitors alike. The community have also recently received a grant to continue work to upgrade the precinct in line with work already completed in that area. The community also has concerns with NE Water's MCA report as it was undertaken in-house and does not stand up to robust scrutiny and the company's potential financial bias towards site 2.
>
> The petitioners therefore request that the Legislative Assembly call on the Government to reject sites 1, 2 and 6, as well as any other potential new sites within Mount Beauty's high value river side recreation precinct

along Embankment Drive, from all future exploration, negotiation and planning and establish an independent assessment team to work with NE Water on a robust multi criteria assessment report to identify a location for the Upper Kiewa Valley's raw water off take.

By Mr McCURDY (Ovens Valley) (361 signatures).

Tabled.

Ordered that petition be considered next day on motion of Mr McCURDY (Ovens Valley).

Documents

DEPARTMENT OF PREMIER AND CABINET

Independent Review of the Service Victoria Act 2018: Ministerial Response to the Final Report

Mr PEARSON (Essendon—Assistant Treasurer, Minister for Regulatory Reform, Minister for Government Services, Minister for Creative Industries) (09:35): I table, by leave, the ministerial response to the independent review of the Service Victoria Act 2018.

DOCUMENTS

Incorporated list as follows:

DOCUMENTS TABLED UNDER ACTS OF PARLIAMENT—The Deputy Clerk tabled the following documents under Acts of Parliament:

Multicultural Victoria Act 2011—Victorian Government report in multicultural affairs 2020–21

Service Victoria Act 2018—Independent review of the operation of the Act—Final Report

Victorian Inspectorate—Annual Plan 2022–23.

Joint sitting of Parliament

LEGISLATIVE COUNCIL VACANCY

The SPEAKER (09:36): I wish to advise the house that the house met yesterday with the Legislative Council for the purpose of choosing a person to hold the vacant seat in the Legislative Council and that Mr David Limbrick has been duly chosen.

Business of the house

ADJOURNMENT

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure, Minister for the Suburban Rail Loop) (09:36): I move:

That the house, at its rising, adjourns until Tuesday, 2 August 2022.

Motion agreed to.

Members statements

STEVE DIMOS

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes) (09:36): I pay tribute to a friend and long-time loyal ALP member, Steve Dimos, who, sadly, passed away on 11 June at the age of 86. Steve was born in Macedonia and came to Australia at the age of 14. He was the third generation of his family to migrate to Australia. He was a hardworking family man who worked as a fishmonger and in milk bars and restaurants in the early years and later moved into telecommunications, working at Ericsson, PMG and as a technician with Telstra.

Steve had three loves—his family, the ALP and his Macedonian community—and he remained actively involved in all until he suffered a stroke in 2017. He was involved in organising dances, picnics, fundraisers and other functions with the Epping seniors group and was always there to lend a hand when it came to campaigning. Steve and his brother, Mick, joined the Australian Labor Party in

1964, and one of their proudest moments was when they were awarded their 40-year life membership medallions in 2005. Both brothers attended branch meetings together and worked hand in hand at every election campaign. The Labor Party was an enormous part of Steve's life over the years, and his passion for the party never waned. He used to say, 'Labor: that's my party, that's my life, that's my belief'. Vale, Steve Dimos. You will be sadly missed. May you rest in peace with the love of your life, your wife, Alexandra. My condolences to his son, Tom, and daughter, Helen, and their families.

KOONDROOK BUS SERVICES

Mr WALSH (Murray Plains) (09:38): I raise the concerns of the residents of Koondrook about the lack of public transport for the town. There is no bus service from Koondrook to the major service centres of Kerang, Swan Hill or Echuca. There is a bus service that links Swan Hill, Kerang and Echuca, but it does not divert through Koondrook, which would not take much to do. The only bus service for Koondrook is a 7.00 am bus that goes to Melbourne. If a Koondrook resident wants to go to Echuca for a medical appointment, they have to catch that 7.00 am bus, get off at Rochester at 8.44 am, wait 45 minutes to catch the Melbourne to Echuca bus for another 30-minute trip to get to Echuca for their medical appointment. Then to get home they have to do that reverse trip, which is equally as long. So it is 3 hours to get there and 3 hours to get home, which would be only an hour each way if there was a direct bus service that diverted through Koondrook that could go to Echuca.

Koondrook is one of our country's growing communities. There are a lot of new houses being built in Koondrook. The amenities of the town are first class. They just need a decent public transport link to ensure that residents can get to appointments and not have to spend hours travelling over that time. Having one of the bus services that currently goes from Swan Hill through Kerang to Echuca divert through Koondrook would help solve that problem for the residents.

PATRICK HUGHES

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police) (09:39): It is with personal sadness that I pay tribute to Patrick Hughes, who died on Thursday, 9 June 2022. Patrick was a highly respected and much-loved member of the Drysdale and Clifton Springs community, having contributed tirelessly to town life for more than 30 years. He was born in Bristol, England, on 8 August 1947 to parents Thomas and Sissy Hughes. In the mid-1980s he met the love of his life, Glenda McNaughton, who was working in London. In 1987 they moved to Australia, a decision Patrick, I am sure, would have described as the best of his life.

In 2007 Patrick and Glenda moved to Drysdale and Clifton Springs and quickly immersed themselves in community life. He joined the Drysdale Clifton Springs Curlewis Association, taking on various leadership roles and was a long-term secretary. Through the association he went on to champion many important causes and projects, including the establishment of the Festival of Glass, putting Drysdale on the map for glassmaking and glass displays. Twelve years later, thanks to Patrick and local volunteers, this festival is now an iconic event.

Personally, like many, I will miss Patrick dearly. I will miss his colourful dress sense, one that he wore with flair. I will miss his sense of humour, for me a highlight of every Festival of Glass opening. Most of all I will miss Patrick's friendship, advice and support. In Patrick, Drysdale and Clifton Springs have lost a community champion. My condolences to all of Patrick's friends and those who worked with him, but especially to Glenda, who I know will miss him immensely. Vale, Patrick Hughes.

WESTERN HIGHWAY

Ms STALEY (Ripon) (09:41): Our country roads are crumbling and unsafe, and Labor has no solutions. When I talk about the Western Highway, as I did in this place last sitting week, I can now add—already we have talked about how Trawalla is down to 60 kilometres an hour—that there is now a major pothole outbound at Beaufort. Gordon is down to 40 kilometres an hour, as is Burrumbeet—

A member interjected.

Ms STALEY: On both. And this is the Western Highway. It is not some small, local government road, it is the Western Highway. I am repeatedly contacted, in my office, by people who are really worried that when they drive on this unsafe and potholed road they are going to do a rim on their wheel or they are going to hurt their car in some way, and because the government's solution to this is to put the signs up so they cannot be sued, people will be out of pocket. People are already paying very, very high petrol prices, facing high inflation, and on top of this the government's solution for when drivers get their cars damaged on a road the government is not able to maintain is to say, 'Well, there's nothing to do here. Don't look at us, we've got no responsibility'. It is unacceptable to country people that this government has failed so comprehensively to upgrade and maintain the Western Highway, the major road in western Victoria.

DEANSIDE PRIMARY SCHOOL

Ms HUTCHINS (Sydenham—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (09:42): I am thrilled to update the house on another brand new education facility that services my electorate. On Monday I joined the Minister for Education and the Minister for Early Childhood to visit Deanside Primary School and officially open the local kindergarten. Co-located with Deanside Primary School, this vibrant, state-of-the-art kinder provides inclusive, high-quality play-based preschool programs for three- and four-year-olds in Deanside and the surrounding western suburbs.

Our $9 billion investment over the next decade to make kinder free for three- and four-year-olds across the state will deliver a new year of universal pre-prep for four-year-olds and establish 50 government-owned and affordable childcare centres. What an achievement, what a commitment. The Victorian Labor government has made a commitment to deliver 100 new schools between 2019 and 2026. This includes the new Deanside Primary School, which opened this year. I would like to read an extract from a poem written by the grades 5 and 6 students to commemorate the opening:

> We are a small school that is growing day by day,
> All of the students get to have their own say.
> Each day we look on the bright side,
> Because we are proud to be the first students at Deanside!

I think that is very fitting for the opening of a new school. I will continue to advocate for more funding for schools across the west in order to meet our growing needs.

FERNTREE GULLY TRAIN STATION CAR PARK

Mr WAKELING (Ferntree Gully) (09:44): Last weekend I joined with Gareth Ward, the Liberal candidate for Monbulk, and many Ferntree Gully residents at a public meeting relating to the state government's lack of transparency regarding the potential construction of a commuter car park at the Ferntree Gully railway station. Despite being invited, no members of the Andrews government attended the meeting. The Ferntree Gully community is aware that the former federal government allocated funding to the state government for this project. Three years later the Andrews government has failed to explain to residents if the car park will be built, and if so, where it will be built and at what scale, or if the car park is not going to be built what will happen to the funding that was allocated to the project. Like Lake Knox, this is just another example of the Andrews government failing to consult with the Knox community.

ROTARY CLUB OF BORONIA

Mr WAKELING: I attended the Rotary Club of Boronia's president's handover meeting recently with Cr Yvonne Allred. This is a great local service club, and I would like to congratulate incoming president John Poke and also pay tribute to the outgoing president Peter Dalwood for the work that they and their members have done in supporting our local community.

KENT PARK PRIMARY SCHOOL

Mr WAKELING: I was also pleased to recently attend Kent Park Primary School, one of our great local schools in Ferntree Gully. It is a great school led by Kieran Denver. I was also pleased to tour with members of the school council to look at a range of maintenance problems that are yet to be addressed.

IVANHOE ELECTORATE EARLY CHILDHOOD EDUCATION

Mr CARBINES (Ivanhoe—Minister for Child Protection and Family Services, Minister for Disability, Ageing and Carers) (09:45): Of course the Andrews government is building on the Best Start, Best Life investments. We are making sure every child has every chance to be their best, while helping more mums return to work, enabling them to work as much as they want to instead of how much they can afford to. In particular there is the Rosanna kindergarten, a $1.5 million development there at Bellevue Avenue, which is going to be a fantastic development for families in Rosanna. There is the $2 million contribution to the Bellfield community hub there along Oriel Road. It is a fantastic development there opposite Ford Park. It has almost concluded, and I am looking forward to the Minister for Early Childhood in the other place coming out to open those facilities, that Bellfield community hub, which will include kindergarten facilities and child care for young people and families across Bellfield. And there is a further $1.5 million investment for KU in Heidelberg in Stradbroke Avenue for further long day care places, some 84 long day care places, including for another 44 kindergarten children.

These significant investments build of course on establishing 50 new centres located in communities that need them the most across those extended hours across the state. The first centre is opening from 2025, and it will introduce pre-prep transitioning for four-year-old kinder into a new free 30-hour play-based learning year. These are really significant investments. They are going to save families an average of $2500 per child a year. They are very significant investments, and we are seeing that happening across the Ivanhoe electorate.

PRAHRAN ELECTORATE PUBLIC HOUSING

Mr HIBBINS (Prahran) (09:47): The government must improve living conditions at our local public housing estates in the Prahran electorate. My office continues to hear from countless residents about the substandard conditions in both high-rise apartments and walk-ups. At 2 Simmons Street, South Yarra, the first two floors were renovated 10 years ago, with the government promising to complete the remaining floors. A decade later those residents are still waiting for very basic, minimal upgrades to bring their living conditions up to standard. The problem of pigeon infestation continues. Elderly residents are reporting that existing health conditions are being exacerbated by feathers and pigeon crap that covers buildings and grounds. At our Inkerman Street estate windows are so caked in dirt, pigeon poo and feathers that residents can barely see out of them. Requests to clean the windows have gone unheeded because, we have been advised, the cost is too prohibitive and could better be spent elsewhere. Well, it is hard to see where that is actually being spent.

We have been advised that there are options for tenants to report unsatisfactory conditions to the housing call centre. Well, I am being advised by tenants that calls to the housing call centre regularly go unanswered and unreturned. Residents have been waiting over a year for basic maintenance to be carried out. The problem has been made even worse by the fact that housing officers are now seen by appointment only. Our public housing residents deserve better.

JIM CUSACK

Mr PEARSON (Essendon—Assistant Treasurer, Minister for Regulatory Reform, Minister for Government Services, Minister for Creative Industries) (09:48): I was delighted on Sunday to join many friends to celebrate the contribution that Cr Jim Cusack made over many years as a councillor at the City of Moonee Valley. Held at Philhellene restaurant in Mount Alexander Road, Moonee Ponds, it was a wonderful celebration and acknowledgement of Jim's outstanding contribution to

making our community better. Jim served on council from I think about 2005 until 2020, and he always brought to the council a commitment to social justice, to inclusion and to ensuring that fairness was at the centre of everything that he did. The occasion on Sunday was just a wonderful opportunity for people to come together and to express our gratitude, our sincere gratitude and thanks, for Jim—and for Helene, his wife, for letting us have Jim all those years—and for the contribution that he made. I was delighted to join Bill Shorten as well as my wife, who is a former councillor, to all speak on our behalf about our thanks and gratitude for how hard Jim worked.

AMYL AND THE SNIFFERS

Mr PEARSON: I am delighted to announce that Amyl and the Sniffers are playing at the Forum on 31 July, an absolutely cracking band. This is driving real exports. They are coming back from a significant overseas tour. This is about our creative industries really creating something very special, driving export income. It is going to be a fantastic show. I hope to see you there.

BUILDING REGULATION REFORM

Mr RIORDAN (Polwarth) (09:50): I rise to inform the house that I was privy to a very interesting briefing from the Housing Industry Association this week. As Shadow Minister for Housing, it is of great concern to me that this government is once again inflicting on the people of Victoria its desire to tell people how to live. The HIA have great concerns that the changes to the building codes and regulations that this government will bring in in September are being done without a proper education campaign for the community. They have great concerns that people out in the community who have purchased blocks of land, who have made plans to build their dream home, are going to get to September—and as we all know there are great delays in the housing market at the moment—having begun to undertake the building of their new home, only to find that their dream home will no longer be able to be built. Some parcels of land, the HIA believe, will no longer be able to be built on because of the government's new stringent 7-star rating that will prevent the building of houses on some blocks of land, particularly in a rural and regional electorate like mine in Polwarth, where people often build on hills with scenic views overlooking the ocean and things like that. This government is implementing restrictions on the size of your windows. Issues like that will potentially destroy the dreams and aspirations of so many Victorians. The government are obliged to inform people what they are up to.

LABUAN SQUARE, GEELONG, UPGRADE

Mr EREN (Lara) (09:51): It was wonderful to visit Labuan Square, a shopping strip, last week to formally announce that the transformation of Labuan Square will soon become a reality. The City of Greater Geelong was successful in attaining a Creating Safer Places grant of $226 000 for improvements to Labuan Square. Modifications will include improved lighting; smart pole installation, including CCTV and free wi-fi; and relocation of the public toilets. Our government had also earlier invested $100 000 through the COVIDSafe Outdoor Activation Fund for upgrades to the space, and council are also contributing to these upgrades. Special thanks go to Wadawurrung Traditional Owners Aboriginal Corporation, Norlane Community Initiatives and local stakeholders, who worked together with the City of Greater Geelong and the Victorian government towards this fantastic outcome.

KARDINIA PARK STADIUM ACCESSIBILITY

Mr EREN: It was also wonderful last week to join the Minister for Disability, Ageing and Carers, along with the member for Geelong, to launch the Changing Places facility and mural unveiling at GMHBA Stadium. Changing Places Australia is about inclusion and respect for all. We opened the new amenities facility at Kardinia Park thanks to great leadership from the stadium trust. The recent state budget included funding for an extra 30 fully accessible Changing Places facilities across the state. This is a wonderful addition to GMHBA Stadium, and I congratulate the minister and of course GMHBA Stadium for this wonderful project.

TAKEOVER SHEPPARTON

Ms SHEED (Shepparton) (09:53): For a whole week year 9 students across the whole of Shepparton took part in the Takeover Shepparton activities promoted by VicHealth and the ABC. Young people prepared stories. They could be written or delivered by audio or video. I had the opportunity of going to see many of the videos at the Village Cinemas in Shepparton. I enjoyed learning about the stories of our young people, the problems they face and how they overcame major obstacles such as mental health concerns, disabilities and learning difficulties. They told stories about excelling in sports and the arts; succeeding in unusual jobs; and facing adversity, such as homelessness and teen parenthood, and they did that with amazing frankness. Shepparton has a large population of young people, and to see and hear and read those stories that they bravely told will give us all an insight into their world and will also help other young people who have yet to experience many of the issues that they have faced. It was an outstanding effort by the ABC's Triple J and VicHealth to promote opportunities for young people to prepare and record their stories for radio or film and have them aired across the country, and they are readily available on ABC websites. It created a platform for students across the regions to be heard. The diversity was extraordinary and so was the bravery. Many talked about connecting to culture. One young man, an autistic young man, told about starting his own honey business.

TREATY ADVANCEMENT

Ms BLANDTHORN (Pascoe Vale) (09:54): Our Victorian democracy may not be very old, but I acknowledge that I make this statement today in a Parliament that stands on ancient lands. I acknowledge the traditional custodians of the land on which we meet, and I pay my respects to them, their culture and their elders, past and present. Obviously I cannot use a members statement to debate matters in a bill before the house, so I do not intentionally do that in relation to the Treaty Authority and Other Treaty Elements Bill 2022, but in the absence of having the opportunity to make a contribution on that bill, I did want to put on the record my acknowledgement that Indigenous people are the First People of this country. This land is their land and, as evidence demonstrates, it had been for many thousands of years prior to invasion and it has never been ceded. The premise of any invasion is the unfortunate belief that one person, a group of persons or indeed a kingdom or a nation is somehow better or more worthy than another. And the premise of so many of the atrocities inflicted on Indigenous Australians—from massacres to stealing children, slave labour, incarceration, violence, economic deprivation, discrimination, segregation and so much more—has been the belief that one person or group of persons is somehow better than another. This appalling history must be acknowledged; it must be taught, and it must be remembered. We must also find ways to close the gap, right injustices and walk forward together. Closing the Gap is about services and support, but it is also about so much more. It is about recognition and about treaty. And around the world, including in neighbouring New Zealand, we have seen that recognition and treaty are not tokenistic but are a vital expression of the inherent dignity of every person and are crucial to ensuring justice for Indigenous people. Justice delayed is justice denied, and the quest for justice has been too long.

GOVERNMENT TAXES

Mr WELLS (Rowville) (09:56): This statement condemns the Andrews Labor government's reckless approach to spending and taxing, which is putting even more pressure on everyday expenses for the residents of the Rowville electorate. We can joke about the ridiculous price of lettuce, but rising prices create a lot of uncertainty for Victorians, whether making their budgets stretch at the supermarket or filling up at the service station. For families driving their kids to school or driving to work the impact of sky-high petrol prices is made worse by Labor's plan to take in more tax over the next four years from registration fees, state government taxes on car insurance, stamp duty and vehicle registration transfers. Victorians buying or moving house will be hit harder by stamp duty or land tax as well as a number of planning and development taxes, which will heap pressure on housing costs.

Even after two years of a pandemic the Andrews government have not stopped their lavish spending. Public sector salaries will cost Victorians $33.18 billion, more than the $32.8 billion in tax revenue

that Victoria expects to receive this year. Labor has overspent by more than $28 billion on projects, an absolute mess of mismanaged contracts and unrealistic promises. Any chance of the government keeping its promise of a budget surplus in four years looks ridiculous, especially with inflation on the rise and predictions of still higher interest rates to come. Instead, the Andrews Labor government's big spending has left nothing in reserve.

NAME THE CRANE COMPETITION

Mr J BULL (Sunbury) (09:57): Pickey Uppy, Mad Dog, Thunder Strike—they sound like some of your mates, Speaker, but in actual fact they are the nicknames of three cranes that were named by local students within my community as we get on and get rid of the Sunbury level crossing. The Name the Crane competition had over 100 local students who participated. I was absolutely delighted to meet Skye and Daniel recently onsite to check out the cranes and congratulate them on winning the competition. The removal is a fantastic project that is all about reducing congestion, creating jobs and making a safer Sunbury town centre.

RAMACCA SOCIAL CLUB

Mr J BULL: Also recently I was absolutely delighted to meet with the Ramacca Social Club. This group was established in the 1960s. It is renowned for its social functions. I had the opportunity to sit with the committee and discuss many local issues. I do thank them for the opportunity to visit.

SUNBURY ELECTORATE SMALL BUSINESS

Mr J BULL: On visits, I was also absolutely delighted to attend Home Grown Gifts and Screw It Wine Bar in O'Shanassy Street, Sunbury, to talk to local business owners Sharyn and Raylene about their experiences, local business support and also many of the local projects that are occurring within the community.

EARLY CHILDHOOD EDUCATION

Mr J BULL: Finally, it is absolutely terrific that the Andrews Labor government is getting on with reforming kinder, with a massive announcement—$9 billion—making sure that our three- and four-year-olds have the best opportunities and the best start in life.

BRUCE WHALLEY

Mr KENNEDY (Hawthorn) (09:59): Today I would like to focus on a treasured member of our Hawthorn and Melbourne community, Melbourne's happiest tram driver, Bruce Whalley. As you all know, I am a keen advocate for public transport and have taken the 75 tram or a Hawthorn train nearly every day of my life. Now, if you have ever had the pleasure of being on a tram whilst Bruce is driving you will definitely remember it. Bruce's unique, hilarious commentary brightens everyone's day. The other week I had the pleasure of riding on his tram, and it was fantastic to see the faces of my constituents light up. He even welcomed me on the PA system as I boarded the tram—it does not get any better than that. I know that for many commuters the daily tram ride can be a bit of a slog, especially after a tough couple of years. But Bruce's infectious happiness really boosts our community. I would like to take this opportunity to thank Bruce for making not just my day but the days of many of my constituents. He is an example of someone who really draws our community together, and he is the kind of person that makes me proud to be Victorian. I encourage anyone who gets the 75 to look out for Bruce, always with a bow tie and often providing helpful commentary about each of the stops that the 75 stops at.

BACK TO BAYLES CENTENARY

Ms CRUGNALE (Bass) (10:00): Bayles was aglow for its centenary celebrations on Sunday, 19 June: historical tours, barbecues, jams and scones, food trucks, horse carts, fauna park walks, music played, the old rail line to Yannathan traced out. The gorgeous hall was super packed, walls adorned with memorabilia. We were all delighted with students from Bayles Regional Primary School who

sang and performed, bells and all. The microphone went around the room: stories shared, experiences appreciated, and those golden threads that bind a community together the essence of that day. A special plaque dedicated to Vic and Val Walker for their outstanding service to the Bayles community was unveiled. Wayne, Glenys, Jennice and Graeme from afar were so appreciative of this heartfelt acknowledgement to their parents.

A huge thankyou to Jane Coupe and the Back to Bayles Centenary committee, including Frank Scadden, the unofficial mayor of Bayles, for scouring through all his contacts to get donations and sponsors on board; historian Sue Davies, Sharon Patterson, Keith and Netta Wilkinson, Liza Chapple, Coreena Bron, Matt Coleman, Lyn ter Maten, Jo Power, Stacey Rouse and her son Kye, Andrew, John and Jasmine, who between them all rallied enthusiasm and organised displays, booklets, bunting, raffles, tours, posters and audiovisuals; and all who rolled up their sleeves to help at every turn. Add in the sponsors: Koo Wee Rup Lions, Koo Wee Rup and Lang Lang Bendigo Bank, CWA, CFA, every shop, community— *(Time expired)*

WOMEN'S SPIRIT PROJECT

Mr EDBROOKE (Frankston) (10:02): It was an absolute pleasure and honour indeed to join the incredible winner of the Women's Spirit Project do the Spirit of Transformation program last week to celebrate what they have achieved. There is no other program in Australia that can run a four-month mentor participant program that actually believes in people, gets people to support themselves and back themselves in, empowers them and gets them to overcome their fears and anxiety with such good results. Congratulations to all the participants. It really was an amazing event, and I was truly lost for words. It is great to see support from Frankston City Council, Mornington Peninsula, Matt from Anaconda in Frankston and many other legends. I cannot wait to see you all cross the finish line of the Frank to Schanck walk in November.

BIG HART

Mr EDBROOKE: It was also a huge honour last week to celebrate the work of Big hART in Frankston and have the opportunity to experience the Something to Talk About project in action. I want to say a massive thankyou to all the young people who have shared their thoughts and reflections with us on the journey. I am also immensely grateful to Rosie Batty, Jeremy Nikora, Rebecca Robinson and Rory Blundell for taking the time to be on the panel. Also a special thanks to my good friend Peta Murphy, the member for Dunkley. Programs like this are fantastic, but they are not possible without community support, so an extra thankyou to the school staff and everyone in our community that support this program. I am proud that the Andrews Labor government has supported this program with $240 000 out of a Crime Prevention Innovation Fund grant as part of our building safer communities program.

PETER JOHN WARD OAM

Mr HAMER (Box Hill) (10:03): I would like to congratulate Peter John Ward OAM of Blackburn on being recognised for his outstanding service to the law and community in this year's Queen's Birthday honours. Peter is legally blind, with less than 10 per cent vision in each eye. Notwithstanding his impairment, Peter rose to become one of Melbourne's top criminal lawyers, becoming a partner at Galbally & O'Bryan in 1989 and staying in that role until his retirement last year. In 2016 Peter was an inaugural recipient of the Supreme Court's Inspire Awards. This is a peer-based award which recognises those who identify with a disability and are well respected in their field of work and the community. Peter has also given back to our community in many other ways. He served on the board of the St Thomas the Apostle Primary School, as well as eight years as chairperson and 17 years as board member for the Royal Victorian Institute for the Blind. I want to thank him for all that he has done for our community and continues to do. Congratulations, Wardy.

BARBARA CARTER OAM

Mr HAMER: I would like to recognise and celebrate Barbara Carter OAM. Barbara was recognised in the 2022 Queen's Birthday honours list for service to the community through a range of roles. One of the many ways that Barbara has served the community is through her role as a senior policy and research officer for the Office of the Public Advocate, where she has served since 2007. She has been a council member of The Avenue Uniting Church and served on the sexual misconduct complaints committee for six years until 2015. Barbara also served on the board of Arbias from 1997 until 2004, the last four years as president. She is currently serving on the Royal Children's Hospital advisory committee. Congratulations, Barbara.

HEALTHCARE WORKERS

Ms RICHARDS (Cranbourne) (10:05): I am delighted to take the opportunity to thank two really important groups of people who serve our community. I would like to start by acknowledging our healthcare workers. Monash Health is one of the main healthcare services that provides particularly important work for the Cranbourne community, so I would like to take the opportunity to especially acknowledge our nurses, doctors, healthcare workers and so many who are involved in the care of our community who are experiencing mental ill health. I am conscious that they are very well served by the unions, and I know that both the Australian Nursing and Midwifery Federation and the Health and Community Services Union, and others, are making sure that that work is acknowledged and that that group of people is absolutely cared for by their associations and the unions.

CRANBOURNE ELECTORATE SCHOOLS

Ms RICHARDS: I would also like to take the opportunity to thank, at the end of another busy school term, our teachers, our educators and all those people who are working in schools. In the last couple of weeks I have been out to Cranbourne East Secondary College, I have had some students from Cranbourne Secondary College in and I have been able to visit several primary schools. I would particularly like to thank Cranbourne Park Primary School for their extraordinary hospitality and the way that they make sure that all the children at that school have a topnotch education. There is so much going on. The future is bright, but it is particularly bright in Cranbourne.

Business of the house

NOTICES OF MOTION

Mr WYNNE (Richmond—Minister for Planning, Minister for Housing) (10:07): I advise that the government does not wish to proceed with government business, notices of motion, 1, today but ask that it remain on the notice paper.

Bills

VICTORIAN ENERGY EFFICIENCY TARGET AMENDMENT BILL 2022

Statement of compatibility

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes) (10:08): In accordance with the Charter of Human Rights and Responsibilities Act 2006 I table a statement of compatibility in relation to the Victorian Energy Efficiency Target Amendment Bill 2022.

> In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (**Charter**), I make this statement of compatibility with respect to the Victorian Energy Efficiency Target Amendment Bill 2022 (the **Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Assembly, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The main purposes of the Bill are to—

(a) amend the **Victorian Energy Efficiency Target Act 2007** to—

(i) expand the powers and functions of the Essential Services Commission under that Act; and

(ii) introduce new requirements relating to accreditation, including annual review and fit and proper person requirements; and

(iii) extend the operation of the Victorian energy efficiency target scheme; and

(iv) provide for the grant and administration of accounts for transferring certificates under that Act; and

(v) make further provision for the internal review and provide for the external review of certain decisions made by the Essential Services Commission; and

(vi) make further provision for matters relating to the enforcement of that Act and the regulations made under that Act, including by introducing new offences and engaging with the civil penalty requirement regime under the **Essential Services Commission Act 2001**; and

(vii) provide for the conduct of compliance audits and assurance audits of accredited persons; and

(viii) make other miscellaneous and consequential amendments; and

(b) make a consequential amendment to the **Essential Services Commission Act 2001**.

Human rights issues

The VEET Act established the VEET scheme, which promotes activities that will contribute to a reduction in greenhouse gas emissions by consumers of electricity and gas. The VEET scheme operates so that individual consumers who undertake activities to abate the use of energy can create energy certificates, which can then be sold to retailers who are required to produce a certain number of certificates each year to the Commission. Under the VEET scheme, businesses, body corporates or sole traders may become 'accredited persons' who are authorised to create energy efficiency certificates. Insofar as a natural person may, however, become an accredited person under the VEET scheme, a number of human rights issues arise.

The Charter rights to privacy (section 13(a)), property (section 20), and fair hearing (section 24(1)), as well as the presumption of innocence (section 25(1)), protection against self-incrimination (section 25(2)(k), and protection against double punishment (section 26), summarised below, are relevant to the Bill.

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

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. The right will not be limited where the law (whether legislation or the common law) authorising the deprivation of property is clear and precise, accessible to the public, and does not operate arbitrarily.

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The concept of a 'civil proceeding' is not limited to judicial processes, but may encompass the decision-making procedures of many types of tribunals, boards and other administrative decision-makers with the power to determine private rights and interests. The right may be limited if a person faces a procedural barrier to bringing their case before a court, or where procedural fairness is not provided. However, the entire decision-making process, including reviews and appeals, must be examined in order to determine whether the right is limited.

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The right is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that they are not guilty of the offence.

Section 25(2)(k) of the Charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against themselves or to confess guilt. This right is at least as broad as the common law privilege against self-incrimination. It protects against the admission, in subsequent criminal proceedings, of incriminatory material obtained from a person under compulsion, regardless of whether the information was obtained prior to or subsequent to the criminal charge being laid.

Section 26 of the Charter provides that a person must not be tried or punished more than once for an offence in respect of which they have already been finally convicted or acquitted in accordance with law.

Requirements to provide information to the Commission

Clauses 7, 9, 10, 24 and 38 of the Bill (described below) each require certain persons to provide information to the Commission.

Clause 7 of the Bill amends section 9 of the VEET Act, which relates to applications to the Commission to become an accredited person or to renew an existing accreditation. Relevantly, new section 9(2) requires an applicant to declare that they are a 'fit and proper person' and a 'competent and capable person' and, when applying for renewal, to include a declaration and a report as to the person's compliance or non-compliance with any CPD obligations, or conditions or restrictions on accreditation. In addition, new section 9(4) provides that an applicant for renewal of accreditation must provide evidence to the Commission to support the person's declaration, where the Commission so requires under new section 10A (inserted by clause 9). New section 11(4) inserted by clause 10 provides that in determining an application for the grant or renewal of accreditation, the ESC may have regard to any available information about any previous conduct of the applicant in exercising powers and performing duties as an accredited person

Clause 9 of the Bill inserts new sections 10A, 10B and 10C into the VEET Act. Under new section 10A, the Commission may require an applicant for accreditation or renewal to provide evidence as to whether they are a fit and proper person, and a competent and capable person, and to provide any other information relevant to the application. New sections 10B and 10C set out the kinds of matters which the Commission may consider, including whether the person has been found guilty of, or has a pending change in relation to, certain offences.

Clause 24 of the Bill inserts new Division 6 into Part 3 of the VEET Act, which relates to applications to the Commission to open a VEET scheme registry account. New section 26A(2)(a) provides that an applicant must include a declaration that they are a fit and proper person, and new section 26A(2)(c) requires an applicant to provide any other information requested by the Commission. Clause 24 also inserts new section 26H also powers ESC to request by ESC for further information may request a person who holds a VEET scheme registry account to provide within a period (not less than 14 days) specified in the notice—

(a) evidence as to whether the accredited person is a fit and proper person for the purposes of holding a VEET scheme registry account;

(b) any other information relevant to whether the person should hold a VEET scheme registry account.

Clause 38 inserts new Division 3 (suspension and cancellation of accreditation) into Part 3 of the VEET Act. New section 14AD(1) provides that the Commission may, by written notice, request an accredited person to provide evidence as to whether they are a fit and proper person, and a competent and capable person, and to provide any other information relevant to the accredited person.

Privacy

To the extent that the information which a person must provide to the Commission under clauses 7, 9, 10, 24 and 38 may include personal information, these clauses may interfere with the right to privacy in section 13(a) of the Charter. In my opinion, any interference with privacy effected pursuant to these clauses will be lawful, as the amended or new provisions of the VEET Act are accessible and precisely formulated. I am also satisfied that any interference with privacy made in accordance with these sections will not be arbitrary, as it is reasonably necessary to support the Commission's ability to ensure that only fit, proper, competent and capable persons receive accreditation, which in turn supports the integrity of the VEET scheme.

In particular, any interference with a person's privacy will be modest, as there is a reduced expectation of privacy in the context of a regulated industry like the VEET scheme. Persons participating in the scheme do so voluntarily, and so any decision to disclose information to the Commission is ultimately at the discretion of the applicant.

In addition, the kinds of matters the Commission may consider in relation to a person's accreditation (and therefore, the information which may be 'relevant' to an application or to accreditation) are carefully tailored to the legislative objective of ensuring accredited persons are fit, proper, competent and capable.

Furthermore, existing section 65 of the VEET Act contains an important privacy safeguard, by making it an offence to disclose confidential information obtained during the exercise of powers or functions under, or in connection with, the VEET Act, except in limited circumstances.

Offence for failure to disclose adverse matter without reasonable excuse

Clause 13 of the Bill inserts new Subdivision 4 into Division 1 of Part 3 of the VEET Act. New section 14D provides that it is an offence for an accredited person to fail, without 'reasonable excuse', to disclose to the Commission any adverse matter as defined in new section 10B(2) to mean any matter that is likely to impact on the ESC considering the person to be, for the purposes of accreditation—(a) a fit and proper person, having regard to the matters specified in section 10B; or (b) a competent and capable person, having regard to the matters specified in section 10C.

This clause engages the Charter right to privacy (section 13(a)), the presumption of innocence (section 25(1)), and protection against self-incrimination (section 25(2)(k)). However, for the reasons set out below, I do not consider that clause 13 limits these rights.

Privacy

The requirement in new section 14D for an accredited person to disclose any 'adverse matter' to the Commission may interfere with an accredited person's privacy (where they are a natural person). However, for the reasons set out above in relation to clauses9, 10, 24 and 38, any such interference will be lawful (new section 14D is accessible and precise) and reasonably necessary to the objective of safeguarding the integrity of the VEET scheme. Therefore, clause 13 does not limit the right to privacy.

Presumption of innocence

New section 14D engages the presumption of innocence because the 'reasonable excuse' exception places an evidential burden on a person accused of the offence. However, it does not transfer the legal burden of proof to the accused. Once the accused has adduced (or pointed to) evidence of a reasonable excuse, which will ordinarily be particularly within their knowledge, the burden shifts back to the prosecution to prove the essential elements of the offence. I do not consider that an evidential onus of this kind limits the right to be presumed innocent in section 25(1) of the Charter.

Protection against self-incrimination

New section 14D requires an accredited a person to disclose any adverse matter (as defined in new section 10B(2)) to the Commission, which includes whether the person has been found guilty of certain criminal offences (new section 10B(a) to (c)), whether the person has a pending charge for an alleged commission of an offence specified in new section 10B(a) to (c) (new section 10B(d)), whether the person has engaged in any improper or adverse conduct (new section 10B(f)), and whether the person has failed to comply with a court or tribunal or ESC order (new section 10B(k)). Failure to disclose, without reasonable excuse, is an offence.

To the extent that a person may be required to disclose information which could tend to incriminate them, new section 14D may engage the protection against self-incrimination under section 25(2)(k) of the Charter. In my view, however, the right is not limited because the duty to disclose is subject to a 'reasonable excuse' defence, which expressly includes under new section 14E that that it is a reasonable excuse for the purposes of section 14D(1) for a person to refuse or fail to disclose an adverse matter within the meaning of that section if the disclosure of the adverse matter would tend to incriminate the person.

This is also consistent with existing protections against self-incrimination contained in sections 52 and 62 of the VEET Act.

Commission's power to suspend or cancel accreditation or VEET scheme registry account

Clause 38 replaces sections 14 and 14A of the VEET Act with new Division 3 (suspension and cancellation of accreditation) of Part 3. New section 14 empowers the Commission to suspend (for a period not exceeding 12 months) or cancel a person's accreditation, or cancel a person's accreditation and disqualify them from reapplying for renewal (for a period not exceeding 5 years), where it believes on reasonable grounds that any of the grounds set out in subsection 14(1) are met. The grounds include that the accredited person has committed an offence against the VEET Act, failed to comply with the requirement of the VEET Act or regulations relating to the recording or undertaking of prescribed activities, or obtained accreditation improperly. New section 15A(c) (inserted by clause 39) provides that it is an offence for a person to undertake a prescribed activity if their accreditation is suspended or has been cancelled. New section 14AB provides that the Commission may suspend the accreditation of an accredited person without notice if the Commission considers immediate suspension necessary, having regard to whether the person is a fit and proper person, whether the person is a competent and capable person, and the purposes of the VEET Act.

Clause 24 of the Bill inserts new Division 6 (VEET scheme registry accounts) into Part 3 of the VEET Act. New section 26D provides that the Commission may suspend a VEET scheme registry account for a period of up to 12 months if the Commission determines that the account holder is not a fit and proper person, or the account holder breaches a condition of the account. New section 26F empowers the Commission to suspend an account without notice where it considers that immediate suspension is necessary, having regard to whether the account holder is a fit and proper person, and the purposes of the VEET Act. New section 26I provides that the Commission may cancel an account if the Commission has suspended the account on 3 occasions. A person must not trade or surrender a certificate if the person's account is suspended or cancelled, unless the Commission has granted them permission (new section 26K(2)).

For the reasons set out below, I consider that clauses 24, 38 and 39 may engage, but do not limit, the Charter rights to privacy (section 13(a)), property (section 20) and fair hearing (section 24(1)), and the protection against self-incrimination (section 25(2)(k)) and double punishment (section 26).

Privacy

Restrictions upon a person's ability to work may engage the right to privacy in circumstances where they have a sufficient impact upon a person's capacity to experience a private life, maintain social relations or pursue employment. Therefore, clauses 24, 38 and 39 may empower the Commission to interfere with a person's right to privacy.

However, any interference will be neither unlawful (because it is authorised by an accessible and precise law) nor arbitrary.

In particular, the Commission may only suspend or cancel a person's accreditation, or cancel an accreditation and disqualify the person from seeking renewal, for one of the reasons listed in section 14(1). These grounds are appropriately tailored to the objective of enabling the Commission to ensure accredited persons are of good character and to protect the reputation and integrity of the VEET scheme. There are express time limits on suspension or disqualification. Similarly, the Commission may only suspend or cancel a VEET scheme registry account where the holder is no longer a fit and proper person (for example, because they have been convicted of an offence involving dishonesty or fraud), or has breached a condition of the account. This power is reasonably necessary to uphold the integrity of the accounts, and the effective operation of the certificate market more broadly.

Moreover, a person may apply for the Commission to reconsider a decision made under new sections 14 or 26D (section 56(2), replaced by clauses 25 and 42) and apply to VCAT for review of any such decision (section 56B, inserted by clauses 26 and 43). This offers further protection against any arbitrary interferences with privacy under clauses 24, 38 and 39.

Property

Insofar as an accreditation or a VEET scheme registry account could be characterised as 'property' under section 20 of the Charter, the Commission's powers to suspend or cancel an accreditation or account may be considered to affect a deprivation of a person's property.

However, I do not consider that clauses 24, 38 and 39 limit the Charter right to property because any deprivation of property made pursuant to the sections inserted into the VEET Act by those clauses will be 'in accordance with law'. In particular, the detailed list of grounds pursuant to which the Commission may suspend or cancel an accreditation or VEET scheme registry account protects against arbitrary exercises of the Commission's powers.

Fair hearing

Insofar as clause 38 provides for the immediate suspension of an accreditation (new section 14AB), and clause 24 provides for the immediate suspension of a VEET scheme registry account (new section 26F), the right to a fair hearing in a civil proceeding (section 24(1)) may be engaged. While there is doubt under the current case law as to whether the Commission would be considered a 'tribunal' so as to enliven this right, or whether 'civil proceeding' extends to administrative decision-making of this nature (involving determination of provisional and conditional interests such as accreditation or registry accounts), I will nevertheless consider this right.

The concept of a fair hearing encompasses procedural fairness, which requires a party to a proceeding to have a reasonable opportunity to put forward their case under conditions which do not place them at a substantial disadvantage to their opponent. Absence of notice prior to suspension may therefore engage this aspect of the right.

However, having regard to the entirety of the process for suspensions of accreditation or VEET scheme registry accounts, I am satisfied that a person who is a party to those proceedings will be accorded a fair hearing. In particular, new section 14AB(2) provides that the Commission must give a person whose accreditation is immediately suspended written notice stating the grounds for the suspension, and inviting the person to make a submission to establish why their accreditation should not be suspended. This allows affected persons to be properly informed of the case being advanced by the Commission, and provides them a reasonable opportunity to respond. New section 14AF(1) provides that, after considering any submissions made by the person and any other available information, the Commission may revoke a suspension under new section 14AB(1), take any action under new section 14, or take no further action. A similar process is set out in new sections 26F(2) and 26H(1) in relation to immediate suspensions of VEET scheme registry accounts. Last, as discussed above, a person may apply to the Commission to reconsider any decision of the Commission under new sections 14 or 26D (section 56(2), replaced by clauses 25 and 42) and may apply to VCAT for review of any such decision (section 56B, inserted by clauses 26 and 43).

Accordingly, I am of the view that clauses 24 and 38 are compatible with the right to a fair hearing.

Protection against self-incrimination

New sections 14A and 14AB(2) (inserted by clause 38) provides for a person whose accreditation is proposed to be suspended or cancelled, or who may be disqualified from seeking renewal, or whose accreditation has been immediately suspended, to make submissions to the Commission to establish why the action should not be taken. A similar process for submissions is included in new sections 26E and 26F(2) (inserted by clause 24), in relation to the suspension or cancellation of VEET scheme registry accounts. To the extent that the submission may relate to conduct that could also be the subject of a criminal charge against the person (for example, improper or adverse conduct, or failure to comply with a court order), clauses 24 and 38 may engage the protection against self-incrimination in section 25(2)(k) of the Charter.

While it is not mandatory for an accredited person to make a submission to the Commission, a person may nevertheless be considered to be 'compelled' (in a practical sense) to make a submission in order for the person to retain their accreditation or their VEET scheme registry account, especially where this may be critical to their livelihood.

Nevertheless, I do not consider that these provisions limit the protection against self-incrimination, because new section 14AE it is a reasonable excuse for the purposes of section 14AD(1) for a person to refuse or fail to disclose an adverse matter within the meaning of that section if the disclosure of the adverse matter would tend to incriminate the person. This is also the case in new sections 14E, 26I, and 55P. In other words, information submitted by a person to the Commission cannot subsequently be used against them in a criminal proceeding.

This is also consistent with existing protections against self-incrimination contained in sections 52 and 62 of the VEET Act.

Protection against double punishment

Clauses 24 and 38 may engage the protection against double punishment insofar as a natural person who has been previously been tried and convicted of a criminal offence may have their accreditation suspended or cancelled, and be disqualified from applying for reaccreditation, or have their VEET scheme registry account suspended or cancelled, on the basis of the same underlying conduct.

In my view, however, these clauses do not limit the protection against double punishment in section 26 of the Charter, because they do not impose penal consequences. Rather, the legislative purpose is to enable the Commission to ensure accredited persons are of good character, and to protect the integrity of the VEET scheme and the effective operation of the certificates market.

This may also apply to clause 41 in so far as a natural person is liable to an offence for not complying with a shortfall statement issued to the person under section 36. In my view, however, these clauses do not limit the protection against double punishment in section 26 of the Charter, because the consequence from the new offence in section 37A under clause 41 is distinct and independent as a failure to comply with the statement issued by the ESC under section 36, as distinct from the civil pecuniary penalty which is a kind of restitution type payment required under section 28.

Compliance audits

Clause 52 of the Bill inserts new Part 7A into the VEET Act, which is intended to strengthen the legal framework that applies to compliance and assurance audits. New section 55A provides that, if the Commission has reasonable grounds to suspect that an accredited person has contravened a provision of the VEET Act or regulations, the Commission may conduct a compliance audit of the accredited person, or require the accredited person to arrange for a compliance audit by an independent auditor. Similarly, new section 55G provides that the Commission may require an accredited person to arrange for the conduct of an assurance audit by an independent auditor. New section 55R allows the Commission to publish information about compliance and assurance audits for accredited persons on the Commission's internet site.

This clause engages the Charter right to privacy (section 13(a)), the right to property (section 20), and the protection against self-incrimination (section 25(2)(k)). However, for the reasons set out below, I do not consider that clause 52 limits any of these rights.

Privacy

To the extent that the information that may be published on the Commission's internet site pursuant to new section 55R may include personal information, clause 52 will engage, but not limit, the right to privacy. Any interference with privacy will be lawful, as new section 55R is accessible and precisely formulated, and will not be arbitrary as it is reasonably necessary to achieve the purpose of maintaining the integrity of and maintaining public confidence in the VEET scheme.

In particular, any interference with a person's privacy will be modest, as there is a reduced expectation of privacy in the context of a regulated industry like the VEET scheme and persons participating in the scheme do so

voluntarily. Also, new section 55R limits the type of information which may be published: the Commission may not publish information about an accredited person where the auditor identified significant issues.

Lastly, the Commission is a 'public authority' under the Charter, so it must act in accordance with human rights (including the right to privacy) when disclosing personal information (s 38 of the Charter).

Property

It is possible that clause 52 may be considered to result in a deprivation of property insofar as an accredited person is required to bear the costs associated with the conduct of a compliance or assurance audit (new sections 55F(2), 55J(2)).

However, I do not consider that clause 52 limits the Charter right to property because any deprivation resulting from an audit required by the Commission, in accordance with new Part 7A, will be 'in accordance with law'. In particular, the requirement for an accredited person to bear the cost of an audit is reasonably necessary to support the objective of maintaining the integrity of the VEET scheme.

Protection against self-incrimination

New sections 55B(c) and 55F(1)(b) (inserted by clause 52) require an accredited person to comply with the Commission or independent auditor in the conduct of a compliance audit. Similarly, new section 55J(1)(b) requires an accredited person to cooperate with an independent auditor in the conduct of an assurance audit. Under new section 55O, it is an offence for a person who is required to disclose information to an auditor for the purposes of a compliance or assurance audit to withhold the information or otherwise fail to disclose it. To the extent information which an accredited person must disclose to an auditor may relate to a matter which may also be the subject of a criminal charge against that person, and therefore compel the person to incriminate themselves, the protection against self-incrimination in section 25(2)(k) may be engaged.

Nevertheless, I do not consider that these provisions limit the protection against self-incrimination, because new section 55P provides it is a reasonable excuse for the purposes of sections 55N and 55O for a person to refuse or fail to disclose information or produce a document to an auditor or withhold the information, if the disclosure of the information or production of the document would tend to incriminate the person. In other words, information required to be submitted by a person to an auditor cannot subsequently be used against that person in a criminal proceeding.

This is also consistent with existing protections against self-incrimination contained in sections 52 and 62 of the VEET Act.

Application of civil penalty regime

Clause 45 inserts new section 6A into the VEET Act, and clause 46 inserts new Part 6A. Together, these clauses apply the *Essential Services Commission Act 2001* enforcement and civil penalty regime to provisions of the VEET Act specified as civil penalty requirements in the Schedule (inserted by clauses 29, 37, 44, 46, and 47).

The possibility that a natural person who has been tried and finally convicted of an offence may be subsequently tried for a civil penalty and/or punished for the same underlying conduct, engages the right not to be tried or punished more than once under section 26 of the Charter.

However, in my view, the protection against double jeopardy is not limited because new section 40D expressly provides that a contravention of a civil penalty provision is *not* an offence. Moreover, I do not consider that a penalty imposed for breach of a civil penalty requirement under the *Essential Services Commission Act 2001* serves a punitive function, so as to limit the protection against double punishment. For example, section 54(2) requires a person who is subject to a civil penalty order to pay the civil penalty amount into the Essential Services Commission Enforcement Fund, which supports the regulatory functions of the Commission (section 54ZR).

Expansion of the Commission's power to disclose information

Clause 65 amends section 66 of the VEET Act to expand the range of persons and bodies to whom the Commission (or a person authorised by the Commission) may divulge or communicate information.

To the extent that the information which the Commission may provide to these persons and bodies includes personal information, clause 65 will engage the right to privacy in section 13(a) of the Charter. However, in my opinion, the right is not limited as any interference with privacy effected pursuant to section 66 (as amended) will be lawful, as the section is accessible and precisely formulated, and non-arbitrary.

More specifically, amended section 66 only permits the Commission to share information with persons and bodies who are listed, and only for specific purposes that are reasonably connected to the VEET scheme. For example, the Commission may disclose information to a public sector body or Council for the purposes of administering a program related to prescribed activities (new section 66(j)) or to a distribution network service

provider for the purpose of assessing the impact of prescribed activities on energy demand (new section 66(l)). In other words, any interference with privacy will be reasonably necessary to achieve specified purposes.

Furthermore, any interference with a person's privacy will be modest, as there is a reduced expectation of privacy in the context of a regulated industry like the VEET scheme. Persons participating in the scheme do so voluntarily, and so any decision to disclose personal information to the Commission is ultimately at the discretion of the participant. In addition, the Commission is a 'public authority' under the Charter, so it must act in accordance with human rights (including the right to privacy) when disclosing personal information (section 38 of the Charter).

Hon. Lily D'Ambrosio
Minister for Energy, Environment and Climate Change

Second reading

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes) (10:09): I move:

That this bill be now read a second time.

I ask that my second-reading speech be incorporated into *Hansard*.

Incorporated speech as follows:

The Victorian Government has been a leader in taking strong action on climate change, while saving Victorian households and businesses money. Energy efficiency is at the heart of this approach, not only saving consumers money, but making them more comfortable in their homes and businesses and supporting jobs and innovation.

The Victorian Energy Upgrades program is the largest energy efficiency initiative in Victoria and is also a major contributor to the achievement of Victoria's interim emissions reductions targets established under the *Climate Change Act 2017*. Since the program commenced in 2009, over two million households and 141,000 businesses have participated in the program, and it has reduced Victoria's greenhouse gas emissions by over 73 million tonnes.

The Victorian Energy Efficiency Target Act 2007 establishes the regulatory framework for the Victorian Energy Upgrades program. Under the program, 'accredited providers' provide Victorian households and businesses with energy saving products and services at discounted prices or, in some cases, at no cost, by selling certificates which represent these energy and greenhouse savings. Discounts on energy saving products and services encourage more households and businesses to save energy, which reduces overall energy demand and therefore reduces prices for everyone. Energy retailers are obligated to buy certificates to meet the energy saving target for the year. To date, the cost of meeting the target has been more than offset by the impact of reduced demand reducing prices—meaning all consumers save money, even those who do not participate.

This Bill will ensure the Victorian Energy Upgrades program has an appropriate legislative framework and strong consumer protections as it transitions to higher targets, more installations of energy saving equipment and greater energy savings for Victorian households and businesses. Strong consumer protections, compliance and consumer trust in the program is essential to ensuring the benefits will continue to be realised.

This Bill will ensure that the accredited providers under the program are appropriately qualified—through requirements to demonstrate they are a fit and proper person and a competent and capable person. They will need to annually renew their accreditation and undertake independent assurance audits. And the regulator, the Essential Services Commission, will be able to reject applications to renew an accreditation and revoke, suspend or impose conditions on accreditations.

This Bill will strengthen consumer protections by introducing penalties for all businesses providing services under the program, including subcontracted telemarketers or installers (rather than just accredited providers). This with strengthen the Essential Services Commission's powers to enforce the Code of Conduct for the program.

Finally, the Bill will empower the Essential Services Commission to take strong action to ensure compliance. The Bill introduces of new offences, enforcement tools and greater flexibility. The Essential Services Commission's enhanced powers will be balanced by greater accountability—to ensure stakeholder can be confident this important program is operated by a strong regulator.

I commend the Bill to the house.

Mr WAKELING (Ferntree Gully) (10:09): I move:

That the debate be adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned for two weeks. Debate adjourned until Thursday, 7 July.

RESIDENTIAL TENANCIES, HOUSING AND SOCIAL SERVICES REGULATION AMENDMENT (ADMINISTRATION AND OTHER MATTERS) BILL 2022

Statement of compatibility

Mr WYNNE (Richmond—Minister for Planning, Minister for Housing) (10:10): In accordance with the Charter of Human Rights and Responsibilities Act 2006 I table a statement of compatibility in relation to the Residential Tenancies, Housing and Social Services Regulation Amendment (Administration and Other Matters) Bill 2022:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (**Charter**), I make this Statement of Compatibility with respect to the Residential Tenancies, Housing and Social Services Regulation Amendment (Administration and Other Matters) Bill 2022 (**Bill**).

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

Overview of the Bill

The Bill amends the *Residential Tenancies Act 1997* to broaden the definition of common areas and provide for Homes Victoria (formerly the Director of Housing) to provide community impact statements with certain applications for a possession order in relation to rented premises which are public housing. It amends both the *Housing Act 1983* and the *Residential Tenancies Act 1997* in relation to provision of affordable housing to renters. It also amends the *Housing Act 1983* in relation to the functions and constitution of Homes Victoria as well as establishing the Homes Victoria Advisory Board. It also amends the *Social Service Regulation Act 2021* and *Supported Residential Services (Private Proprietors) Act 2010* to delay commencement of the new social services regulatory scheme to 1 July 2024.

Human rights issues

The human rights protected by the Charter that are relevant to the Bill are:

- The right to recognition and equality before the law (section 8);
- The right to privacy (section 13);
- The right to take part in public life (section 18); and
- Property rights (section 20).

Homes Victoria Advisory Board

Clause 20 of the Bill inserts new Division 3 of Part II into the *Housing Act 1983*, which establishes the Homes Victoria Advisory Board to provide strategic advice in relation to the direction and performance of Homes Victoria. New section 11D provides that, in appointing members of the Advisory Board, the Minister must have regard to the diversity of members of the Advisory Board, including gender, disability and sexuality. The Minister must also ensure that Aboriginal persons are represented on the Advisory Board. This provision engages the right to equality in section 8 of the Charter and the right to take part in public life in section 18 of the Charter.

Section 8(3) of the Charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. Section 18(2)(b) of the Charter provides that every eligible person should have the opportunity, without discrimination, to access the Victorian public service and public office. 'Discrimination' under the Charter means discrimination within the meaning of the *Equal Opportunity Act 2010*. Under section 8 of that Act, direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.

New section 11D will engage the rights to equality and to access public office without discrimination where a person is not appointed to the Advisory Board, or not considered for such an appointment, on the basis of a protected attribute, such as gender, race or sexuality. However, the rights will not be limited by this provision, which is designed to ensure that the Advisory Board reflects the diversity of the Victorian community and that historically underrepresented groups are included in the membership of the Board. Section 8(4) of the Charter makes clear that measures taken for the purpose of assisting or advancing persons or groups of persons

disadvantaged because of discrimination do not constitute discrimination. Further, section 11D does not prevent persons with particular attributes from being appointed to the Advisory Board, but simply makes the diversity of the Board a consideration when appointing new members. Accordingly, any interference with the rights in section 8 and 18 of the Charter will be reasonable and demonstrably justified having regard to the purpose of the provision.

Affordable Housing

Clause 26 of the Bill inserts new Part VIIIB into the *Housing Act 1983* which establishes the Victorian Affordable Housing Programs. This empowers the Minister, by order published in the Government Gazette, to declare an affordable housing program to be a Victorian Affordable Housing Program, with the declaration describing the scope and purposes of the program. Homes Victoria is then empowered to operationalise a declared Victorian Affordable Housing Program through a VAHP determination, which could set out details of the program including eligibility requirements, selection processes for participation in the program, rent settings, tenancy management, tenure length, record keeping requirements, requirements for information collection, dispute resolution processes and other necessary or relevant matters.

The Bill also makes amendments that affect housing allocated under the National Rental Affordability Scheme. While the Charter does not protect rights to housing, these amendments to the *Residential Tenancies Act 1997* have scope to engage various rights under the Charter.

Notices to vacate

Clauses 12 and 13 of the Bill insert new sections 91ZZEA and 91ZZEB respectively into the *Residential Tenancies Act 1997*, which, in the context of rented premises which are subject to a current allocation under the National Rental Affordability Scheme or are provided under the Victorian Affordable Housing Programs, empower a residential rental provider to provide a notice to vacate in relation to a renter who no longer meets the eligibility criteria of the respective scheme. To facilitate this, the provisions require renters to submit documentation at the request of the residential rental provider for the purpose of assessing the renter's ongoing eligibility for such housing. If the renter does not provide the documentation within 60 days, or no longer meets the eligibility criteria, the provisions enable the residential rental provider to give the renter a notice to vacate.

Section 13(a) of the Charter provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. An interference will be lawful if it is permitted by a law which is precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought. Section 20 provides that a person must not be deprived of his or her property other than in accordance with law. While the Charter does not define the term 'property', it is likely to include an interest in property pursuant to a residential tenancy agreement.

The right to privacy will be engaged by the requirement in new sections 91ZZEA and 91ZZEB for a renter to disclose personal information (such as their income) to a residential rental provider. However, in my view, any interference with the right will be lawful and not arbitrary. Any request for documentation must be made in accordance with the requirements under the National Rental Affordability Scheme or the relevant Victorian Affordable Housing Program (as the case may be) and for the sole purpose of assessing the renter's ongoing eligibility for such housing. I note that an individual participating in an affordable housing scheme such as the National Rental Assistance Program or Victorian Affordable Housing Programs would have a limited expectation of privacy in the context of relevant information necessary to satisfy that person's eligibility for the scheme. These provisions ensure that the important objective of providing needs-based affordable housing is able to be fulfilled, and that available housing stock under these schemes are utilised appropriately.

The right to privacy will also be engaged by new sections 91ZZEA and 91ZZEB to the extent that issuing a notice to vacate will have the effect of interfering with a person's home. The circumstances in which a renter may be issued with a notice to vacate are clearly set out in the Bill and are appropriately circumscribed. Importantly, the provisions only apply where a renter is no longer eligible for the National Rental affordability Scheme or Victorian Affordable Housing Programs (or fails to provide documentation demonstrating their eligibility) both of which are subject to the limits described above and additional safeguards outlined below. The provisions are necessary to protect the integrity of those schemes and ensure the availability of affordable housing under these schemes for targeted cohorts. For these reasons, I am of the opinion that these provisions are compatible with the right in section 13(a) of the Charter. Further, to the extent that a notice to vacate may constitute a deprivation of property pursuant to section 20 of the Charter, any such deprivation will be in accordance with law and therefore compatible with the right to property.

Clause 14 amends section 91ZB(1)(a) to extend the reduced period for notice of intention to vacate to include sections 91ZZEA and 91ZZEB. Clause 15 expands section 91ZZI to expand circumstances in which notice will have no effect to include sections 91ZZEA and 91ZZEB. Clause 16 expands section 91ZZU(1) to expand circumstances in which a renter may challenge notice to vacate on grounds of family violence or personal

violence to include sections 91ZZEA and 91ZZEB. These new clauses extend existing safeguards and beneficial provisions to renters under the National Rental Affordability Scheme and Victorian Affordable Housing Programs, and mitigate the extent of the interferences with privacy or property rights that may result from the giving of notices to vacate in certain circumstances under new sections 91ZZEA and 91ZZEB. Accordingly, I am satisfied that these new provisions are compatible with the Charter.

Withholding consent to an assignment or sublet

Clause 63 amends section 83 of the *Residential Tenancies Act 1997* to permit a residential rental provider of affordable housing under the Victorian Affordable Housing Programs to withhold consent for assignment or subletting to prevent disadvantage to persons eligible for affordable housing under the Victorian Affordable Housing Programs.

This engages the right to property under section 20 of the Charter, as it may interfere with a tenant's enjoyment of a proprietary right by restricting their ability to sublet or assign a residential rental agreement, albeit the ability to do so is already qualified under the Act.

However, to the extent that this does constitute a deprivation of property, the right will not be limited where the provision authorising the deprivation of property is clear and precise, accessible to the public, and does not operate arbitrarily. In this case, the power to withhold consent for assignment or subletting in these circumstances is consistent with the purpose of ensuring that affordable housing under the Victorian Affordable Housing Programs is provided to those who meet the eligibility criteria for such housing, and that the objects of the scheme are not frustrated. Further, a person entering into a residential rental agreement with a provider of affordable housing under the Victorian Affordable Housing Programs will be aware of these limits on assigning and subletting. Accordingly, I am satisfied the right is not limited by this provision.

Requesting information from renters or applicants

Clause 11 of the Bill amends section 30C of the *Residential Tenancies Act 1997* to introduce a new exception to the prohibition on a residential rental provider requesting prescribed information from renters. The subsection provides that nothing in existing section 30C prevents a residential rental provider from requesting a renter or applicant for affordable housing or social housing to provide any statement from an authorised deposit-taking institution containing credit transactions. Given such statements contain personal information in relation to financial transactions, this engages the right to privacy under section 13(a). However, as above, there is likely to be a reduced expectation of privacy in the context of engaging in social or affordable housing programs, where certain personal information will be required to be disclosed in order to ascertain eligibility for the program. The ability to request financial information is confined to requesting a statement of credit transactions only, and does not extend to debit transactions (these can be redacted unless a renter or applicant chooses to provide such information).

Therefore, to the extent that s 13(a) is limited, I consider limits are proportionate and consistent with the purpose of ensuring the appropriate allocation of social and affordable housing stock.

Exception to anti-discrimination provisions

Clause 10 amends section 30A(4) to add an entity that provides rented premises as affordable housing in accordance with the Victorian Affordable Housing Programs, as an entity exempted from the requirement not to unlawfully discriminate against another person by refusing to let premises. Clause 10 also adds new section 30A(6) which provides that if Homes Victoria makes a VAHP determination that relates to a protected attribute, then that VAHP determination is not a contravention of section 30A.

These amendments engage the right to equality and non-discrimination under section 8 of the Charter, because this clause has the effect of removing a mechanism for certain renters to access redress for unlawful discrimination for breaches of section 30A. This clause also engages this right as it proposes to treat renters under the Victorian Affordable Housing Programs differently to other Victorian renters, as they are excluded from redress under the *Residential Tenancies Act 1997*.

In many cases, persons with the greatest need for affordable housing are likely to be persons with a protected attribute under the *Equal Opportunity Act 2010*, for example, persons experiencing family violence, who are most likely to be women and children, people with a disability, or a person aged 55 or over. Accordingly, this amendment is capable of constituting a special measure under section 8(4) of the Charter taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination, and is thus not discriminatory.

However, to the extent that this amendment is not considered to be a special measure, I consider any limit on the rights in section 8 of the Charter is demonstrably justifiable on the basis that clause 10 of the Bill is designed to address the risk of section 30A obstructing the purpose of the Victorian Affordable Housing Programs. The risk is that, absent amendment, these sections may prevent the allocation of housing to eligible applicants intended to be prioritised under the program. This amendment enables the Victorian Affordable Housing

Programs to serve targeted groups—who may, for example, comprise low and moderate income earners and essential government funded service delivery workers—without contravening anti-discrimination provisions.

I am therefore of the opinion that any limit on the right to equality under section 8 of the Charter is reasonable and justified.

Common areas

Clauses 6 and 7 amends sections 3(1) and introduces new section 3C of the *Residential Tenancies Act 1997* respectively, which broaden the definition of 'common areas' to allow Homes Victoria to prescribe certain areas as common areas in relation to rented premises which are public housing, by notice published in the Government Gazette. This in turn broadens the scope of various provisions under the *Residential Tenancies Act 1997* that concern common areas, including the obligation not to cause property damage (s 61), circumstances in which a notice to vacate can be issued for drug related conduct (s 91ZR) and circumstances in which a notice to vacate can be issued for committing prescribed indictable offences (s 91ZS). To the extent that these provisions apply to natural persons, they may engage the right to privacy under section 13(a) and property rights under section 20, in that they may broaden the scope of existing conduct obligations on a renter in relation to common areas (a failure of which may enliven the giving of a notice to vacate).

The purpose of this amendment is to provide greater certainty about the areas to which these various obligations apply (which are largely aimed at ensuring a safe environment and preventing anti-social behaviour), and to ensure that certain common areas which previously were not captured by the existing definition are covered by these protective provisions. To ensure these amendments are accessible, Homes Victoria will, under new section 3C(4) be required to take all reasonable steps to ensure that renters are aware which areas are specified to be a common area. This may include providing information directly to the renter, for example, in the form of a notice provided when the person enters into a residential rental agreement, using signage or providing notices or letters to residents if an area relevant to their rental premises has been gazetted to be a common area. Given these safeguards and the overarching protective purpose this amendment serves, I believe that any limitation of rights to privacy or property are reasonable and justified in the circumstances.

Community impact statements

Clause 4 introduces new section 322A of the *Residential Tenancies Act 1997* which allows Homes Victoria to provide the Victorian Civil and Administrative Tribunal with a community impact statement when applying for a possession order. The statement must contain information relating to the impact of the renter's conduct on affected persons which led to the notice to vacate, and a copy must be given to the renter or their legal representative if made. To the extent this may involve the use and disclosure of personal information from other persons, this may engage the right to privacy under section 13(a) of the Charter. However, this use and disclosure of information would not be arbitrary, as the information is being provided for a protective purpose that promotes the rights of others (being to satisfy the Tribunal of the grounds of a possession order involving prohibited conduct or behaviour of a renter that threatens the safety and welfare of other persons) and would concern information that would largely have been voluntarily reported to Homes Victoria. The provision does not require a person affected by the renter's conduct to give this information. Accordingly, I am satisfied that any interference with privacy effected by this provision is compatible with the Charter.

Hon Richard Wynne MP
Minister for Housing

Second reading

Mr WYNNE (Richmond—Minister for Planning, Minister for Housing) (10:11): I move:

That this bill be now read a second time.

I ask that my second-reading speech, sadly, be incorporated into *Hansard*.

Incorporated speech as follows:

This Bill makes amendments to the Residential Tenancies Act 1997 and the Housing Act 1983.

Amendments to the Housing Act 1983

In November 2020 the government announced the creation of Homes Victoria as part of its $5.3 billion Big Housing Build. The Big Housing Build is the largest investment in housing in Victoria's history and will deliver over 12,000 homes including 2,400 affordable housing properties.

This Bill will establish Homes Victoria as a strong, sustainable and contemporary housing agency underpinned by a robust and enduring governance structure.

Enshrining key governance reforms to position Homes Victoria as a strong, sustainable and contemporary Victorian Government housing agency

Key to Homes Victoria's role as a strong, sustainable and contemporary Victorian Government housing agency are governance changes contained in the Bill. These include strengthening the accountability and oversight over delivery of Homes Victoria's strategic objectives and reforms through a skills-based Homes Victoria Advisory Board.

The Bill will establish a Homes Victoria Advisory Board to provide strategic advice to the Minister and the CEO, Homes Victoria in accordance with written terms of reference. This embeds the Board as an enduring structure to provide the governance and oversight of Homes Victoria.

Alongside the professional experience and expertise of the Board, the membership will also embed representation of Victoria's Aboriginal citizens.

The Bill will formalise the transition of the Director of Housing to Homes Victoria. The Director of Housing is a unique body corporate structure in Victoria functioning as both a body corporate sole and as an appointed individual. The Bill will make a distinction between these roles by changing the name of the statutory office to Chief Executive Officer, Homes Victoria, and changing the name of the body corporate sole to Homes Victoria.

Enabling streamlined delivery of the Big Housing Build by embedding and clarifying the transaction structures available to Homes Victoria

Homes Victoria was established to bring a more commercial way of operating to Victoria's housing system. Renewing and substantially expanding Victoria's social and affordable housing stock is critical to make sure we have a sustainable housing system that can deliver for generations to come. Key to this will be Homes Victoria's capacity to implement innovative financing models.

The Bill will enshrine an enabling legislative framework for Homes Victoria to identify the most appropriate models and transaction structures to support a range of options used typically in the property investment and financing market. These will include the establishment of companies, joint ventures, trusts, partnerships to invest, lend and contribute funds that support the Big Housing Build.

The Bill will equip Homes Victoria with the rights, functions, powers and flexibility required to participate in the property development market in the ways in which the market most often transacts.

These powers are based on the model of Development Victoria, including learnings from the implementation of the *Development Victoria Act 2003* and the *State Owned Enterprises Act 1992*.

Legislative framework for affordable housing

The Victorian Government is committed to supporting low to moderate income Victorians to access quality housing options that are within their means. To deliver on our commitment we have created Homes Victoria to deliver affordable housing and funding the first 2,400 properties in the Affordable Housing Rental Scheme.

The Bill will establish a legislative framework for Victorian Affordable Housing Programs, which includes the Affordable Housing Rental Scheme as the first Program.

More Victorians than ever are renters, including many of the people who helped Victoria survive the pandemic. They are the essential workers who run our supermarkets, hospitals, schools and aged and disability care facilities, deliver us water and power, take away our rubbish and recycling, and make our cities, suburbs and towns work.

There is a growing gap between the existing private market and social housing. Many working households are being priced out of private rental and are unable to access home ownership. More than 162,000 households, or one-in-four of the 650,000 households in the private rental market, are experiencing rental stress. That means more than 30 per cent of their income is spent on rent, which reduces the money available to pay for other essential items and expenses.

The Victorian Government is responding to the growing gap in housing affordability and supply for many low to moderate income households. This includes essential government funded service delivery workers such as nurses, police, teachers and care workers—who are experiencing rental stress and may be struggling to access home ownership.

The first Victorian Affordable Housing Program will be the Affordable Housing Rental Scheme which will deliver an initial 2,400 affordable rental homes to address affordability pressures in metropolitan Melbourne and regional city centres, and supply and affordability issues in regional Victoria as part of the $5.3 billion Big Housing Build.

This Bill establishes the framework for creation and implementation of these types of programs to support low to moderate income Victorian renters to access quality housing options that are within their means.

Amendments to the Residential Tenancies Act 1997

Through amendments to the Residential Tenancies Act 1997 the Bill also clarifies certain requirements for providers and renters of affordable housing.

The government recognises there are features which differentiate the social and affordable housing model from the private rental market, including the application of eligibility criteria for prospective and ongoing renters that are based on income thresholds.

Preserving the integrity and sustainability of the National Rental Affordability Scheme (NRAS) and Victorian Affordable Housing Programs

One such affordable housing program is the National Rental Affordability Scheme or NRAS. NRAS is a Commonwealth Government affordable housing program. It seeks to address the national shortage of affordable rental housing by offering financial incentives to organisations that provide renters on low to moderate incomes with homes at a rate at least 20 percent below market value rent. To remain eligible, NRAS providers must ensure the income of the renters in their properties remains below the NRAS cap.

Recent reforms to the Residential Tenancies Act have resulted in NRAS investors having no means to ensure their properties are only rented to eligible renters.

The Bill ensures continuity of the NRAS scheme in Victoria, by ensuring that NRAS providers can continue to house renters who satisfy the NRAS income criteria, request key income documentation and remove renters who have become ineligible for NRAS housing.

To protect the rights of NRAS renters who do provide evidence of their eligibility, the Bill will deem a notice to vacate to have no effect where a renter provides evidence of their eligibility prior to the date on the notice.

The Bill also contains similar provisions for Victorian Affordable Housing Programs to enable providers of affordable housing under a declared Victorian Affordable Housing Program to continue to house renters to satisfy that Program's criteria, request key income documentation and remove renters who have become ineligible.

Ensuring the voices of public housing renters are considered by VCAT

Our Government is committed to making public housing a safe and productive community for all residents. There is no place in our public housing communities for renters who engage in anti-social behaviour, including those who engage in illegal drug dealing and who threaten and intimidate their neighbours.

A key theme of feedback received by the Director of Housing by neighbours impacted by anti-social behaviour is a reluctance to provide evidence at VCAT due to fears for their safety and concerns of reprisal.

This means that the human rights, dignity and respect of neighbours impacted by ant-social behaviour is not being adequately protected and considered. All renters, regardless of whether they are private renters or public housing renters, must be able to feel safe and free from intimidating and threatening behaviours in their own homes. Being a public housing renter should not mean having to live in fear and put up with behaviours that we all find intolerable.

The Bill will ensure there is an appropriate balancing of the rights of the renter, and those of the renter's neighbours and community by requiring that VCAT must take into account a community impact statement, if provided, when considering granting a possession order in cases of serious anti-social behaviour. The Bill does not limit VCAT's discretion as to the weighting it places on the community impact statement.

The Bill will provide an important avenue for those impacted to have their voices heard within VCAT proceedings, with an opportunity for those impacted to provide de-identified evidence in certain cases. The submission of community impact statement will safeguard the rights of the renter, as well as the community.

The community impact statement's core purpose is to assist VCAT to understand the impact of anti-social behaviour the individual and the wider community, maximising both parties' safety and well-being through well-integrated support. This can inform decision making alongside increasing public confidence in balancing the human rights of both parties.

Changes to the definition of common area in relation to public housing estates

The Bill builds on the existing definition outlined in section 3(1) of the Act as the current definition of common area is quite broad.

The Bill will clarify gaps within the legislation by providing a pathway to pursue a legal response in cases of anti-social behaviour which occurs in areas associated with rented premises, including areas of public access.

It intends to uphold the rights of residents to enjoy and feel safe in their communities. The gap in current settings interferes with the ability to adequately protect these rights, with the potential to limit an effective response to incidents which occur on Director-owned land.

This amendment is targeted at high-rise public housing estates, with legal action only available if a connection exists between the rented premises and the specified common area.

Amendments to the Social Services Regulation Act

The Bill also amends the Social Services Regulation Act to delay commencement of the social services regulatory scheme for 12 months, to 1 July 2024.

That Act introduces a comprehensive regulatory framework for Victorian social services, with significantly enhanced protections for service users to keep them safe from harms such as abuse and neglect. Many services that will be within the scope of the new regulatory framework have not previously been regulated and require additional time to operationalise the new requirements. In addition, all service providers will be required to implement new requirements such as the six social services standards set out in the new regulatory scheme and require additional lead time to ensure a smooth transition to the new arrangements.

I commend the Bill to the house.

Mr RIORDAN (Polwarth) (10:11): I move:

That the debate be adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned for two weeks. Debate adjourned until Thursday, 7 July.

BUILDING, PLANNING AND HERITAGE LEGISLATION AMENDMENT (ADMINISTRATION AND OTHER MATTERS) BILL 2022

Statement of compatibility

Mr WYNNE (Richmond—Minister for Planning, Minister for Housing) (10:13): In accordance with the Charter of Human Rights and Responsibilities Act 2006 I table a statement of compatibility in relation to the Building, Planning and Heritage Legislation Amendment (Administration and Other Matters) Bill 2022:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (**Charter**), I make this Statement of Compatibility with respect to the Building, Planning and Heritage Legislation Amendment (Administration and Other Matters) Bill 2022.

In my opinion, the Building, Planning and Heritage Legislation Amendment (Administration and Other Matters) Bill 2022 (**Bill**), as introduced to the Legislative Assembly, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

Parts 2 to 6 of the Bill amend the *Building Act 1993* (**Building Act**), the *Architects Act 1991* (**Architects Act**) and other Acts to implement several recommendations of the Expert Advisory Panel that was appointed by the government to review the Victorian legislative and regulatory framework for the building sector. These Parts of the Bill will—

- establish a statutory position of State Building Surveyor to be appointed by the Victorian Building Authority (**VBA**). This position will provide technical expertise on building and plumbing codes for the building sector and regulators and act as the State's leading building surveying technical expert;
- establish a statutory position of Building Monitor to collect, analyse and publish information, and provide advice to the Minister and others, regarding systemic issues affecting domestic building consumers and to represent, at a systemic level, domestic building consumer interests;
- broaden the Victorian Building Authority's power to enter into information sharing arrangements with other persons and bodies who exercise functions related to the building sector;
- amend two categories and insert two new categories of building practitioner, who will be required to be registered before they can carry out a prescribed kind of work in relation to building;
- require a relevant building surveyor to provide an information statement to an owner of land or a building, for which an application for a building permit has been made in relation to a prescribed class of building, with prescribed information relating to the surveyor's role and responsibilities, when issuing the building permit;
- require municipal building surveyors to cause an inspection of a prescribed class of building work before the construction of certain buildings is completed;

- provide a process for, and requirements relating to, the preparation and approval of a building manual for a prescribed class of building before an occupancy permit may be issued for the building;
- enable a wider range of circumstances in which the cladding levy can provide financial or other support to owners who are not eligible to receive funding under the current cladding rectification program;
- support the operation of automatic mutual recognition under the *Mutual Recognition (Victoria) Act 1998* with respect to land surveyors, building practitioners, plumbers and architects;
- enable the Victorian Building Authority to issue restricted plumbing licences for more than one classes or particular types of plumbing work, which licences can be issued for private plumbing work on residential properties owned and occupied by the plumber or relatives of the plumber;
- make other technical or minor amendments to the Building Act; and
- improve the governance arrangements for the Architects Registration Board of Victoria under the Architects Act.

Parts 7 to 10 of the Bill amend the *Heritage Act 2017* and the *Planning and Environment Act 1987* (**PE Act**) to:

- increase protection of metropolitan green wedges and amend the distinctive areas and landscapes statement of planning policy endorsement process;
- modernise requirements in relation to notices, the publication and inspection of documents and hearings under the Heritage Act;
- provide for the making of exclusion determinations; and
- make general amendments to improve the operation of the Heritage Act.

Human Rights protected by the Charter that are relevant to the Bill

The human rights protected by the Charter that are relevant to the Bill are—

- right to privacy and reputation (section 13);
- freedom of expression (section 15); and
- cultural rights (section 19).

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

Privacy and reputation

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

Building Act amendments

In Part 4 of the Bill, clause 57 will replace section 259AB of the Building Act to widen the circumstances in which the Victorian Building Authority (VBA) can enter into information sharing arrangements with one or more persons or bodies. Such persons or bodies are defined as a "relevant agency" in new section 259AB(7). The Bill will enable one or more relevant agencies to enter into an information sharing arrangement, provided the VBA is a party to the arrangement.

To the extent that the information shared between the VBA and any relevant entities includes personal information, the Bill will engage the right to privacy.

Any limit on the right to privacy by Part 4 of the Bill is reasonable and justified

Although these provisions require and permit the VBA and relevant agencies to deal with personal and identifying information, I do not consider these dealings are unlawful or arbitrary.

The purposes of these amendments are to: (a) ensure the VBA and each relevant agency has access to the information it requires to perform its functions effectively; (b) support a cohesive approach to provision of government services to building consumers, including regulation, by empowering agencies to share information in an efficient and effective way; and (c) to enable information to inform a robust understanding of trends and issues in the building system.

Clause 57 of the Bill imposes several limitations on how information can be shared under an information sharing arrangement made under substituted section 259AB(1) of the Building Act. Under new section 259AB(2) and (3)(a), if the information is to be shared between the VBA and a relevant agency, the information must be reasonably necessary to assist in the performance of the Authority's functions under the Building Act or the functions of the relevant agency. Under new section 259AB(2) and (3)(b), if the information is to be shared between two relevant agencies, it may only be information that: (a) the receiving relevant agency could have requested from the Authority under section 259AB(3)(a); or (b) is reasonably necessary to assist in the performance of the relevant agency's functions under the Building Act.

Further, the VBA and each relevant agency that is a public entity within the meaning of the *Public Administration Act 2004* is bound by the requirements of the *Privacy and Data Protection Act 2014* and must ensure that any collection, use or disclosure of information is undertaken in accordance with the Information Privacy Principles set out in Part 3 of that Act.

In my view, these provisions will not be an arbitrary or unlawful interference with privacy, as any disclosure of personal information authorised by these amendments will only occur to the extent necessary to perform the functions of the Victorian Building Authority or relevant agency and, for the sharing of information between relevant agencies, the functions of the relevant agency are confined to any functions the agency has under the Building Act.

Accordingly, I consider that these provisions under clause 57 of the Bill are compatible with the right to privacy under section 13 of the Charter.

Part 3 of the Bill will provide for the appointment of a Building Monitor to (amongst other objectives) improve the experiences of domestic building consumers and affected parties of the building system by advocating for their interests at a systemic level and providing independent expert advice on these issues to the Minister and to persons and bodies involved in the building industry. The Building Monitor will be empowered under new section 208K of the Building Act to require, by notice in writing, a person or body to give the Building Monitor information specified in the notice. The purpose of this power is for the Building Monitor to gather and analyse information from certain building system entities to identify issues affecting domestic building affected parties. Under new section 208P of the Building Act, the Building Monitor will also be required to annually publish a Building Monitor Issues Report that is to specify the systemic issues that the Building Monitor has identified as affecting domestic building affected parties and make recommendations to the Minister on ways to address these issues.

To the extent that the information obtained by the Building Monitor includes personal information, the Bill will engage the right to privacy.

Any limit on the right to privacy by Part 3 the Bill is reasonable and justified

Although these provisions require the Building Monitor to gather and analyse personal and identifying information, I do not consider these functions are unlawful or arbitrary.

The types of information that can be requested are limited under section 208K(1) of the Building Act to information that is relevant to the performance of the functions of the Building Monitor. The functions of the Building Monitor, to be specified in new section 208F of the Building Act, relate to matters of concern to domestic building affected parties. Clause 18 of the Bill will also insert a definition of "domestic building affected parties" into section 3 of the Building Act to further contain the functions of the Building Monitor.

Under new section 208K(1), the Building Monitor is also required to consult with a person or body before giving them a notice under that section to provide information or data. This is intended to enable the Building Monitor to gain an understanding of what information is held by the person or body who will receive a notice and to ensure the notice does not unintentionally gather information that the Building Monitor does not need for their functions.

The persons or bodies from whom or which the Building Monitor may require information be provided are limited to those listed in new section 208K(3) of the Building Act and they are confined to public sector persons or bodies.

Further, under new section 208P, the Building Monitor will be required to gather information transparently, by including in an Issues Report information about when and to whom a notice under section 208K(1) was given, the type of information or data required under the notice and whether the Monitor is a party to any information sharing arrangements or agreements.

Clause 25 of the Bill will also insert new sections 208L and 208M in the Building Act to limit how the Building Monitor may use the information it gathers. Under new section 208L, the Building Monitor must not publish or authorise the publication of any personal information or data or commercially sensitive information or data that has not first been de-identified or aggregated with similar information (as the case requires) before it is published.

Further, new section 208M makes it an offence if the Building Monitor or any person assisting or acting on behalf of the Building Monitor uses or discloses information (including personal information) obtained in the course of performing the functions of the Building Monitor other for the purposes of performing the Building Monitor's functions.

Clause 25 of the Bill will also insert new section 208G to provide that the Building Monitor, when exercising its powers, must comply with any relevant requirements specified by or under any other Act. The purpose of this provision is to restate, for the avoidance of doubt, the obligation of the Building Monitor, as a statutory entity, to comply with legislation such as the *Victorian Data Sharing Act 2017* and its de-identification guidelines issued under section 33 of that Act and with the Information Privacy Principles set out in Schedule 1 of the *Privacy and Data Protection Act 2014*.

These provisions establish an appropriate balance between enabling the Building Monitor to perform its functions and achieve its statutory objectives, by ensuring it can transparently gain access to the information needed to understand where the issues in the building system exist for domestic building consumers and affected parties, while protecting the rights of individuals to have their privacy and reputations protected.

Consequently, I consider that these provisions under the Bill are compatible with the right to privacy under section 13 of the Charter.

Heritage Act amendments

Part 8 of the Bill inserts a new exclusion determination process into the Heritage Act, which requires applicants for exclusion determinations to provide information to the Executive Director of Heritage Victoria. To the extent that the information collected by the Executive Director includes personal information, the right to privacy will be engaged. However, the collection of information will be permitted by law and will be confined to information that is necessary for determining applications. Accordingly, I consider that any interference with a person's privacy resulting from the exclusion determination provisions will be lawful and not arbitrary.

The Bill also requires the publication of information in certain circumstances. Amendments to the Heritage Act provide that certain notices and registers may be made available online, which mean that any personal information they contain may be more easily accessible by a wider audience. However, the Bill specifies that personal information must not be disclosed without the applicant's consent, thereby reducing any potential interference with an individual's privacy. While the address of land the subject of a permit application may be published, that will not necessarily be personal information. To the extent it is, I consider that this interference is lawful and appropriately confined, as this information is necessary to understand the application being considered. In my view, having regard to the circumstances in which information is disclosed, these provisions are compatible with the right to privacy.

Powers of entry

The Bill amends section 201 of the Heritage Act to permit an inspector or authorised person, when exercising entry powers for the purposes of investigating the cultural heritage significance of a place or object or determining compliance with the Act, to enter an unoccupied residence without written consent provided two days' clear notice is given to the owner of the residence.

While the exercise of this power may interfere with the privacy of an individual in some cases, any such interference will be lawful and not arbitrary. The power must be exercised with clear notice, at a reasonable time and for specific purposes connected with the enforcement of the Heritage Act. Further, entry to an unoccupied residence is likely to constitute a lesser interference with privacy than a residence that is occupied. In cases in which a residence is occupied, an inspector or authorised person will not be permitted to enter the residence without the occupier's written consent. Accordingly, I consider that this provision is compatible with the right to privacy under the Charter.

I therefore consider that the amendments made by Part 8 of the Bill will be compatible with the Charter right to privacy because any limitation on the right is not arbitrary and is reasonable and justified.

Freedom of expression

Section 15(2) of the Charter provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds.

Clause 113 of the Bill inserts new section 254F in the Heritage Act, which provides that the Heritage Council or the Executive Director is not required to make a document, the Heritage Register or the Heritage Inventory available on request if it is not reasonably practicable to do so as a result of an emergency or serious risk to public health in respect of which an emergency declaration has been made. While this amendment engages the right to freedom of expression, which includes the right to receive information, any interference will be minimal as many documents (including the Heritage Register and the Heritage Inventory) will continue to be accessible electronically. Further, I consider that the exception in section 15(3) of the Charter will apply to

the provision, as a lawful restriction that is reasonably necessary to respect the rights of other persons and for the protection of public health.

Access to hearings

Section 248 of the Heritage Act provides that Heritage Council hearings, on whether a place or object is to be included in the Heritage Register, are to be conducted publicly. Clause 116 of the Bill amends this provision to enable the Heritage Council to close a hearing, or part of a hearing, to the public if a person making a submission objects to doing so publicly and the Heritage Council is satisfied that the submission is of a confidential nature. By impeding a person's access to information, this provision engages the right to freedom of expression.

However, the right of a person to receive information is not absolute. These measures strike an appropriate balance between making submissions publicly available and ensuring that the Heritage Council has access to all relevant information on which to base its decision. Accordingly, I consider that clause 116 of the Bill is compatible with the right to freedom of expression under the Charter. I note that, to the extent that a hearing of the Heritage Council may be a civil proceeding under section 24 of the Charter, the right to a fair hearing will also be engaged. However, the right will not be limited because section 24(2) of the Charter provides that members of the public may be excluded from a hearing if permitted under legislation, as would be the case here.

Clause 116 of the Bill also inserts new section 248A in the Heritage Act to allow Heritage Council hearings to be conducted by audio link or audio visual link, as an alternative to in-person hearings. New section 248A provides that a hearing that is conducted in this manner must be made available to the public either while the hearing is being held or as soon as reasonably practicable afterwards. If a person or their representative do not attend the hearing, the Heritage Council may make a determination or recommendations without hearing from them. The purpose of this amendment is to provide the Heritage Council with greater flexibility in conducting proceedings and, in turn, better equip it to continue to perform its legislative functions and obligations. While these provisions have the potential to engage a number of rights under the Charter, including the rights to equality, freedom of expression, participation in public life and a fair hearing, any limitation on these rights will be reasonable and demonstrably justified. The option to conduct hearings by audio link or audio visual link provides an alternative mechanism to facilitate the hearing process; however under section 249 of the Heritage Act, the Heritage Council will still be bound by the rules of natural justice and required to consider all written submissions made pursuant to section 44 of the Heritage Act.

I therefore consider that the amendments made by Part 7 of the Bill will be compatible with the Charter right to freedom of expression because any limitation on that right is not arbitrary and is reasonable and justified.

Cultural rights

Section 19 of the Charter protects the cultural rights of all persons with a particular cultural, religious, racial or linguistic background, and acknowledges that Aboriginal persons hold distinct cultural rights that should be protected.

Part 8 of the Bill inserts new section 36A into the Heritage Act to enable a prescribed person or body to apply to the Executive Director for an exclusion determination that a place or object, or part of a place or object, not be included in the Heritage Register. If the Executive Director makes an exclusion determination, it prohibits that place or object (or part thereof) from being considered for inclusion in the Heritage Register for five years following the determination.

To the extent that an exclusion determination prevents culturally significant places or objects from being protected by inclusion in the Heritage Register, cultural rights under the Charter will be engaged. However, under new section 36C, the Executive Director can only make an exclusion determination if satisfied that the place or object (or part thereof) has no reasonable prospect of inclusion in the Heritage Register. Further, a person who has a real and substantial interest in the place or object has the right to request a review of the decision by the Heritage Council. The provision does not alter the standard for inclusion of matters in the Heritage Register. It is a procedural provision to provide certainty about an outcome that would be the case in any event (e.g. if another person nominated a place during the course of a development).

For these reasons, I am satisfied that the making of an exclusion determination is compatible with cultural rights under the Charter because any limitation on those rights is not arbitrary and is reasonable and justified.

The Hon. Richard Wynne, MP
Minister for Planning

Second reading

Mr WYNNE (Richmond—Minister for Planning, Minister for Housing) (10:13): I move:

That this bill be now read a second time.

I ask that my second-reading speech be incorporated into *Hansard*.

Incorporated speech as follows:

The Victorian Government is committed to delivering a building system that provides safe, compliant and durable housing and buildings. This requires a workforce of skilled and experienced practitioners and a strong and viable system of regulation to enforce compliance. This Bill makes a series of legislative amendments that will implement reforms to reshape the regulatory landscape in Victoria, with a key focus on consumer protection, which the Government has placed at the centre of the process, heralding a new era for the integrity of building regulation in Victoria.

Legislative changes

The Bill will amend the *Building Act 1993*, the *Architects Act 1991*, the *Domestic Building Contracts Act 1995*, the *Building and Construction Industry Security of Payment Act 2002*, the *Cladding Safety Victoria Act 2020*, the *Owners Corporations Act 2006*, the *Sale of Land Act 1962*, the *Surveying Act 2004*, the *Victorian Civil and Administrative Tribunals Act 1998*, the *Planning and Environment Act 1987* and the *Heritage Act 2017*.

These legislative amendments will create the following reforms:

- Establish a Building Monitor;
- Formalise and strengthen the role of the State Building Surveyor;
- Strengthen and improve the governance arrangements of the Architects Registration Board of Victoria under the Architects Act;
- Strengthen information sharing between statutory entities with a role in the building regulatory framework;
- Expand the categories of building practitioner that will be required to be registered;
- Enhance the building approvals process by introducing further safeguards to better inform consumers and provide better assurance that building work is compliant;
- Strengthen legislative protection of Melbourne's green wedges;
- Support the introduction of Automatic Mutual Recognition in Victoria;
- Clarify the power to issue restricted plumbing work licences;
- Amend the distribution of the cladding rectification levy;
- Streamline the endorsement process for a distinctive area and landscape;
- Clarify and improve the operation of the Heritage Act;
- Provide for online access to heritage documents and notices and Heritage Council hearings;
- Allow for applications to exclude places and objects from the Heritage Register.

Building Monitor

In order to better protect the interests of building consumers and put them at the centre of our legislative framework, the Government has established a Building Monitor, tasked with representing and advocating for domestic building consumers at a systemic level. The Building Monitor will be a statutory appointment made by the Governor in Council who will advise the Minister for Planning on systemic issues and risks facing domestic building consumers.

The Building Monitor will also collect and analyse information and data to identify issues facing domestic building consumers and work collaboratively with building system entities to improve the coordination of information and better target support services. Most significantly, the Building Monitor will publish an annual Building Consumer Issues Report that will identify critical issues within the building sector. Preparation of this report will involve direct and ongoing engagement with domestic building consumers to ensure the experience of those navigating the building sector from end to end is better understood.

Establishing a statutory role for the State Building Surveyor

The State Building Surveyor (SBS) was established by the Government as an executive staff member of the VBA to provide authoritative compliance advice, technical guidance and interpretation of relevant building

standards. The Government now seeks to strengthen this role through recognising it in legislation with statutory objectives and functions.

The creation of a legislated role for the SBS will enable greater focus on critical functions and thereby bolster support for industry practitioners. The legislated role will remain within the VBA to enable economies of scale, facilitate information sharing and avoid further fragmentation of oversight within the regulatory system.

Under this Bill, the SBS will be positioned as the primary source of technical expertise and guidance for the building and plumbing industries. The SBS will encourage improvements to regulatory oversight and practices within these industries, with a particular focus on the building surveying profession and councils.

The SBS will have the power to issue binding determinations relating to technical interpretation of technical building and plumbing standards and requirements. Industry practitioners will be required to ensure that they carry out building work or plumbing work or exercise particular functions in accordance with any relevant binding determination.

Improvements to the Architects Registration Board of Victoria

To ensure the Architects Registration Board of Victoria (ARBV) is well-placed to be a modern, fit-for-purpose regulator of the architecture profession in Victoria, amendments to its institutional and governance mechanisms are required. The Bill will amend the Architects Act to ensure appointment requirements for the ARBV and its Tribunal reflect best practice governance standards for a skills-based board. The nominations process will be replaced with an open and merit-based recruitment procedure overseen by Minister for Planning, to secure a board that has the knowledge, experience and expertise required by a professional regulator.

The ARBV will be required to prepare and implement a four-year strategic plan approved by the Minister to strengthen decision making and enhance operations. The amendments provide for an increase in the maximum appointment term of board members from three to five years to support the board's ability to engage with the strategic planning cycle. The amendments will modernise and streamline the governance arrangements for the ARBV to ensure it is equipped to respond to the challenges of a reforming building environment.

Strengthening Information Sharing

The Victorian building sector is made up of myriad agencies, each with an important role to play in maintaining a safe and well-regulated industry. The Government is taking steps to enhance the ability for these agencies to better share information and improve collaboration. By integrating building system information, clarifying information sharing arrangements and making that information accessible through clear pathways, participating agencies will have the opportunity to aggregate data to better inform targeted and evidence-based decision making. This will also enable better transparency and reporting on the health of the building system by clarifying the information that can be shared.

Expanding the registration framework for building practitioners

The Bill will expand the practitioner registration system in a nationally consistent way, thereby improving compliance with national building standards and facilitating national labour mobility. It is anticipated that the expanded practitioner registration system will not only strengthen practitioner competence, accountability and regulatory oversight, but improve consumer protection. Gaps in Victoria's building practitioner registration framework will be addressed initially by establishing the following categories of building practitioner:

- Building Designer;
- Project Manager;
- Building Consultant; and
- Site Supervisor.

Follow-on regulation would then prescribe the authorised work and registration requirements of these practitioners. This is consistent with how existing categories and classes of building practitioner are set.

The new 'Building Consultant' category could support follow-on regulation to introduce practitioners who perform:

- pre-purchase due diligence inspection work;
- essential safety measures maintenance work;
- disability access work; and
- energy efficiency work.

Building Manuals

The Government is committed to improving consumer confidence in the building industry and enhancing transparency. To this end, this Bill will amend the Building Act to introduce a requirement that a draft building

manual be prepared by the applicant for an occupancy permit and provided to the RBS for approval. Building manuals are intended to be a single repository of all relevant information relating to the design, construction and ongoing maintenance of a building.

The building manual will address a significant hurdle for owners and owners corporations in accessing information about their building. By making information about the design, construction and maintenance of a building more readily accessible, the building manual will aid not only owners and owners corporations but also other parties such as building practitioners and regulators in future.

Once the draft building manual has been approved by the relevant building surveyor, the manual will be provided to the owner or the owners corporation, who will be responsible for maintaining and keeping the documentation current.

Minor amendments are being made to the Owners Corporation Act and the Sale of Land Act to require that the building manual is provided at the first meeting of a new owners corporation and also to future purchasers of the land.

Subsequent amendments to the Building Regulations 2018 will prescribe a number of matters necessary to operationalise the building manual requirements including what classes of buildings and building work will require a manual to be prepared or updated, the digital format of the manual, and the information that must be contained within a manual.

Building surveyor obligation to provide information statement

Consistent with the Government's commitment to promote and protect the interests of consumers of building work, this Bill will require the relevant building surveyor to provide, at the time of issuing the building permit, a document that clearly details their roles and the responsibilities. This will increase transparency and assist consumers to be fully informed about the critical role that their appointed building surveyor plays in their building project, as well as the broader approvals process for the work. Regulations will prescribe the building work to which this new requirement will apply, as well as the form of the information statement and the information it must contain.

Final inspection by Municipal Building Surveyor before occupancy permit can be issued

Currently, an occupancy permit can be issued for a building even though the building work is not complete or compliant. In a measure to strengthen the process and documentation requirements for the issue of occupancy permits, this Bill will improve checks of the as-constructed building against the building permit. The municipal building surveyor will be responsible for causing the pre-occupancy permit inspection and may engage others, such as a fire safety engineer, to assist in this task. A pre-occupancy compliance assessment by an independent municipal building surveyor will ensure oversight before the relevant building surveyor issues the occupancy permit. At this stage it is intended to only prescribe a subset of building work, such as for class 2 buildings, that being residential apartments for which this additional inspection will be required.

Automatic Mutual Recognition

The *Mutual Recognition Act 1992* (Cth) was amended in 2021 to introduce an Automatic Mutual Recognition (AMR) scheme to be adopted by all States and Territories. AMR is intended to create a 'drivers' licence' model for occupational licensing, enabling a person to use the occupational licence issued by their home state to carry out the same activities authorised under it in other participating Australian jurisdictions.

The Government agreed to participate in the AMR scheme last year. The Bill makes amendments to ensure that important consumer protection requirements that apply to Victorian workers also apply to workers using AMR to carry out building and plumbing work in Victoria. The changes enable regulators to regularly check if both Victorian and AMR workers are covered by any required insurance.

Consumers will also benefit from improvements to information on the VBA register of building practitioners and plumbers and the register of architects maintained by the ARBV. Consumers will be able to make more informed choices before engaging practitioners, using the register to check if any Victorian or AMR worker they have engaged is appropriately registered for that work.

Restricted Plumbing Licences

Minor amendments are being made to the Building Act to provide certainty regarding the Victorian Building Authority's continuing ability to issue restricted licences in multiple work classes for private plumbing work.

Amendments to the distribution of the cladding rectification levy

Amendments to the Building Act will also allow the Government greater flexibility to determine how the cladding levy should be directed to support rectification of buildings found to have non-compliant combustible cladding. The cladding levy was introduced by the *Building Amendment (Cladding Rectification)*

Act 2019 and came into effect on 1 January 2020. Currently, the levy is collected by the VBA and paid to Cladding Safety Victoria (CSV) under the Cladding Rectification Program.

This Bill will ensure that buildings that fall outside of the funded cladding rectification activity are able to be supported through remediation, with funding able to be directed to councils and other organisations to deliver programs to facilitate cladding rectification.

Protection of Green Wedge Land

The Victorian Government is committed to protecting Melbourne's green wedges for current and future generations. The Bill articulates the Victorian Government's objectives for green wedge land and introduces a legislative requirement for municipal councils to prepare and review Green Wedge Management Plans. Furthermore, the Bill will enable the Minister for Planning to issue directions in relation to the preparation and content of green wedge management plans, which will provide improved guidance to councils on the structure, form and content of Green Wedge Management Plans.

Distinctive areas and landscapes

Part 3AAB of the PE Act, introduced in 2018 enables the Governor in Council, following the recommendation of the Minister for Planning, to declare an area of Victoria to be a distinctive area and landscape. Macedon Ranges, Surf and Bass Coasts and the Bellarine Peninsula have already been declared under this legislation. This experience has repeatedly shown that it is difficult to prepare, consult on and obtain the endorsement and approval of a Statement of Planning Policy within the timeframe specified in the PE Act. The Bill streamlines the process for endorsement by responsible entities of a Statement of Planning Policy for a distinctive area and landscape.

Changes to the Heritage Act 2017

The Bill will make changes to the Heritage Act:

- Allow applications to be made to exclude places and objects from the Heritage Register.
- Allow for the inspection of documents by means of electronic publishing and for the Heritage Council to conduct hearings in person or by audio or visual link.
- Improve the overall operation of the Heritage Act.

Amendments in relation to the nomination of places and objects for inclusion in the Heritage Register

Government agencies tasked with delivering major transport projects in Victoria have sought greater certainty on their obligations under the Heritage Act. Under current legislation, there is a significant risk that major transport projects will be disrupted or delayed by the receipt of a new nomination after works have started.

The Bill will create greater certainty for these projects while maintaining the integrity of the Heritage Register. This is achieved through a provision that allows agencies to apply to the Executive Director for a decision that a place or object can be excluded from the Heritage Register. If an exclusion is granted, agencies will be able to plan projects on this basis over the five-year period that the decision applies.

The integrity of the Heritage Register is maintained by the requirement that applications for exclusion will only be granted if the Executive Director is completely satisfied that the places and objects do not and will not meet the threshold for registration. This decision can be reviewed if significant new information is forthcoming. The robustness of the decision-making process is supported by allowing the Heritage Council to receive requests to review the decision within the first 28 days.

Notices, publication and inspection of documents and hearings

The Bill modernises the legislation and increases public visibility of Heritage Act processes by allowing online access to key documents and notices via the Heritage Victoria or Heritage Council websites. Public access to Heritage Council hearings will also be enhanced by the new provisions outlining the process for hearings to be held using audio or visual links. The amendments also require searchable versions of Heritage Register and Heritage Inventory to be made available online.

General Amendments to the Heritage Act 2017

The Bill will improve Heritage Act processes. Key changes include:

- Streamlining the processes for amending permits.
- Allowing permit exemptions to be revoked if they do not reflect best heritage practice.
- Increasing consistency across the Heritage Act.
- Clarifying timeframes for decisions and notifications.
- Introducing offences to improve the operation of the archaeological provisions.

The Bill also introduces several practical changes. These include:

- Clarifying how and when to draw on security to ensure permit conditions are met
- Where places have multiple owners, ensuring only those directly affected by Heritage Act processes need to be involved
- Preventing people from being guilty of an offence when acting in accordance with a notice or order served on them.

Conclusion

I commend the Bill to the house.

Mr R SMITH (Warrandyte) (10:13): I move:

That the debate be adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned for two weeks. Debate adjourned until Thursday, 7 July.

CRIMES LEGISLATION AMENDMENT BILL 2022

Statement of compatibility

Ms HUTCHINS (Sydenham—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (10:15): In accordance with the Charter of Human Rights and Responsibilities Act 2006 I table a statement of compatibility in relation to the Crimes Legislation Amendment Bill 2022.

Opening paragraphs

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006*, (the Charter), I make this Statement of Compatibility with respect to the Crimes Legislation Amendment Bill 2022 (the Bill).

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

Overview

The Bill will create an indictable offence in the Crimes Act 1958 targeting grossly offensive public behaviour with a maximum penalty of five years' imprisonment. The new offence in new section 195K will—

- apply to conduct that occurs in a public place or that is witnessed by a person in a public place;
- require that the accused knows or a reasonable person would know that their conduct is grossly offensive to make out the offence;
- provide defences for good faith and reasonable conduct that is in the public interest, including political, artistic or educational work;
- impose a requirement that the Director of Public Prosecutions (DPP) must agree that the offence can be charged before a prosecution can be commenced.

The Bill will also amend the *Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021* to defer commencement of that Act to November 2023.

The *Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021* passed Parliament in February 2021, repealing public drunkenness offences in the *Summary Offences Act 1966* and associated arrest and infringement provisions. The Act is set to come into effect on 7 November 2022.

The Bill will defer commencement of the *Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021* by one year, to November 2023 to allow for the establishment, trial and evaluation of a replacement health model, to facilitate a successful and safe transition to a health-based response to public intoxication.

I wish to acknowledge the legacy of the public drunkenness offences and the disproportionate impact they have had on Aboriginal and Torres Strait Islander people as well as members of other culturally and linguistically diverse communities. However, to the extent that the Bill extends the operation of existing public drunkenness offence provisions in the *Summary Offences Act 1966*, it is compatible with the Charter.

Human Rights Issues

Human rights protected by the Charter that are relevant to the Bill

The human rights protected by the Charter that are relevant to the Bill are:

a. right to freedom of expression (section 15);
b. right to privacy and reputation (section 13);
c. right to freedom of thought, conscience, religion and belief (section 14);
d. right to peaceful assembly and freedom of association (section 16);
e. right to take part in public life (section 18);
f. right to culture (section 19); and
g. right to be presumed innocent until proved guilty according to law (section 25).

Under the Charter, rights can be subject to limits that are reasonable and justifiable in a free and democratic society based on human dignity, equality and freedom. Rights may be limited in order to protect other rights.

As discussed below, these limitations are reasonable and justified in accordance with section 7(2) of the Charter.

Right to freedom of expression

Nature of the right

Section 15(2) of the Charter provides the right to freedom of expression includes the freedom 'to seek, receive and impart information and ideas of all kinds'. The right protects criticism and protest as well as offensive, disturbing or shocking information or ideas, rather than merely favourable or popular expressions (*Sunday Times v United Kingdom (No 2)* [1992] 14 EHRR 123).

The Bill limits the right by restricting a person's ability to engage in conduct in public that is grossly offensive.

Importance of the purpose of the limitation

The right contains an internal limitation that allows freedom of expression to be limited where it is reasonably necessary to respect the rights and reputation of others, or for the protection of national security, public order, public health or public morality.

This internal limitation has been held to extend to 'laws that enable citizens to engage in their personal and business affairs free from unlawful physical interference to their person or property' (*Magee v Delaney* (2012) 39 VR 50).

It is important in a diverse and pluralistic society that all members of the public can go about their business in public with the expectation of peaceful enjoyment of public spaces. Grossly abhorrent or offensive conduct can undermine this expectation and disrupt public order by making public spaces feel unsafe and unpredictable, particularly for more vulnerable people.

For example, in the English case of *The Queen v Anderson* {2008} EWCA Crim 12, which held that the accused had committed the common law offence of outrage public decency, the accused came across a helpless, sick woman dying on the street. He threw water over her and urinated on her body as his friend filmed the event. He also sprayed a can of shaving cream over her and covered her with a pack of flooring, then photographed her. Such conduct is degrading to the individual, but also harms the community by undermining standards of acceptable behaviour in an extreme, distressing and public way.

Given how deeply upsetting and harmful abhorrent public behaviour can be, this limitation is considered lawful and reasonably necessary to protect people's rights not to be intimidated or distressed, to feel safe, and to maintain public order in public spaces or in circumstances where private conduct is witnessed by persons in public spaces.

Nature and extent of the limitation

The Bill limits the right by restricting a person's ability to impart certain information and ideas through public conduct that they know, or that a reasonable person would know, is grossly offensive.

The Bill limits the right by restricting a person's ability to engage in conduct that is grossly offensive in a public place or that is seen or heard by a person in a public place. Conduct that occurs in public places does not need to be witnessed by a person. This reflects the purpose of the offence, which is to prevent and punish any grossly offensive conduct that occurs in public spaces and, in turn, ensures that these spaces are preserved as free from exposure to disruption or distressing behaviour that causes significant harm.

In contrast, conduct that occurs in a private place must be witnessed by a person. This recognises that where private conduct is not witnessed, no social harm occurs and it would be inappropriate and disproportionate

for a person to be prosecuted. It also underlines that any encroachment on the rights of people in private places must be limited as much as possible.

At common law, offensiveness is understood to mean the type of behaviour calculated to wound feelings and arouse anger, resentment, disgust or outrage in the mind of a reasonable person (*Worcester v Smith* [1951] VLR 316). The case law, however, recognises that not all conduct that elicits this response will be considered offensive within the meaning of a criminal offence (*Ball v McIntyre* (1966) 9 FLR 237). While the concept of offensiveness is well-understood, the law recognises that offensive behaviour occurs on a spectrum. The new offence is intended to capture serious conduct of such a magnitude that it meets the standard of an indictable offence and cannot adequately be punished by the existing offensive behaviour offences.

Whether conduct is offensive enough to reach this threshold will be determined by an objective test. In *Pell v Council of the Trustees of the National Gallery of Victoria* [1998] 2 VR 391, Justice Harper noted that in determining if a matter is obscene or indecent under section 17 of the *Summary Offences Act 1966*, 'the court must have regard to contemporary standards in a multicultural, partly secular and largely tolerant, if not permissive, society'. It is intended that the objective test in section 195K(1) will reflect this concept by ensuring that the offence is able to reflect evolving attitudes and community standards as to what kinds of conduct is acceptable.

In line with the purpose of the Bill, the application of the offence is further confined by a list of defences at section 195K(5), which protect conduct that is engaged in reasonably and in good faith:

- in the performance, exhibition or distribution of an artistic work;
- in the course of any statement or publication made, or discussion or debate held, or any other conduct engaged in, for—
    - a genuine political, academic, educational, artistic, religious, cultural or scientific purpose; or
    - a purpose that is in the public interest; or
- in making or publishing a fair and accurate report of any event or matter of public interest.

Furthermore, the Bill provides at section 195L that the Director of Public Prosecutions must provide consent for prosecution of the offence, based on whether there are reasonable prospects of conviction and whether the prosecution is in the public interest. This additional safeguard aims to ensure the offence is only prosecuted where appropriate and in the public interest to do so.

In addition, by abolishing and replacing the outdated and poorly understood common law offence of outraging public decency, the Bill provides more guidance, consistency and certainty as to what kind of conduct is unlawful.

Finally, section 195K(4)(a) provides that a person will not commit the offence merely by using profane, indecent or obscene language, highlighting that the offence is targeted at extreme conduct rather than, for example, offensive speech.

Relationship between the limitation and its purpose

The limitation is consistent with the Bill's purpose to protect the community from the harm and distress caused by grossly offensive behaviour in public, while also ensuring that conduct done reasonably and in good faith for legitimate purposes is adequately protected.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

The offence is clearly targeted at extreme examples of offensive behaviour. The broad defence provision, as well as the safeguard of requiring DPP consent to prosecute, ensures that the offence restricts only a small and targeted subset of grossly offensive conduct.

To be less restrictive, the offence could be cast less broadly—for example, by specifying the exact kinds of behaviour envisaged to be captured, or by stating what community standards of acceptable conduct are. However, this would mean the offence would not be sufficiently flexible to capture unforeseen types of conduct. Additionally, if the Bill articulated specific community standards, the offence would not be adaptable to changing societal attitudes and values. This would mean that the offence could continue to capture conduct that the broader community has come to find tolerable or less offensive—effectively becoming more restrictive over time.

In these ways, the offence seeks to balance the right of a person to hold and express an opinion with the countervailing duty to respect the rights and reputation of other persons as well as protecting public order and public morality. Any limitation on the right to freedom of expression is therefore reasonable and justified in the circumstances.

Right to privacy and reputation

Nature of the right

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

Section 195K(1)(b)(ii) of the Bill limits the right to privacy by interfering with a person's ability to engage in certain grossly offensive behaviour in private, if that behaviour is witnessed by a person in a public place.

The importance of the purpose of the limitation

This limitation supports the Bill's purpose to protect the community from the harm and distress caused by exposure to grossly offensive or abhorrent conduct. Acts may occur in an ostensibly private place but still be clearly seen or heard by a person in or from a public place—for example, a person committing a grossly offensive act in the public lobby of a private building that was then visible to any people walking past on a public thoroughfare. The requirement that a person actually see or hear the conduct is more onerous than what is imposed on acts committed in public places, where no person is required to see or hear the conduct. This recognises that for conduct to be harmful in a private place it must actually be witnessed and it would be inappropriate and disproportionate to prosecute a person otherwise.

Nature and extent of the limitation

It is not the intention of section 195K(1)(b)(ii) of the Bill to arbitrarily restrict the private behaviour of a person in their home and other private spaces.

In situations where a person commits an act in a private place that is witnessed (seen or heard) by a person in a public place, the prosecution will need to prove that the accused knew or was reckless as to whether the act was likely to be witnessed in this way. This limb offers protection against any infringement on an individual's right to privacy, ensuring that private conduct is only captured by the offence in circumstances where the accused knows, intends or was reckless as to whether their conduct was likely to be witnessed by a person in a public place. This ensures the Bill is not more restrictive than necessary to fulfill its purpose.

Relationship between the limitation and its purpose

These limitations are intended to ensure the intended scope of the offence is clear and it can be prosecuted consistently, while upholding the intent of the Bill to protect the public from the distress and harm caused by exposure to grossly offensive conduct in public spaces.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

The application of the offence could be narrowed to apply only to conduct that occurs in a public place according to the definition in the *Summary Offences Act 1966*, which sets out a list of locations and includes a broad 'catch-all' that captures any public place. However, this would mean that the public is not protected from grossly offensive conduct that is done intentionally or recklessly in a place where they may be exposed to it.

Alternatively, the offence could require that offensive conduct that occurs in a public place must actually be witnessed. However, this would undermine the purpose of the offence to prevent grossly offensive conduct from occurring in public spaces, where the potential to cause harm or distress is significant. Such a change would only be marginally less restrictive, as it is unlikely that unwitnessed conduct would be reported or otherwise come to the attention of police.

Given the limited scope of this provision and the harm the offence is seeking to prevent, this limitation is lawful and does not arbitrarily or unreasonably limit the right to privacy.

Right to freedom of thought, conscience, religion and belief and right to culture

Nature of the right

The right to freedom of thought, conscience, religion and belief, including to adopt the religion or belief of their choice and to demonstrate their religious belief in public or private, is contained in section 14 of the Charter. It provides that a person must not be coerced or restrained in a way that limits their freedom of religion or belief in worship, observance, practice or teaching. Historically, the right to have or adopt a religion or belief has been held to be absolute and unqualified (e.g. *Eweida v The United Kingdom* (2013) 57 EHRR 8); however, limitations on the right to *demonstrate* religion or belief have been found to be reasonable and justified *Victorian Electoral Commission* [2009] VCAT 2191.

Section 19 provides for the right to culture and is based on Article 27 of the International Convention on Civil and Political Rights (ICCPR). This right ensures individuals, in community with others that share their

background, can enjoy their culture, declare and practise their religion and use their language. It protects all people with a particular cultural, religious, racial or linguistic background.

The Bill could limit a person's freedom to demonstrate their religion, culture or belief in public (e.g. where a person demonstrates their adherence to a particular cultural practice, belief or religion in public in a way they purport is acceptable in accordance with their faith or religion, but others consider offensive).

The importance of the purpose of the limitation

The purpose of the limitation is to ensure that the public is protected from the harm and distress that result from exposure to grossly offensive public behaviour that is not done reasonably and in good faith for legitimate purposes.

Nature and extent of the limitation

The Bill potentially limits this right by placing an evidential burden on people who seek to rely on a defence when engaging in a range of conduct reasonably and in good faith, including for genuine political, artistic, educational, cultural and religious reasons. There is also a broad defence category of conduct that is in the public interest. These defences are intended to ensure any limitation of religious or cultural rights is the least restrictive possible.

By creating a reasonable and in good faith defence, the offence places an evidential burden on the accused, requiring them to raise evidence that their conduct was for a genuine religious purpose. For example, whether a person is engaging in certain conduct for a religious purpose is a matter peculiarly within the knowledge of that person, and that person is best placed to provide evidence as to whether the display was for a religious purpose.

However, this offence does not transfer the legal burden of proof. Once the accused has pointed to evidence of an exception, the burden shifts back to the prosecution to prove the essential elements of the offence beyond reasonable doubt.

Relationship between the limitation and its purpose

The limitation imposed by section 195K(5) supports the Bill's purpose of protecting the public from exposure to grossly offensive conduct, while also ensuring conduct engaged in reasonably and in good faith for a variety of reasons is permitted.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

The Bill could leave the onus to raise and disprove all defences with the prosecution, thereby removing the evidential burden from the accused person. However, this would make the offence largely unworkable, as the circumstances listed in section 195K(5) are likely to often be within the peculiar knowledge of an accused person.

For these reasons, the narrow limitation on these rights imposed by section 195K(5) is reasonable and justified in the circumstances.

Right to peaceful assembly and freedom of association and right to public life

Nature of the right

Section 16(1) of the Charter protects every person's right to peaceful assembly. Under the ICCPR, the right to peaceful assembly entitles persons to gather intentionally and temporarily for a specific purpose.

Section 18(1) of the Charter provides that every person in Victoria has the right to participate in the conduct of public affairs. The UN Human Rights Committee, when commenting on article 25(a) of the ICCPR, considered the right to participate in public life to lie at the core of democratic government.

The offence limits the right to freedom of association and right to public life by preventing people from displaying their personal or political views in public, such as at protests or demonstrations, or while attending a local government meeting, in grossly offensive or abhorrent ways.

The importance of the purpose of the limitation

The purpose of the limitation is to uphold the Bill's intent to protect the public from the harm and distress caused by exposure to grossly offensive public behaviour that is not done reasonably and in good faith.

Nature and extent of the limitation

New section 195K(1) provides that a person commits an offence if they engage in grossly offensive conduct in a public place, or where the conduct is witnessed by a person in a public place, while knowing or being reckless as to the public nature of the conduct.

The narrow scope of the offence, which is targeted at extreme examples of offensive public behaviour, means that people who hold controversial and even offensive views may still assemble in public or participate in the conduct of public affairs. People with such views will therefore remain free to express their opinions in gatherings or demonstrations, or at council meetings, subject to existing laws. They will also be able to

publicly display their association with or support for certain ideologies or beliefs as long as they do not do so in a grossly offensive manner.

Additionally, the defences available at section 195K(5) protect conduct that is engaged in reasonably and in good faith for a broad range of reasons, including political conduct, or conducted engaged in for discussion and debate that is in the public interest.

Relationship between the limitation and its purpose

The purpose of the Bill is to protect the public from grossly offensive behaviour in public spaces, where there should be a reasonable expectation of peace and safety. The application of the offence to conduct that occurs in public is therefore fundamental to the purpose of the Bill. The harm and distress caused by grossly offensive public conduct can only be prevented if the offence applies to conduct that occurs in a public place.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

The offence could not be modified to entirely exempt protests, demonstrations, or participation in public life. Grossly offensive behaviour that occurs in these circumstances, where none of the defences in section 195K(5) apply, cannot be justified because it exposes members of the public to harm and undermines the sanctity and decency of public places, which need to be maintained for the safety and enjoyment of all.

The limitations on both rights are reasonable and justified given the potentially significant harm caused by grossly offensive public behaviour.

Right to be presumed innocent until proved guilty according to law

Nature of the right

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The right in section 25(1) is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that they are not guilty of an offence.

The Bill imposes an evidential burden on the accused for the defences outlined at section 195K(5), which may appear to limit the right to be presumed innocent until proven guilty according to law.

The importance of the purpose of the limitation

The purpose of the evidential burden is to support the proper operation of the offence by ensuring that the public is protected from exposure to grossly offensive public behaviour that is not done reasonably and in good faith, and to allow for the offence to be workably prosecuted.

Nature and extent of the limitation

Victorian courts have held that the right to be presumed innocent until proven guilty according to law is not limited by the imposition of an evidential burden on the accused (*R v DA & GFK* [2016] VSCA 325). The defences outlined at section 195K(5) merely impose an evidential burden rather than a legal burden.

By creating a defence where the accused engaged in the conduct reasonably and in good faith, the provisions place an evidential burden on the accused in that they require the accused to raise evidence of the defence. However, in doing so, this offence does not transfer the legal burden of proof. Once the accused has pointed to evidence of one of the reasonable conduct defences listed in section 195K(5)—which will ordinarily be peculiarly within their knowledge—the burden shifts back to the prosecution to prove the essential elements of the offence.

Relationship between the limitation and its purpose

The imposition of an evidential burden ensures the offence created by the Bill can be effectively and consistently prosecuted, thereby protecting the public from public displays of grossly offensive conduct.

Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve

The Bill could leave the onus to raise and disprove all defences with the prosecution, thereby removing the evidential burden from the accused person. However, this would make the offence largely unworkable, as the circumstances listed in section 195K(5) are likely to often be within the peculiar knowledge of an accused person, and it is therefore appropriate that the accused should be required to raise or point to evidence that a defence applies.

In these circumstances, and as courts have held, it is reasonable and proportionate to shift the burden of proof to the accused, because only they may know and be able to articulate why their conduct did not breach community standards.

Conclusion

I consider that the Bill is compatible with the Charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Natalie Hutchins, MP
Minister for Crime Prevention
Minister for Corrections
Minister for Youth Justice
Minister for Victim Support

Second reading

Ms HUTCHINS (Sydenham—Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, Minister for Victim Support) (10:15): I move:

That this bill be now read a second time.

I ask that my second-reading speech be incorporated into *Hansard*.

Incorporated speech as follows:

The Bill creates a new statutory indictable offence in the *Crimes Act 1958* of engaging in conduct that is grossly offensive to community standards of acceptable conduct. This will provide a modern and fit for purpose offence to appropriately respond to public acts that are grossly offensive and cause significant harm and distress to members of the public who are exposed to that behaviour. In this way, the offence seeks to preserve the dignity and peace of public places for the benefit of all. The new offence will replace the outdated and uncertain common law offence of outrage public decency, which will be repealed by the Bill.

The need for reform was highlighted in the aftermath of the Eastern Freeway tragedy. This tragic incident occurred on 22 April 2020 and resulted in the untimely deaths of four Victoria Police officers; they were Leading Senior Constable Lynette Taylor, Senior Constable Kevin King, Constable Glen Humphris and Constable Joshua Prestney. These officers died serving and protecting the Victorian community. I express my profound and deepest sympathies to the families of those killed in the line of duty that day.

The offensive commentary directed towards these officers and the filming at the collision scene caused extreme distress to the families of the victims and their friends and colleagues. It also shocked and appalled the wider Victorian community.

In a modern society, we expect that public spaces are maintained as places of decency and dignity that all members of our society can safely enjoy free from intimidation and distress. This reform is not about punishing low level offensive behaviour that might simply be annoying or mildly offensive to some people, and not concern others at all. It is about protecting more fundamental values and ensuring that the criminal law can appropriately respond when these fundamental values are breached and significant social harm is caused.

The Eastern Freeway tragedy highlighted that there is a gap in responding to instances of grossly offensive conduct. Relying on an archaic common law offence of outraging public decency that was developed in another century to fill this gap is not a desirable outcome. That offence does not have a maximum penalty and its application and scope are uncertain. Consequently, the government committed to introducing a new statutory indictable offensive behaviour offence to ensure grossly offensive acts can be prosecuted and appropriately punished. This Bill delivers on that commitment.

While the types of circumstances to which this new offence might apply are expected to infrequently arise, it is important that Parliament provide guidance about how this grossly offensive conduct should be dealt with.

I will now explain the key features of the new offence.

<u>Public conduct</u>

The new offence applies to conduct occurring in public places as defined in the *Summary Offences Act 1966*. This definition includes, for example, parks, roads, sports grounds and public transport. It also adopts a 'catch-all' that captures any public place. While this definition is broad it does not clearly include non-government schools or post-secondary education institutions, while government schools are expressly listed. To ensure grossly offensive conduct in educational settings is consistently captured, the Bill extends the public place definition for this offence, which is consistent with the approach in the recent Nazi Symbol Prohibition Bill.

Conduct occurring in a private place, such as the home and other private spaces, is generally excluded from the scope of the new offence. However, the new offence also applies to private conduct that has been seen or heard by a person in a public place. This recognises that a person who is in a public place might be exposed to grossly offensive conduct occurring in private places. For example, a person committing a grossly offensive

act in the foyer of a private building (that is not within the Summary Offence Act definition) could still be captured by the offence if it was seen or heard by a person in a public place, such as where the act can be easily observed through glass panels from the public footpath outside the building.

Both limbs of the offence are inherently linked to the concept of public places; whether it be that grossly offensive conduct occurs in a public place or is able to be witnessed by a person in a public place. The central purpose of the offence is to maintain the dignity and decency of public places. This upholds the expectation that all people enjoy can enjoy public places peacefully and without the risk of exposure to distressing behaviour that causes significant harm.

The new offence will not include conduct that has been seen or heard by a person using electronic communication. This is because offensive online conduct is already adequately covered by Commonwealth law through the operation of section 474.17 of the *Criminal Code Act 1995*, which relates to using a carriage service to menace, harass or cause offence.

The conduct must be grossly offensive to community standards of acceptable conduct

Public indecency and offensive behaviour offences capture a spectrum of behaviour. The new offence is intended to capture serious conduct of such a magnitude that it meets the standard of an indictable offence and cannot adequately be punished by the existing offensive behaviour offences.

The Bill provides that a person commits an offence if they engage in conduct that grossly offends community standards of acceptable conduct. Offensiveness has a legal meaning at common law. It means the type of behaviour calculated to wound feelings and arouse anger, resentment, disgust or outrage in the mind of a reasonable person (*Worcester v Smith* [1951] VLR 316). Not all conduct that elicits this response will be considered offensive enough to warrant criminal punishment.

Building on this, the words 'grossly offensive' are intended to emphasise the high degree of offensiveness that is required to meet the threshold for this offence and to distinguish it from equivalent low-level offences. Conduct that is merely offensive, shocking or insulting would not reach the threshold for the offence. Grossly offensive conduct is exceptional and unique by nature, as evident in the abhorrent conduct committed during the Eastern Freeway tragedy.

It is a question of fact whether the conduct is grossly offensive to community standards. The concept of community standards is an open and objective one. Recognising that community standards change and evolve over time, and that offensive conduct must be considered in its context, the Bill does not include any specific standards or factors. The courts have applied a reasonable person test when interpreting the meaning of community standards and have looked to contemporary standards of a multicultural, partly secular and largely tolerant, if not permissive, society (*Pell v Council of the Trustees of the National Gallery of Victoria* [1998] 2 VR 391).

However, to provide greater clarity about the scope of the offence, the Bill provides some guidance about conduct that would not meet the threshold for gross offensiveness. For example, section 17 of the Summary Offences Act applies to low-level offensive conduct like obscene, indecent, or threatening language and behaviour in public. Other offences in the Summary Offences Act deal with low-level offensive conduct such as being drunk and disorderly in a public place. It is not the intention of the new offence to reinforce or supplant existing behavioural offences like these, or to provide an alternative charge for offences that are intended to be repealed. The type of conduct sought to be captured by the offence must reach a much higher level of offensiveness than this type of low or mid-level offensive conduct.

The fault element

The first part of the fault element requires that to be found guilty of the offence, the accused must know, or be reckless, about whether their conduct occurs in a public place or is likely to be seen or heard by a person in a public place. This recognises that there may be circumstances in which a person may not know or foresee the possibility of their conduct being public in nature, and in such circumstances it would not be appropriate to find them guilty of the offence.

The second part of the fault element requires that the accused must know, or a reasonable person would have known, that their conduct would likely grossly offend community standards of acceptable conduct. The first test in this part of the fault element is a subjective one, requiring the prosecution to prove that the accused knew that their conduct was grossly offensive. In contrast, the second test is an objective one, requiring the prosecution to prove that a reasonable person would have known that the conduct was likely to be grossly offensive. The objective test recognises that there may be circumstances in which the accused does not subjectively know that their conduct would likely grossly offend community standards of acceptable conduct, but they can still be found guilty if objectively, according to the reasonable person test, this was the case.

A broad defence will be available for good faith and reasonable conduct

The Bill recognises that there are circumstances in which grossly offensive conduct does not warrant criminal sanction because it serves another legitimate purpose in an open and democratic society with values such as freedom of political communication, and freedoms of expression and assembly.

Consequently, the Bill provides that it is a defence to a charge to engage in conduct reasonably and in good faith:

a. in the performance, exhibition or distribution of an artistic work; or

b. in the course of any statement, publication, discussion or debate made or held, or any other conduct engaged in, for:

    i. a genuine political, academic, educational, artistic, religious, cultural or scientific purpose; or

    ii. a purpose that is in the public interest; or

c. in making or publishing a fair and accurate report of any event or matter of public interest.

The requirement that the conduct must be engaged in reasonably and in good faith is intended to ensure that an accused can only rely on the defence if their conduct was genuinely undertaken for one of the above reasons.

The defence places an evidential burden on the accused. This requires an accused to adduce or point to evidence that suggests a reasonable possibility that the defence exists. The prosecution is then required to disprove the defence when proving their case beyond reasonable doubt.

There will be a DPP consent requirement

The Bill provides that a prosecution of this offence must not be commenced without the consent of the Director of Public Prosecutions. This safeguard ensures the offence will only be prosecuted where appropriate and if it is in the public interest to do. The DPP exercises their discretion in accordance with a published policy, which requires them to take into account an accused person's age and other characteristics when considering whether there is a public interest in prosecutions. This type of requirement is used in legislation to provide an oversight mechanism for offences that may be particularly complex to prosecute.

The maximum penalty responds to the seriousness of the offending

The new offence will have a maximum penalty of level 6, five years imprisonment. This reflects the extremely high degree of offensive conduct which the offence intends to capture and the harm to the community such conduct would cause. Importantly, a clear maximum penalty can better guide sentencing judges when compared to the common law offence which had a penalty at large.

Abolition of the common law offence

The Bill abolishes the common law offence of outraging public decency, ensuring that grossly offensive conduct is dealt with and punished according to contemporary understandings of the law.

Conclusion

The government recognises the harm grossly offensive and abhorrent conduct can have upon the community, as evident in the lasting impact of what occurred during the Eastern Freeway tragedy. The new offence responds to the circumstances of this event but also seeks to go beyond it; creating a contemporary public decency offence targeted at behaviour that is grossly offensive and abhorrent to community standards of acceptable conduct. It is considered that through it public places will be maintained as places of decency and dignity, free to be used and enjoyed by all, in peace and in comfort.

Finally, the Bill will also defer commencement of the *Summary Offences Amendment (Decriminalisation of Public Drunkenness) Act 2021* by 12 months to November 2023. This will have the effect of deferring the repeal of public drunkenness offences by 12 months.

I wish to acknowledge the tragic legacy that has led to these reforms and the longstanding advocacy of the Aboriginal and Torres Strait Islander community and their ongoing contribution to these reforms, including the family of Aunty Tanya Day who tragically died after being held in police custody in December 2017.

The decision to defer decriminalisation of public drunkenness has not been made lightly. It reflects the need to establish a suitable, culturally safe health model and to ensure the necessary services are in place to support people who are intoxicated in public once decriminalisation takes effect.

While significant groundwork has been laid, the impact of the COVID-19 pandemic over the past two years has meant we are not as far along in establishing the necessary health model as hoped. We want to get it right in Victoria, and the delay of 12 months is going to enable us to be in the best position to achieve a successful and enduring transition from a justice-based response to public intoxication, to a health one.

I commend the Bill to the house.

Mr WAKELING (Ferntree Gully) (10:15): I move:

That the debate be adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned for two weeks. Debate adjourned until Thursday, 7 July.

MENTAL HEALTH AND WELLBEING BILL 2022

Statement of compatibility

Mr MERLINO (Monbulk—Minister for Education, Minister for Mental Health) (10:20): In accordance with the Charter of Human Rights and Responsibilities Act 2006 I table a statement of compatibility in relation to the Mental Health and Wellbeing Bill 2022.

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Mental Health and Wellbeing Bill 2022 (the **Bill**).

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

Overview of the Bill

The Bill replaces the *Mental Health Act 2014* and implements the recommendations of the Royal Commission into Victoria's Mental Health System, released in February 2021, insofar as it recommended a new statute for mental health in Victoria. The philosophy behind the Bill is to empower and engage with all the people who use it. The new scheme will make the mental health and wellbeing system accessible to people across Victoria, with restrictive interventions and compulsory treatment no longer being its focus. The Bill aims to support the agency and autonomy of people who engage with the mental health and wellbeing system.

Some of the safeguards that had been introduced into the 2014 legislation were found not to be working as well as they could, such as the introduction of advance statements and the provision for a nominated person. This Bill aims to improve the uptake of those safeguards by consumers and to increase their impact.

A primary concern of many of the recommendations of the Royal Commission was to better ensure that legislative human rights protections were fully and properly implemented in practice. This has been achieved in the Bill by introducing greater detail with respect to the objectives and principles that are to guide decision-making by all persons exercising functions and powers with respect to compulsory assessment and treatment decisions and other significant decisions and functions under the Bill.

The objectives of the Bill are set out in clause 12 and include many objectives that promote human rights, including to:

- promote the conditions in which people can experience good mental health and recover from mental illness or psychological distress;
- reduce inequities in access to mental health and wellbeing services;
- provide for comprehensive, compassionate, safe and high-quality mental health and wellbeing services that promote the health and wellbeing of people living with mental illness or psychological distress;
- protect and promote the human rights and dignity of people living with mental illness by providing them with assessment and treatment in the least restrictive way possible in the circumstances;
- recognise and respect the right of people with mental illness or psychological distress to speak and be heard in their own voices; and
- recognise and promote the role of families, carers and supporters.

The Bill provides in clause 29, that mental health and wellbeing service providers exercising functions under the Bill must make all reasonable efforts to comply with the mental health and wellbeing principles, and give proper consideration to them when making decisions. The mental health and wellbeing principles are set out in clauses 16 to 28 of the Bill. They are:

- the **dignity and autonomy principle**—which provides that the rights, dignity and autonomy of a person living with mental illness or psychological distress is to be promoted and protected, and the person is to be supported to exercise those rights;

- the **diversity of care principle**—which requires a person living with mental illness or psychological distress to have access to a diverse mix of treatment, care and support services determined by their needs and preferences;
- the **least restrictive principle**—which requires mental health and wellbeing services to be provided with the least possible restriction on rights, dignity and autonomy;
- the **supported decision-making principle**—which requires that supported decision-making practices are to be promoted and persons receiving services are to be supported to make decisions and be involved in decisions about their assessment, treatment and recovery and that their views and preferences are to be given priority;
- the **family and carers principle**—which provides that families, carers and supporters are to be supported in their role in decisions about the person's assessment, treatment and recovery;
- the **lived experience principle**—which provides that the lived experience of a person with mental illness or psychological distress and their carers and supporters is to be recognised and valued as experience that makes them valuable leaders and active partners in the mental health and wellbeing service system;
- the **health needs principle**—which requires the medical and other health needs of a person with mental illness or psychological distress to be identified and responded to;
- the **dignity of risk principle**—which recognises that a person with mental illness or psychological distress has the right to take reasonable risks in order to achieve personal growth, self-esteem and overall quality of life;
- the **wellbeing of young people principle**—which provides that the health, wellbeing and autonomy of children and young people receiving mental health and wellbeing services are to be promoted and supported, including by providing treatment and support in age and developmentally appropriate settings and ways;
- the **diversity principle**—which provides that the diverse needs and experiences of a person receiving mental health and wellbeing services is to be actively considered, including needs relating to their particular attributes, and that services are provided in a manner that is safe, sensitive and responsive;
- the **gender safety principle**—which recognises that people receiving mental health and wellbeing services may have specific safety needs or concerns based on their gender and that consideration is to be given to these in providing services;
- the **cultural safety principle**—which provides that mental health and wellbeing services are to be culturally safe and responsive to people of all racial, ethnic, faith and cultural backgrounds; and
- the **wellbeing of dependents principle**—which requires protection of the needs, wellbeing and safety of children, young people and other dependents of people receiving mental health and wellbeing services.

The decision-making principles for treatment and interventions that apply to decision-making under both Chapters 3 and 4 of the Bill are set out in clauses 79 to 83 of the Bill. They are:

- the **care and transition to less restrictive support principle**—which provides that compulsory assessment and treatment is to be provided with the aim of promoting a person's recovery and transitioning them to less restrictive treatment, care and support;
- the **consequences of compulsory assessment and treatment and restrictive interventions principle**—which recognises that the use of compulsory assessment and treatment or restrictive interventions significantly limits a person's human rights and may cause possible harm;
- the **no therapeutic benefit to restrictive interventions principle**—which recognises that the use of restrictive interventions on a person offers no inherent therapeutic benefit to the person;
- the **balancing of harm principle**—which provides that compulsory assessment and treatment or restrictive interventions are not to be used unless the serious harm or deterioration to be prevented is likely to be more significant than the harm to the person that may result from their use; and
- the **autonomy principle**—which provides that the will and preferences of a person are to be given effect to the greatest extent possible in all decisions about assessment, treatment, recovery and support, including when they relate to compulsory assessment and treatment.

Chapter 2 sets out additional safeguards for patients' human rights, including by providing (in clauses 32 to 35) for the steps that need to be taken to provide treatment, care and support consistently with any advance

statement of preference made by a person under clause 58. The Bill also sets out (in clauses 36–40) requirements for a statement of rights to be provided to a person in a broader range of circumstances than under the current Act, including when a person is admitted to bed-based services at designated mental health services and when a person's consent to ECT or neurosurgery for mental illness is sought. This is in addition to existing requirements under the Act that a statement of rights be given to people who are subject to orders under the Act. A statement of rights explains the rights that a person has under the Bill and the Bill includes requirements that the person providing the statement must also take reasonable steps to ensure the statement is understood.

Clause 41 provides for the establishment of a primary non-legal mental health advocacy service provider and other suitable providers of these services to promote and support the human rights of people experiencing, or at risk of, compulsory treatment in mental health care. Consumers advocated for the inclusion of this kind of service in the Bill based on the Independent Mental Health Advocacy Service provided by Victoria Legal Aid.

Clause 45 provides for non-legal mental health advocates to provide assistance to consumers of mental health and wellbeing services to enable them to understand and exercise their rights under the Bill, including to participate in the making of decisions regarding their care. The advocacy model adopted in the Bill is based on an "opt-out" system, which will ensure that the primary service will be notified of every consumer that is being compulsorily treated and of other significant events with respect to the person. Clause 51 provides that the primary non-legal mental health advocacy service provider will maintain an "opt-out" register to allow people to register their preference not to be contacted by a non-legal mental health advocacy service provider.

Clause 53 provides inpatients with the right to communicate lawfully with any person, including for the purposes of seeking legal advice and representation or seeking the services of a mental health advocate, and to be assisted to do so. Clause 58 provides for the making of advance statements of preference setting out a person's preferences in relation to their treatment, care and support in the event that they become a patient. Clauses 61–62 provide for a person to nominate another person to be their nominated support person whose role, amongst other things, is to advocate for the views and preferences expressed by the patient, including those in the advance statement of preferences and to support the patient to communicate their questions, preferences and decisions and to exercise their rights under the Bill. Although nominated support persons are a part of the existing legislation, the role of such a person in the Bill clarifies that their role is to ensure the patient's views and preferences are heard, and not to advocate for their best *interests*

Clause 67 provides patients with a right to seek a second psychiatric opinion as to whether the relevant criteria for any relevant order applying to the patient (with the exception of forensic patients) are met and to review the treatment provided to the patient. Clauses 73–76 respectively provide for a further review of the patient's treatment by the authorised psychiatrist and the chief psychiatrist in specified circumstances following a second psychiatric opinion.

Although the Bill, like the existing *Mental Health Act 2014*, contains many provisions that will limit human rights under the Charter in significant ways, it is intended that the Bill will better ensure that these limitations are proportionate and the least restrictive measures required to ensure that mental health treatment is provided to those who need it. This has been informed by the Royal Commission and the input of people with lived experience of mental illness, in particular those who have received compulsory treatment, to the Royal Commission's inquiries.

I consider that the Bill has achieved its aim of better protecting and promoting the human rights of people with mental illness and promoting their recovery and wellbeing. In particular, the requirement for service providers to make all reasonable efforts to comply with the Mental Health and Wellbeing Principles when exercising a function and give proper consideration to those principles when making a decision and the introduction of the Decision-making Principles for treatment and interventions, and information sharing principles will ensure that the primary decision-making powers and functions in the Bill will be exercised in a manner that is compatible with Charter rights.

Human Rights Issues

The Bill engages a number of rights which are protected and promoted by the Charter. Various provisions of the Bill engage Charter rights in similar ways and these will be considered together to avoid repetition. I consider below each of the kinds of measures adopted by the Bill, and whether those measures limit Charter rights.

To the extent that Charter rights may be limited by each set of measures, I consider whether such limitations are reasonable and can be demonstrably justified in a free and democratic society, having regard to each of the factors in s 7(2).

Compulsory treatment measures

In the context of this Statement, unless otherwise identified, treatment means treatment for mental illness as set out in clause 5 of the Bill.

Under clause 85 of the Bill, people will continue to be presumed to have capacity to give informed consent to any treatment or medical treatment and their informed consent must be sought before treatment is given. This aligns the Bill with the *Medical Treatment, Planning and Decisions Act 2016*, the *Powers of Attorney Act 2014* and the *Guardianship and Administration Act 2018*, which all include a presumption of capacity as required by the *Convention on the Rights of Persons with a Disability*. Clause 86 provides when a person may give informed consent, including that they have been given adequate information about the proposed treatment or medical treatment, been given a reasonable opportunity to make a decision and given their consent freely without undue pressure or coercion by any other person. The clause clarifies that a person has been given reasonable opportunity to make a decision if they have been provided with 'appropriate supports'. Appropriate supports are defined in clause 6 and are the measures which can reasonably be provided to a person to assist them to make decisions, understand information and communicate their views and preferences. Clause 87 provides that a person has capacity if they are able to understand the information they are given for the purposes of deciding whether or not to consent, and are able to remember that information, and are able to use or weigh that information in deciding whether or not to consent, and are able to communicate the decision they make by any means.

However, the Bill does allow for the use of restrictive interventions and intensive monitored supervision and for assessment and treatment without the consent of the patient in specific, limited circumstances, even where that patient has capacity. This aspect of the Bill, like the existing mental health legislation, allows for a person who has capacity to be treated for mental illness without their consent. Clause 89 provides that if a patient does not have capacity to give informed consent to treatment proposed by an authorised psychiatrist, or has capacity to give informed consent but does not give it, and the authorised psychiatrist is satisfied that the treatment is clinically appropriate and there is no less restrictive way for the patient to be treated, they may make a treatment decision for the patient (other than in respect of ECT or neurosurgery). At common law, all persons who have capacity can refuse medical treatment. The *Convention on the Rights of Persons with a Disability* expresses this in the "right to respect for his or her physical and mental integrity on an equal basis with others" in article 17. The other Victorian legislation relating to medical decisions generally reflects this.

In deciding whether there is no less restrictive way for the patient to be treated, the authorised psychiatrist must consider and give appropriate weight to a range of specified matters, including the patient's views and preferences, the views and preferences of the patient expressed in their advanced statement of preferences or the patient's views expressed by their nominated support person, and the likely consequences for the patient if the treatment is not administered. Further, clause 82 introduces the balancing of harm principle with respect to treatment and interventions, which provides that compulsory assessment and treatment or restrictive interventions cannot be used unless the serious harm or deterioration to be prevented is likely to be more significant than the harm to the person that may result from their use.

The provisions on capacity and informed consent are largely the same as those in the existing legislation. Those provisions were examined in *PBU & NJE v Mental Health Tribunal* (2018) 56 VR 141 ***(PBU)*** and no Charter incompatibility was found with respect to them. In that case, the Supreme Court observed that the compulsory treatment regime in the existing Act represented a paradigm shift away from best interests paternalism to the least restrictive kind of treatment, which draws on elementary human rights concepts (PBU (2018) 56 VR 141, [101]).

Clause 92 provides for certain other people to consent to **medical treatment** (which is defined in clause 3 so as not to include "treatment" under the Bill as defined in clause 5 of the Bill) if a patient does not have the capacity to give informed consent. This aligns the Bill with the *Medical Treatment, Planning and Decisions Act 2016*.

Part 3.5 regulates the use of electroconvulsive treatment (**ECT**). Clause 98 provides that ECT can be performed on an adult patient without their consent by order of the Mental Health Tribunal (**MHT**). An application to the MHT can only be made by an authorised psychiatrist where the patient does not have capacity to give informed consent and the authorised psychiatrist is satisfied that in the circumstances there is no less restrictive way for the patient to be treated. In deciding whether there is no less restrictive way for the patient to be treated, the authorised psychiatrist must consider and give appropriate weight to a range of specified matters including the patient's views and preferences, the patient's views expressed by the patient's nominated support person and the likely consequences for the patient if ECT is not administered. Division 3 of Pt 3.5 provides for applications with respect to adults who are not patients. As an additional protection, an order of the MHT is required for the performance of ECT on a young person regardless of whether that young person consents or not. . Division 4 of Pt 3.5 provides for applications to be made to the MHT with respect to young patients and Division 5 provides for applications with respect to young persons who are not patients. Before granting an application, the MHT must also be satisfied that there is no less restrictive way for an adult or young person who does not consent to ECT to be treated (clauses 100, 105, 110 and 115). Clauses 105 and 115 provide that for adults and young people who are not under compulsory orders (i.e. who are not patients)

to receive non-consensual ECT their medical treatment decision-maker must give informed consent in writing or an adult can give an instructional directive consenting to ECT. These clauses invoke the decision-making rules in the *Medical Treatment, Planning and Decisions Act 2016* that prioritise the wishes of the proposed recipient in decision-making. There are safeguards in clauses 102, 107, 112 and 117 to deal with changing circumstances which require that ECT must end.

Part 3.7 regulates the use of **restrictive interventions** (which are defined to include seclusion, bodily restraint or chemical restraint) and contains a number of important safeguards to ensure that their use is justified and proportionate in each case. It implements the Royal Commission recommendation to recognise that chemical restraint is the giving of drugs for non-therapeutic purposes and to regulate it like other forms of restraint. Clause 125 requires service providers to aim to reduce the use of restrictive interventions and eventually eliminate their use. Clause 126 provides that restrictive interventions may only be used in designated mental health services (**DMHS**) in accordance with Division 1 and 2 of Part 3.7. Clause 128 provides that restrictive interventions can only be used on a person if necessary to prevent imminent and serious harm to that person or another person (and in the case of bodily restraint to administer treatment or medical treatment to the person) after all reasonable and less restrictive options have been tried or considered and found to be unsuitable. The authority to carry out a restrictive intervention ends if a person who may authorise it is satisfied that the use is no longer necessary (clause 129).

Division 2 of Pt 3.7 contains authorisation, notification, monitoring and reporting provisions with respect to restrictive interventions. Clause 133 provides that the other less restrictive means tried or considered for the person in seeking to achieve the purpose of the restrictive intervention must be documented, including the reason why the intervention is necessary, all the other less restrictive means tried or considered and the reasons why those less restrictive means were found to be unsuitable. Persons who authorise the use of restrictive interventions on a person must ensure that the person is provided with facilities and supplies that meet their needs and maintain their dignity (clause 136).

Clause 140 allows for the use of chemical restraint during transport if all reasonable and less restrictive options have been tried or considered and found unsatisfactory and it is necessary to prevent serious and imminent harm to the person or another person.

Chapter 10 regulates compulsory mental health treatment for security patients, including persons on court secure treatment orders made by a court and secure treatment orders made under this Chapter. The Chapter also provides for leave of absence, monitored leave, transfer to other designated mental health services and also pathways for security patients to have their orders revoked.

Chapter 11 deals with forensic patients—it includes provisions regarding leave for forensic patients, security conditions and transfer of a forensic patient to another designated mental health service. Clause 575 authorises security conditions that the authorised psychiatrist considers necessary to protect the health and safety of the forensic patient and the safety of any other person.

Chapter 4 of the Bill provides for **compulsory assessment and treatment**. Clause 144 provides for the making of assessment orders by medical practitioners or authorised mental health practitioners, if satisfied that the compulsory assessment criteria (as set out in clause 142) apply to the person. Assessment orders authorise an authorised psychiatrist to compulsorily examine the assessment patient to see whether the compulsory treatment criteria apply to them. Clause 142 provides that an assessment order can only be made where the person appears to have a mental illness and because of that they appear to need immediate treatment to prevent serious deterioration in their mental or physical health or serious harm to the person or another person. Importantly, that clause provides that the compulsory assessment criteria are only met where there are no less restrictive means reasonably available to enable the person to be assessed. Assessment involves an examination and an inpatient assessment order authorises a person being detained for the purpose of transport to a DMHS and for the purpose of assessment in a DMHS (clause 146). Treatment can only be given to a person on an assessment order with informed consent or if a registered medical practitioner is satisfied that urgent treatment must be given to prevent serious deterioration in the patient's mental or physical health or serious harm to the patient or another person (clause 160). Part 4.3 provides additional provisions that facilitate assessments with respect to court assessment orders made under the *Sentencing Act 1991*.

This assessment may result in a person being treated without their consent if the compulsory treatment criteria (set out in clause 143) apply to the person. If an authorised psychiatrist is satisfied that the treatment criteria do apply, the person may be made subject to a 28 day temporary treatment order pursuant to clause 180. A treatment order may subsequently be made in respect of the person by the MHT pursuant to clause 192. In both cases, the Bill is prescriptive about what matters must be considered, including the person's views and preferences including those expressed in any advance statement. The compulsory treatment criteria contained in clause 143 require that the person has a mental illness, because of which they need immediate treatment to prevent serious deterioration in their mental or physical health or serious harm to the person or another person. These criteria are the same as those under the current Act and their operation will soon be reviewed as part of

a planned independent review of the compulsory treatment criteria and alignment of decision making laws under the Bill with those of other decision making legislation. Importantly, clause 143 provides that the criteria are only met where there are no less restrictive means reasonably available to enable the person to be given immediate treatment. Compulsory treatment can involve inpatient treatment, which will involve transportation to and detention at a DMHS under clauses 185 and 197. An inpatient temporary treatment order or treatment order may only be made if the authorised psychiatrist or MHT as applicable is satisfied that treatment cannot occur in the community, otherwise a community temporary treatment order or community treatment order must be made. Where the current Act allows for community treatment orders to be made for up to 12 months, the Bill provides for more frequent oversight by the MHT by limiting these orders to a maximum duration of 6 months.

Clause 535 (in Pt 10.2) allows for the making of secure treatment orders by the Justice Secretary with respect to people who are detained in prison or other place of confinement, where conditions that are the equivalent of the compulsory treatment criteria are met, including that there is no less restrictive means reasonably available to enable the person to receive immediate treatment. The MHT must review that order within 28 days of its making and at least every 6 months after that (clause 538). Clause 560 provides for the authorised psychiatrist to specify any security conditions that they are satisfied are necessary to protect the health and safety of the patient or any other person.

Where a person is being assessed or treated without their consent, there are various safeguards requiring the provision of information (clauses 150, 156, 186 and 198) and the notification of relevant people and entities (clauses 151, 152, 157, 158, 187, 188 and 199). Importantly, a person may apply to the MHT for revocation of a temporary treatment order or a treatment order, and the MHT must hear and determine that application as soon as practicable (clause 206). Clause 395 provides for the appointment of community visitors, who must be independent of the Department and from providers of services and under clause 399 are able to visit prescribed premises and assist people who are receiving mental health and wellbeing services there. A person may request to see a community visitor and this request must be passed onto the community visitors within 2 days.

Chapter 12 of the Bill introduces a new type of order—the **intensive monitored supervision** order to respond to the needs of a small group of patients already in a secure setting that present an ongoing serious risk of harm to others. Clause 578 provides that the use of intensive monitored supervision is confined to people who present an ongoing unacceptable risk of seriously endangering the safety of another person and the person requires an immediate period of supervision in a supervision unit that limits contact with others to mitigate that risk. For an intensive monitored supervision order to be made for a person, all less restrictive options must have been tried to mitigate the risk posed by the patient and been found to be ineffective. Clause 577 provides that these orders can only be used by Forensicare, the service that deals with the small number of patients who present such a risk, and only in a supervision unit at its premises where secure services are provided.

In recognition of the facts that limiting a person's contact with others by physical separation or "isolation" can have a compounding impact and that its impacts become harsher the longer they are in place, the use of intensive monitored supervision is subject to rigorous oversight and review mechanisms to safeguard against unjustifiable limitations on a person's human rights by carrying out the order in an excessive way or failing to release a person where the relevant threshold is no longer met. In order to use intensive monitored supervision, an application must be made to the MHT, which may grant an order of the type described in clause 583, which may authorise the placing of the patient in a supervision unit and limiting their contact with others for a period of not more than 28 days. An order must immediately be revoked by the authorised psychiatrist if they are satisfied that the relevant criteria no longer apply (clause 588). Such an order does not prevent a person from moving outside the supervision unit or having contact with other people if permitted to do so by the authorised psychiatrist.

This Chapter contains specific safeguards to ensure that the use of intensive monitored supervision is justified and does not become disproportionate, including by enabling a person subject to an order to apply to the MHT for revocation of the order (clause 89), by requiring people to be provided with facilities and supplies that meet their needs and maintain their dignity (clause 585), and by the provision of separate and specific authorisation, monitoring and reporting provisions. The supervision unit in which a patient will be placed pursuant to an intensive monitored supervision order must meet the specifications set out in the Bill, including that it has bathroom facilities, a space for sleeping and a separate space for sitting. Patients subject to these orders must be permitted to spend time outdoors every day. The Chapter also requires Forensicare to establish a clinical committee to review the progress of a person's treatment and their progress towards no longer needing intensive monitored supervision (clause 586).

Mental Health and Wellbeing Commission

Chapter 9 of the Bill establishes the Mental Health and Wellbeing Commission, an independent oversight body, and a complaints handling system to provide redress where consumers have complaints about services provided under the Bill. The Commission is charged with gathering information and data about the system,

and has the power to conduct investigations and inquiries. Clause 420 requires that of the four Commissioners, at least one of the Commissioners must be a person with lived experience of mental illness and one must have lived experience of caring for a person with mental illness. Appointing people with lived experience will promote human rights compliance by ensuring the Commissioners properly understand the human rights limits faced by mental health service consumers.

Rights engaged

Although the purposes of the Bill are beneficial and aim to promote mental health and wellbeing, the provisions authorising compulsory treatment measures (including restrictive interventions, intensive monitored supervision and compulsory assessment and treatment) are nevertheless likely to either engage or limit the following Charter rights: equality (s 8); the rights not to be subjected to cruel, inhuman and degrading treatment (s 10(b)) or medical treatment without consent (s 10(c)); freedom of movement (s 12); privacy (s 13(a)); freedom of thought, conscience, religion and belief (s 14); the right to the protection of families and children (s 17); cultural rights (s 19); liberty (s 21); the right to humane treatment when deprived of liberty (s 22); and the right to a fair hearing (s 24).

Equality

Section 8(3) of the Charter relevantly provides that every person is entitled to the equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. The purpose of this component of the right to equality is to ensure that laws and policies are applied equally, and do not have a discriminatory effect. Discrimination under the Charter is defined by reference to the definition in the *Equal Opportunity Act 2010* (**EO Act**) on the basis of an attribute in s 6 of that Act, which includes mental illness (within the definition of a disability).

The compulsory treatment provisions may potentially amount to direct discrimination on the basis of disability. Direct discrimination occurs where a person treats a person with an attribute unfavourably because of that attribute. The provisions treat people with mental illness *differently* from other people on the basis of their mental illness. The provisions also treat people with a mental illness differently from people with a physical illness because the Bill allows treatment without consent in circumstances where the *Medical Treatment, Planning and Decisions Act 2016* does not—namely where a person has capacity.

Cruel, inhuman or degrading treatment

There is no definition of what constitutes "cruel, inhuman or degrading" treatment or punishment in the Charter. Whether a particular act will amount to torture or to cruel, inhuman or degrading treatment or punishment will depend on all the circumstances, including the duration and manner of the treatment, and its physical or mental effect on the person, and the purpose for which the treatment was imposed. Treatment must reach a "minimum level of severity" to meet this description (*Certain Children v Minister for Families and Children (No 2)* (2017) 52 VR 441, [250]).

The use of restrictive interventions and intensive monitored supervision, where there is not a pressing and beneficial need for their use, or without safeguards against abuse, could notionally limit the right in s 10(b). However, as discussed, the Bill contains a number of rigorous, improved safeguards. In particular, the Bill imposes an appropriately high threshold for the use of such practices—including that they can only be used where it is necessary to protect the person concerned, or other persons, from imminent and serious harm—and also requires that people who are subject to restrictive interventions and intensive monitored supervision be provided with the facilities and supplies needed to meet their needs and maintain their dignity. The balancing of harm principle with respect to treatment and interventions, requires that compulsory assessment and treatment or restrictive interventions not be used unless the serious harm or deterioration to be prevented is likely to be more significant than the harm to the person that may result from their use. In light of the protective purpose of the powers and the associated safeguards, I do not consider that the Bill limits the right in s 10(b) of the Charter.

Protection from medical treatment without consent

Section 10(c) of the Charter provides that a person must not be subjected to medical treatment without their full, free and informed consent. The right is concerned with personal autonomy and dignity. The Bill contains many provisions designed to promote the autonomy and dignity of patients and consumers of mental health and wellbeing services. However, the compulsory treatment provisions authorise the medical assessment and treatment of people without their consent, even where they have capacity, which will limit this right.

Freedom of movement

The right to freedom of movement is contained in s 12 of the Charter and applies generally to a person's movement within Victoria. The right has been described as providing protection from unnecessary restrictions upon a person's freedom of movement. It extends, generally, to movement without impediment throughout the State and a right of access to places and services used by members of the public, subject to compliance

with regulations legitimately made in the public interest (*Gerhardy v Brown* (1985) 159 CLR 70, 102, cited in *DPP v Kaba* (2014) 44 VR 526, [100]).

Relevantly, the right to freedom of movement will be engaged where a person is required to move to or from a particular place or is prevented from doing the same, is subjected to strict surveillance or reporting obligations relating to moving, or directed where to live. Some of the ways that restrictive interventions are likely to be used will limit people's freedom of movement. However, the right is directed at restrictions that fall short of physical detention coming within the right to liberty under s 21 (see *Kracke v Mental Health Review Board* (2009) 29 VAR 1, [588]). Accordingly, the intensive monitored supervision and the compulsory treatment of a person as an inpatient will be considered under the right to liberty in s 21.

Rights to privacy, family and home

Section 13(a) of the Charter provides, relevantly, that a person has the right not to have their privacy, family or home unlawfully or arbitrarily interfered with. Section 13(a) contains internal qualifications; namely, interferences with privacy only limit the right if they are unlawful or arbitrary. An interference will be lawful if it is permitted by a law which is clear, precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought. This requires a broad and general assessment of whether any interference on a person's privacy extends beyond what is reasonably necessary to achieve the lawful purpose being pursued (*Thompson v Minogue* [2021] VSCA 358, [55], [56]).

'Privacy' is a right of considerable amplitude. The fundamental values which the right to privacy expresses are the physical and psychological integrity, individual and social identity, and autonomy and inherent dignity, of the person. It protects the individual's interest in the freedom of their personal and social sphere. Relevantly, this encompasses their right to establish and develop meaningful social relations (*Kracke v Mental Health Review Board (General)* (2009) 29 VAR 1, [619]–[620]).

The 'family' aspect of s 13(a) is related to s 17(1) of the Charter, which states that families are entitled to protection by society and the State. However, whilst the two rights overlap, they are not co-extensive. Section 13(a) is a negative obligation that only prohibits unlawful or arbitrary interferences with family; whereas s 17(1) is a positive obligation on society and the State.

The 'home' aspect of s 13(a) refers to a person's place of residence, regardless of whether they have a legal interest in that residence (*Director of Housing v Sudi* (2010) 33 VAR 139, [32]). What constitutes an interference with this aspect of the right to privacy has been approached in a practical manner and may cover actions that prevent a person from continuing to live in their home (see *Director of Housing v Sudi* (2010) 33 VAR 139).

All three aspects of this right are engaged by the compulsory assessment and treatment measures, which could affect personal autonomy and private relationships, affect the ability of families to gather with members of the family with mental illness, and the ability of people to reside in their own homes if they are detained. However, in my view, the measures do not limit the right to privacy. As mentioned above, the right in s 13(a) of the Charter will only be limited where an interference with privacy is unlawful and arbitrary (*Thompson v Minogue* [2021] VSCA 358, [57]). The clauses of the Bill which authorise interference with a person's privacy, family or home by the use of compulsory treatment measures will be lawful, by virtue of the clauses themselves being clear, precise and appropriately circumscribed, and not arbitrary, because the protective purpose and safeguards upon the use of the compulsory treatment measures will ensure that their use is proportionate to the legitimate aims sought to be achieved.

Freedom of religion and belief

Section 14 of the Charter provides that every person has the right to freedom of thought, conscience, religion and belief, including the freedom to demonstrate one's religion or belief individually or as part of a community, whether in public or private, through worship, observance, practice and teaching. A person must not be restrained or coerced in a way that limits their freedom to have a belief. The freedom to hold a belief is absolute, however the other aspects of the right are not (*Christian Youth Camps Ltd v Cobaw Community Health Services* (2014) 50 VR 256, [537]).

The compulsory treatment measures could place limits on the freedom to demonstrate one's religion or belief as part of a community where people are detained or isolated. They could also limit the right where a person has beliefs that are opposed to the relevant treatment, if those beliefs have the necessary cogency, seriousness, cohesion and importance to engage the right (*Campbell v United Kingdom* (1982) 4 EHRR 293, [36]). The Bill contains measures that seek to ameliorate any impacts on religious practice, including by requiring that people who are subject to restrictive interventions and intensive monitored supervision be provided with the facilities and supplies needed to meet their needs and maintain their dignity. The Bill also requires that

consideration of a person's religion be actively considered as part of the diversity principle in clause 25 and the cultural safety principle in clause 27.

Freedom of peaceful assembly and association

Section 16(1) of the Charter provides that every person has the right to peaceful assembly. This provision reflects the right of persons to gather together as a means of participating in public affairs and to pursue common interests or further common purposes.

Similarly, s 16(2) of the Charter relevantly provides that every person has the right to freedom of association with others. This right is concerned with allowing people to pursue common interests in formal groups, such as political parties, professional or sporting clubs, non-governmental organisations, trade unions, and corporations (Joseph and Castan, *The International Covenant on Civil and Political Rights* (3rd ed, Oxford University Press, 2013), [19.13]).

This right could be limited by compulsory treatment measures involving the detention or isolation of a person. However, clause 145 of the Bill provides that an inpatient assessment order cannot be made for a person unless the person cannot be assessed in the community. Similarly, clauses 181(2) and 194(2) of the Bill provide, respectively, that an authorised psychiatrist must not make an in-patient temporary treatment order and that the MHT must not make an in-patient treatment order unless a patient cannot be treated in the community.

Protection of families and children

Section 17(1) of the Charter recognises that families are the fundamental group unit of society, and entitles families to protection by society and the State. Section 17(1) is related to the s 13(a) right and an act or decision that unlawfully or arbitrarily interferes with a person's family is also likely to limit that family's entitlement to protection under s 17(1).

The Charter does not define the term 'family'; however, extrinsic materials and judicial consideration confirm that it is to be given a broad interpretation. It at least includes ties between near relatives, with other indicia of familial relationships including cohabitation, economic ties, and a regular and intense relationship. Cultural traditions may be relevant when considering whether a group of persons constitute a 'family' in a given case. In this respect, the cultural right in s 19(2)(c) of the Charter, which states that Aboriginal people must not be denied the right to maintain their kinship ties, is also relevant.

Section 17(2) of the Charter provides that every child has the right, without discrimination, to such protection as is in their best interests and is needed by them by reason of being a child. It recognises the special vulnerability of children, defined in the Charter as persons under 18 years of age. 'Best interests' is considered to be a complex concept which must be determined on a case-by-case basis. However, the following elements may be taken into account when assessing the child's best interests: the child's views; the child's identity; preservation of the family environment and maintaining relationships; care, protection and safety of the child; situation of vulnerability; the child's right to health; and the child's right to education (Committee on the Rights of the Child, *General Comment No 14 (2013)*, 62nd sess, UN Doc CRC/C/GC/14 (29 May 2013), [52]–[79]).

These rights could be limited where the compulsory treatment measures prevent persons with mental illness from residing or spending time with other family, or where children are detained away from family or are prevented from attending school or undertaking other developmentally important activities. However, the rights of children are also promoted by provisions that promote their treatment for and recovery from mental illness. Two notable additional safeguards that are provided for children are that MHT approval is required for ECT to be administered even with consent, and that children cannot be subject to intensive monitored supervision.

Cultural rights

Section 19 of the Charter protects the right of all persons with a particular cultural, religious, racial or linguistic background to enjoy their culture, to declare and practise their religion and to use their language, in community with other persons of that background. In particular, s 19(2)(c) of the Charter provides that Aboriginal people must not be denied the right to maintain their kinship ties.

The compulsory treatment measures may interfere with the ability of people being detained to enjoy their culture or religion in community with others. They could also limit the right if the tenets of a person's religion is interfered with by the relevant treatment. The Bill contains measures that seek to ameliorate any impacts on culture and cultural practice, including by requiring that people who are subject to restrictive interventions and intensive monitored supervision be provided with the facilities and supplies needed to meet their needs and maintain their dignity. The Bill also requires that consideration of a person's culture be actively considered as part of the diversity principle in clause 25 and the cultural safety principle in clause 27.

Right to liberty

Section 21 of the Charter protects the right to liberty. The liberty rights in s 21 reflect aspects of the common law right to personal liberty, which has been described as 'the most elementary and important of all common law rights' (*Trobridge v Hardy* (1955) 94 CLR 147, 152). In particular, s 21(2) prohibits a person from being subjected to arbitrary detention, whilst s 21(3) prohibits a person from being deprived of their liberty except on grounds, and in accordance with procedures, established by law. Together, the effect of ss 21(2) and (3) is that the right to liberty may legitimately be constrained only in circumstances where the deprivation of liberty by detention is both *lawful*, in that it is specifically authorised by law, and *not arbitrary*, in that it is reasonable or proportionate in all the circumstances.

The right to liberty in s 21 of the Charter is concerned with the physical detention of the individual, and not mere restrictions on freedom of movement (*Antunovic v Dawson* (2010) 30 VR 355, [72]). The scope of the right extends beyond detention as part of the criminal justice system to protective or preventative forms of detention, including for mental illness. Whether a particular restriction amounts to a 'deprivation of liberty' for the purpose of the right in s 21 is a question of degree or intensity (*Kracke v Mental Health Review Board* (2009) 29 VAR 1, [664]).

The requirement that compulsory mental health assessment or treatment be provided on an inpatient basis, as a result of the risk posed by their mental illness, will limit the person's right to liberty. However, as explained below, the limitation will occur lawfully and the accompanying safeguards will ensure the limitation is not arbitrary.

Humane treatment when deprived of liberty

Section 22 of the Charter requires that all persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person. The right to humane treatment while deprived of liberty recognizes the vulnerability of all persons deprived of their liberty and acknowledges that people who are detained should not be subject to hardship or restraint other than the hardship or restraint that is made necessary by the deprivation of liberty itself (*Certain Children v Minister for Families* (2016) 51 VR 473, [172]–[173]).

The relationship between s 22 and s 10 was discussed in *Castles v Secretary to the Department of Justice* (2010) 28 VR 141, [99]:

> Section 22(1) is a right enjoyed by persons deprived of their liberty; s 10(b) applies more generally to protect all persons against the worst forms of conduct. Section 10(b) prohibits "bad conduct" towards any person; s 22(1) mandates "good conduct" towards people who are detained.

As discussed above, the use of the compulsory assessment and treatment measures may involve deprivations of liberty. Where the measures are used in this way, the service responsible for implementing that deprivation must ensure that the needs of those deprived of liberty are provided for so that any such deprivation is humane. In addition to their obligations to act compatibly with the right to humane treatment under the Charter, service providers exercising functions under the Bill must make all reasonable efforts to comply with the Mental Health and Wellbeing Principles and give proper consideration to them when making decisions, and apply the Decision-making Principles for treatment and interventions when making decisions under Chapters 3 and 4 of the Bill. The Mental Health and Wellbeing Principles include the "least restrictive principle" (clause 18) which requires mental health and wellbeing services to be provided with the least possible restriction on rights, dignity and autonomy. The balancing of harm principle (clause 82) with respect to treatment and interventions, requires that compulsory assessment and treatment or restrictive interventions not be used unless the serious harm or deterioration to be prevented is likely to be more significant than the harm to the person that may result from their use.

Further, the Bill specifically requires people who are subject to restrictive interventions and intensive monitored supervision to be provided with the facilities and supplies needed to meet their needs and maintain their dignity. In this way, the Bill provides additional direction to service providers with respect to acute circumstances where there is a risk that treatment may not be humane if particular care is not taken with respect to the premises, facilities and supplies made available to a person while they are detained, and ensures that the compulsory treatment measures in the Bill do not limit the right in s 22 of the Charter.

Right to a fair hearing

Section 24(1) of the Charter relevantly provides that a party to a civil proceeding has the right to a fair hearing. The right may be engaged by those clauses of the Bill which provide for decisions relating to the use of compulsory treatment measures to be made by the MHT (*Re Kracke and Mental Health Review Board* (2009) 29 VAR 1, where it was held that s 24 applied to proceedings before the Mental Health Review Board under the *Mental Health Act 1986*). The Bill requires that the MHT must have regard to the views and preferences of the person who is the subject of the proceedings about the treatment of their mental illness, including as

expressed in any advance statement, and of other relevant persons or entities (clause 192) and that applications must be heard and determined by the MHT in a timely way (clause 191). Accordingly, I do not consider that the Bill limits this right.

Reasonableness of limits on rights

Although some of the above Charter rights are engaged or limited in serious ways by the compulsory treatment measures, it is my view that in each case the limits are reasonable and demonstrably justified under s 7(2) of the Charter. In particular, the fact that the right in s 10(c) not to be subjected to medical treatment without full, free and informed consent could be justifiably limited was recognised in the Explanatory Memorandum to the Charter, which stated that:

> [U]nder Victorian law there are some well recognised situations where full, free and informed consent to medical treatment is not required. These include where there is an emergency or where a person is incapable of giving consent and consent is provided by a substitute decision-maker. Some procedures are also permitted without consent in accordance with Divisions 4 and 6 of the Guardianship and Administration Act 1986. These procedures will not breach the Charter since they are reasonable limitations under law and can be demonstrably justified in a free and democratic society.

The Bill provides significant detail, guidance and clear safeguards about when and how these powers can be used, which satisfies the lawfulness requirements of s 7(2) and ensures that the limitations on the relevant human rights are proportionate to the purposes that the limitations seek to achieve. The individual factors that are relevant to assessing compatibility are considered in turn below.

Section 7(2)(a): the nature of each of the relevant rights that is potentially limited is discussed above when considering whether rights are limited.

Section 7(2)(b): the purposes of the compulsory assessment and treatment measures in the Bill are to reduce and manage specific risks to health and safety that arise out of mental illness, to both the person concerned and to others, and to enable people with mental illness to receive necessary treatment for that mental illness. These purposes have significant importance to persons with mental illness, their families and carers, and to the whole community. The purposes reflect important societal concerns and are pressing and substantial in a free and democratic society (*R v Oakes* [1986] 1 SCR 103, 139). In particular, the purpose of the differential treatment of people with mental as opposed to physical illness is to address the particular impacts of mental illness on a person, although they may still have capacity. There can be a material risk of suicide and self-harm where a person is in a state of extreme psychological distress, and in those cases the purpose of differential treatment is to protect the right to life in s 9 of the Charter.

Section 7(2)(c): this factor refers to the means chosen and the way in which a limitation constrains each of the limited rights. The nature and extent of the limitation on each of the rights is discussed above when considering whether rights are limited. I accept that many of the compulsory assessment and treatment measures impose serious and significant limits on Charter rights. However, in all cases the measures have been designed to constrain each of the rights as little as possible by ensuring that the use of the measures is authorised by qualified practitioners based on clear and confined criteria, of limited duration, closely monitored, notified to relevant persons and able to be reviewed. In addition, as noted above, the Bill contains a number of other safeguards designed to ensure that a person subject to compulsory assessment and treatment measures receives information and support necessary to enable them to exercise their autonomy and assert their rights throughout the process, including the requirement to provide appropriate supports to assist a person to make decisions, understand information and communicate their views, the provision of a statement of rights and the assistance of nominated support persons or mental health advocates.

Section 7(2)(d): consideration of the relationship between a limitation and its purpose requires that the measure taken, which limits rights, is rationally capable of achieving its purpose (*R v Oakes* [1986] 1 SCR 103). I consider that is the case with all of the limitations that may occur as a result of the compulsory assessment and treatment measures. For example, the purpose sought to be achieved by restrictive interventions, which is to protect the person concerned from serious deterioration in their mental or physical health and/or to protect the person or others around them from serious harm, is directly and rationally connected to the intervention. Further, as soon as a measure is no longer necessary, either the authority for that measure ceases, or the measure is required to be withdrawn, which ensures the rights limiting measure does not remain in place for any longer than required. More broadly, the purpose sought to be achieved by the compulsory treatment of persons with mental illness, which is to promote their recovery and wellbeing, is also directly and rationally connected to the limitations on rights that result from such treatment.

Section 7(2)(e): this factor requires consideration of other means of achieving the purpose of the limitation, and whether those other means are equally effective and reasonably available. As discussed above, persons responsible for making decisions with respect to compulsory assessment and treatment measures under the Bill must give proper consideration to the Decision-making Principles for treatment and interventions when

making decisions under Chapters 3 and 4 of the Bill. The Mental Health and Wellbeing Principles include the "least restrictive principle" (clause 18) which requires mental health and wellbeing services to be provided with the least possible restriction on rights, dignity and autonomy. In particular, as noted above, an in-patient assessment order, in-patient temporary treatment order or an in-patient treatment order must not be made unless a person cannot be treated in the community and the intensive monitored supervision of a person is only to be used as a last resort and in the least restrictive way possible. Further, as discussed above, built into each of the decision making provisions with respect to compulsory treatment measures are requirements that alternatives have been considered or tried (and in relation to intensive monitored supervision, clause 578 requires that "all less restrictive options have been tried to mitigate the risk and have been found to be ineffective", not just that they be considered) and that the decision-maker is satisfied that there are no less restrictive means reasonably available. In respect of the use of restrictive interventions and intensive monitored supervision, the potential alternatives, and the reasons why they were considered to be unsuitable, must be documented, so decision makers cannot give mere lip service to this important requirement.

Having regard to all relevant factors, I consider the compulsory assessment and treatment provisions of the Bill are compatible with Charter rights.

Mental health crisis response and transport by authorised persons

Under Chapter 5 of the Bill, police officers and other authorised persons will continue to have powers to take a person into care and control, and transport them for the purpose of assessment or treatment, and to enter and search premises and seize items. These will be referred to as mental health crisis response and transport by authorised powers to ensure that these interactions are distinguished from the law enforcement powers that police also have.

Clause 232 allows for police officers, protective services officers, registered paramedics employed by an ambulance service or other prescribed people to take a person into their care and control in a mental health crisis for the purposes of having them examined, which can involve detaining and transporting them. In order to use the power, the person exercising the power needs to be satisfied that the person appears to have a mental illness and that, because of the person's apparent mental illness, they need to be taken into care and control to prevent serious and imminent harm to the person or to another person.

The Chapter also provides for powers of entry, search, seizure and bodily restraint in the circumstances above and with respect to people who are required to be taken to or from any place under the Bill. Clause 246 allows authorised persons to enter any premises (using reasonable force to do so if necessary) where they are satisfied on reasonable grounds that the person may be found there and to take that person into their care and control. Two forms that care and control may take are detention and transportation. Clause 247 allows for the search of a person and clause 248 requires that the search must be conducted in a way that provides reasonable privacy for the person and must be the least invasive kind of search practicable in the circumstances and children must be searched in the presence of a parent or another adult. Clause 249 allows for the seizure of things found during the search of a person if the authorised person is reasonably satisfied that the thing presents a danger to the health and safety of the person or another person. Clause 250 allows for the use of bodily restraints on a person taken into care and control where all reasonable and less restrictive options have been tried or considered and have been found to be unsuitable, and the use of that restraint is necessary to prevent serious and imminent harm to the person or another person.

There are also powers to apprehend and transport people who are absent without leave from an in-patient facility in clauses 221, 608 and 609.

Clause 297 authorises the chief psychiatrist, or an authorised officer at the chief psychiatrist's direction, to enter the premises of a clinical mental health service provider at any time for the purpose of conducting an investigation or clinical review or performing any other function of the chief psychiatrist under the Bill (or a custodial setting in the case of an investigation or clinical review that relates to the provision of mental health and wellbeing services in that custodial setting). In such circumstances, the chief psychiatrist, or an authorised officer at his or her direction, is authorised to do a range of things reasonably necessary for the function being performed, including to require a staff member to produce documents or answer questions (clauses 297–298). Clause 496 makes similar provision in relation to the Mental Health and Wellbeing Commissioner. It authorises authorised investigators to enter the premises of service providers or a custodial setting (where an investigation relates to services in that custodial setting) to inspect and make enquiries and clause 497 provides for the Mental Health Commission to issue written notices requiring the production of documents and the attendance of witnesses. Clause 511 preserves the privilege against self-incrimination in connection with investigations by the Mental Health Commissioner. Clause 748 preserves the privilege in connection with and the provision of information or the doing of any thing that a person is required to do under the Bill.

The crisis response and transport powers, and the inspection and investigation powers of the chief psychiatrist and the Mental Health Commission are likely to either engage or limit the following Charter rights: equality (s

8); cruel, inhuman and degrading treatment (s 10(b)); freedom of movement (s 12); privacy (s 13(a)); protection of families and children (s 17); property (s 20); liberty (s 21); humane treatment when deprived of liberty (s 22).

Equality

The crisis response and transport provisions may potentially amount to direct discrimination on the basis of disability. The provisions treat people with mental illness *differently* from other people on the basis of their mental illness. Although the aims of the provisions are beneficial and aim to promote mental health and wellbeing, these specific provisions could be considered unfavourable, notwithstanding that aim.

Cruel, inhuman or degrading treatment

It is highly unlikely that the crisis response and transport powers could limit the right in s 10(b), unless they were exercised unreasonably, which would make the exercise of power unlawful in any event. These powers are "care and control" powers, and are granted for beneficial purposes. This will be relevant to the determining the reasonableness of any exercise of the power.

Freedom of movement

The crisis response and transport powers, and the inspection and investigation powers of the chief psychiatrist and the Mental Health Commissioner are likely to limit people's freedom to move about, including by detaining them, transporting them or requiring them to attend a particular location as a witness.

Rights to privacy, family and home

Whilst the crisis response and transport powers, and the inspection and investigation powers of the chief psychiatrist and the Mental Health Commissioner, engage the right to privacy in my view they do not limit it. The right in s 13(a) of the Charter will only be limited where an interference with privacy is unlawful and arbitrary. Any interference with privacy under these clauses will be lawful, by virtue of the clauses themselves which are clear and appropriately circumscribed, and not arbitrary, in the sense that they are also proportionate to the legitimate aims sought to be achieved by those clauses.

Protection of families and children

These rights could be limited by the use of crisis response and transport powers against children. Clause 248 requires that if the person being searched is of or under the age of 16 years, they must be searched in the presence of their parent, or if it is not reasonably practicable for a parent to be present, another adult.

Property

Section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. There are three elements to this right:

(a) the interest interfered with must be 'property', which includes all real and personal property interests recognised under the general law;

(b) the interference must amount to a 'deprivation' of property, that is, any 'de facto expropriation' by means of a substantial restriction in fact on a person's use or enjoyment of their property (*PJB v Melbourne Health (Patrick's Case)* (2011) 39 VR 373, [89]); and

(c) the deprivation must not be 'in accordance with law', which involves a requirement that the law must be adequately accessible and formulated with sufficient precision to enable the person to regulate their conduct.

In my view, although it is possible that the seizure of some document or thing pursuant to clause 249 may constitute a substantial restriction on a person's use or enjoyment of their property, any such deprivation of property will satisfy the requirement that it be in accordance with law and the right will therefore not be limited.

Right to liberty

The crisis response and transport powers will limit the right to liberty by allowing for temporary detention of a person in order to prevent serious and imminent harm to the person or another person, although the limitation will occur lawfully and the purposes of that temporary detention would ensure the limit is not arbitrary. Clause 229 provides that in exercising a power under Ch 5, an authorised person must give proper consideration to the mental health and wellbeing principles. And clause 230 specifically requires that so far as is reasonably practicable in the circumstances, the exercise of these powers by an authorised person must be exercised in the least restrictive way possible. Clause 228 requires that, as far as reasonably practicable in the circumstances, these powers are to be exercised by an authorised health professional or, if that is not reasonably practicable in the circumstances, to be informed by another authorised person who is an authorised health professional or the advice of a registered medical practitioner, an authorised mental health practitioner, a registered nurse or a registered paramedic. Clause 234 requires that arrangements are made for the person to be examined as soon as practicable, this may be by arranging examination at or near the place, transferring

a person's care and control, or transporting them to another place for examination, so that this non-therapeutic period of detention is of very limited duration. Although it is not of itself therapeutic, temporary detention in a mental health crisis including for the purposes of transportation is necessary in order for examination to occur in an appropriate location.

Humane treatment when deprived of liberty

As discussed above, the crisis response and transport powers may involve deprivations of liberty. Where the powers are used in this way, the relevant officers must ensure that the needs of those deprived of liberty are provided for so that any such deprivation is humane. The requirement that examination or transport occur as soon as practicable will ensure that any deprivation of liberty is brief. It is also unlikely that the power to take into care and control, search and seizure powers could limit the right in s 22, unless they were exercised unreasonably, which would make the exercise of power unlawful. These powers are "care and control" powers, and are granted for beneficial purposes.

Reasonableness of limits on rights

Although some of the above Charter rights are engaged or limited in serious ways by the crisis response and transport powers, and the inspection and investigation powers of the chief psychiatrist and the Mental Health Commissioner, it is my view that in each case the limits are reasonable and demonstrably justified under s 7(2) of the Charter. The bill provides significant detail, guidance and clear safeguards about how these powers can be used, which satisfies the requirements of s 7(2). The chief psychiatrist (clause 268) and the Mental Health Commissioner (clause 414) and those exercising powers to take people into care and control or transport them under the Bill will be required to give proper consideration to the mental health and wellbeing principles. The individual factors that are relevant to assessing compatibility are considered in turn below. These powers have been amended in order to implement the Royal Commission's recommendation that crisis intervention must be led by health professionals and not by the police. Under the current Act the police may apprehend a person and take them for examination. Police involvement in these circumstances can sometimes be frightening to a person with mental illness and can exacerbate the symptoms of their illness, through no fault of the police. This part allows for more sensitive responses, where that is possible, which will ensure interventions remain proportionate.

Section 7(2)(a): the nature of each of the relevant rights that is limited is discussed above.

Section 7(2)(b): the overarching purpose of the Bill is to enable people with mental illness to be treated for that mental illness, to achieve recovery and wellbeing and to reduce and manage specific risks to health and safety that arise out of mental illness, which has significant importance to the whole community. In furtherance of that purpose, the apprehension, search and seizure powers have an interim purpose of preventing serious and imminent harm to the person or another person and arranging for the person to be examined, either by arranging for an examination at or near the place the person was taken into care and control, or by transporting the person to a place where they may be examined. The chief psychiatrist's and the Mental Health Commissioner's inspection and investigation powers further the Bill's purposes by ensuring that services and others with powers under the Bill are complying with the Bill and are performing their roles diligently and humanely.

Section 7(2)(c): the nature and extent of the limitation on each of the rights is discussed above when considering whether rights are limited. I accept that many of the limits are serious limits on Charter rights, however in most cases the limits imposed by the crisis response and transport provisions will be temporary and of short duration. The provisions have been designed to constrain each of the rights as little as possible.

Section 7(2)(d): the relationship between the limitations on rights and the purpose sought to be achieved by the compulsory treatment measures is a direct one. All of the limits are rationally capable of achieving their purposes and are orthodox means of doing so.

Section 7(2)(e): clause 228 sets out principles regarding how these apprehension, search and seizure powers are to be exercised and authorised persons exercising these powers will be required to give proper consideration to the mental health and wellbeing principles. Further, as discussed above, built into the "care and control" provisions are mandatory requirements that set an appropriately high threshold before those powers can be used.

I therefore consider that the crisis response and transport powers, and the Mental Health Commissioner's inspection and investigation powers, are compatible with Charter rights.

Information collection, sharing and confidentiality provisions

The Bill contains a number of clauses allowing for the collection and sharing of information—some of it sensitive health information about a person. The Bill also contains various provisions ensuring the maintenance of confidentiality and preventing the sharing of information.

Clause 258 provides for the Health Secretary to enter into information sharing agreements with public sector bodies for specified purposes. Clause 259 allows the Health Secretary to collect a person's unique identifier (defined in clause 3 to have the same meaning as in the *Victorian Data Sharing Act 2017*) for the purposes of performing the Health Secretary's functions, and clause 505 requires that collection to be reasonable in the circumstances. Clause 525 allows the Mental Health Commissioner to collect health information, personal information, identifiers and unique identifiers, as relevant to other Victorian legislation that regulates privacy and the collection and sharing of information. Clause 671 allows the Victorian Collaborative Centre for Mental Health and Wellbeing to collect health information, personal information, identifiers and unique identifiers, to the extent necessary to conduct research. Clause 714 allows Youth Mental Health and Wellbeing Victoria to collect the same types of information to the extent necessary to perform its functions.

The complaints handling and investigations functions of the Mental Health and Wellbeing Commission engage Charter rights in a number of ways. Clause 448 allows the Commission to refer complaints to others without consent. Clause 462 allows the Commission to require a service to produce any document or other evidence relating to the subject of a complaint, including health information, and clause 521 does the same with respect to other types of information. Clauses 463 and 519 provide that a party to a complaint and the Mental Health Commissioner must not disclose conciliation matters. Clauses 517 and 518 prevent the disclosure of information obtained during an investigation, complaint data review or complaint resolution process. Clause 520 allows the Mental Health Commissioner to decide that particular identifying information is not to be disclosed. Clauses 511 and 748 preserve the privilege against self-incrimination.

Part 17.1 regulates and provides for the disclosure of health information, both with and without consent, for specific purposes including to and between services, to the MHT, the chief psychiatrist and the Health Secretary. Division 1 sets out new information sharing principles set out in clauses 722–726. These include, in clause 722, that the use or collection of information about a person receiving mental health and wellbeing services should, amongst other things, enhance their ability to access, understand and self-manage their information, support their autonomy and empowerment and ensure they are provided with safe, high-quality treatment, care and support. By clause 721, an entity that makes a decision, performs a function or exercises a power related to the disclosure, use or collection of health information or personal information under the Bill must give proper consideration to the information sharing principles.

Clause 730 permits a mental health and wellbeing service provider or people associated with the provider (including staff and contractors) to disclose a person's health information without their consent for various purposes, including where disclosure is reasonably necessary for the service provider to perform functions under the Bill. Clause 729 allows for people to consent to the disclosure of their health information to family, a carer or supporter, during the course of receiving a service. Clause 732 allows a service provider not to disclose a person's health information to family, a friend or supporter in certain circumstances, including that the disclosure poses a threat to the life or health of any person or could unreasonably impact on the privacy of any person.

Division 4 of Pt 17.1 provides for information sharing between mental health and wellbeing service providers and specified service providers (such as a provider of alcohol and drug treatment services funded by the State or a provider of public or community housing services funded by the State), and Ambulance Victoria and other prescribed emergency service providers. Clause 727 sets out the purpose of the electronic health information system, including to maintain the records of people who receive services from service providers. Clause 728 provides in what circumstances information from the electronic health information system can be used and by whom. Division 5 of Pt 17.1 creates offences relating to the misuse or unauthorised disclosure of information on the electronic health information system.

Clauses 387 and 746 make it an offence to give false or misleading information under the Bill and clause 515 makes it an offence to make a false or misleading statement.

The information collection, sharing, confidentiality and misleading information provisions are likely to either engage or limit the following Charter rights: privacy (s 13(a)); and freedom of expression (s 15(2)).

Rights to privacy, family and home

Whilst the information collection and sharing provisions engage the right to privacy, in my view, they do not limit it. Any interference with privacy under these clauses will be lawful, by virtue of the clauses themselves which are precise and appropriately circumscribed. They are also not arbitrary, in the sense that they are proportionate to the important aims sought to be achieved by those clauses which include, broadly, ensuring that relevant people and entities have the information needed for the provision of mental health services and the protection of persons with mental illness and those around from serious harm, and ensuring that complaints are considered by the appropriate body so that mental health services are maintained at a high standard.

Freedom of expression

The right to freedom of expression in s 15(2) of the Charter extends to the freedom to seek, receive and impart information and ideas of all kinds, including orally, in writing, in print, by way of art or in another medium. The right contains an internal limitation in s 15(3)(b), which permits lawful restrictions that are reasonably necessary for the protection of public order, public health or public morality. The internal limitation may limit the scope of the right, in the same manner as the internal limitations in s 13(a), or it may indicate the kinds of limits that will be considered reasonable under s 7(2).

The right may be limited by the confidentiality or offence provisions that require confidentiality or prevent the sharing of particular information. However, in so far as these provisions fall within the internal limitation in s 15(3)(b), which provides that freedom of expression is subject to lawful restrictions reasonably necessary for, among other things, the protection of public health, the right might not be limited.

Reasonableness of limits on rights

If the rights in s 13(a) or s 15(2) are limited, it is my view that in each case the limits are reasonable and demonstrably justified under s 7(2) of the Charter. The Bill provides significant detail, guidance and clear safeguards about how these powers can be used, which satisfies the requirements in s 7(2).

The individual factors that are relevant to assessing compatibility are considered in turn below.

Section 7(2)(a): the nature of each of the rights is discussed above.

Section 7(2)(b): the overarching purpose of the Bill is to enable people with mental illness to be treated for that mental illness, to achieve recovery and wellbeing and to reduce and manage specific risks to health and safety that arise out of mental illness, which has significant importance to the whole community. The information gathering and confidentiality provisions further the Bill's purposes by ensuring that appropriate services can be provided, and risks to the safety of the person concerned and others around them can be managed, and that information is only shared to the extent reasonably necessary for that purpose.

Section 7(2)(c): the nature and extent of the limitation on each of the rights is discussed above when considering whether rights are limited. The extent of the limitation on these rights is also minimised by the requirement in clause 721 that any entity that makes a decision, performs a function or exercises a power related to the disclosure, use or collection of health information or personal information under the Bill must give proper consideration to the information sharing principles.

Section 7(2)(d): the relationship between the limitations on rights and the purpose sought to be achieved by the information sharing and confidentiality provisions is a direct one. All of the limits are rationally capable of achieving their purposes and are orthodox means of doing so.

Section 7(2)(e): the provisions have been designed to balance the right to privacy and the right to freedom of expression against each other, as they compete with each other in some circumstances. The provisions have been designed to ensure that rights are only limited to the extent reasonably necessary and that the balance struck between competing rights is appropriate to the specific power or function.

I therefore consider that the information sharing and confidentiality provisions, to the extent that they limit any rights, are compatible with those rights because they fall within the internal limitations on the rights and, in any event, satisfy the requirements of s 7(2).

Offence provisions

The Bill contains a number of offence provisions in clauses 386–388, 463, 498, 513–515, 517, 735–738, 746 and 747. Clauses 386, 483, 489 and 498 contain "reasonable excuse" provisions and clauses 738 and 747 contain "lawful authority" provisions. Clause 717 requires a person to give true answers to questions asked by an auditor, and it is an offence not to do so, which may require a person to incriminate themselves with respect to other offences in the Bill. However, the clause also provides that the answers will not be admissible in evidence against the person in any criminal proceeding other than a proceeding under that clause.

Clauses 511 and 748 preserve the privilege against self-incrimination in connection with investigations by the Mental Health Commissioner and the provision of information or the doing of any other thing that a person is required to do under the Bill.

In my view, the offence provisions engage but do not limit the fair hearing and criminal process rights in ss 24 and 25 of the Charter.

Fair hearing and criminal process rights

Section 24 of the Charter provides that a person charged with a criminal offence (or a party to a civil proceeding) has the right to a fair hearing. Section 25 of the Charter protects a number of rights that apply to a person who has been charged with a criminal offence. Section 25(1) protects the right of a person charged with a criminal offence to be presumed innocent until proven guilty according to law. The right to silence is

an inherent part of the presumption, which is also protected by s 25(2)(k). These rights reflect the common law presumption of innocence and require the prosecution to prove the guilt of an accused beyond reasonable doubt and without using compelled testimony against a person.

Provisions that merely place an evidential burden on the defendant (that is, the burden of showing that there is sufficient evidence to raise an issue) with respect to any available exception or defence are consistent with the right to a fair hearing in s 24(1) of the Charter and the presumption of innocence in s 25(1) of the Charter (because the prosecution still bears the legal burden of disproving that matter beyond reasonable doubt).

Section 72 of the *Criminal Procedure Act 2009* applies to summary hearings and provides that where an Act creates an excuse, an accused who wishes to rely on the excuse bears an evidentiary burden (and not a legal burden) in relation to that excuse. A person accused with an offence under any of the above clauses of the Bill would therefore not bear a legal burden to prove that an excuse applied. Reasonable excuse provisions are generally interpreted as imposing only an evidential burden and not a legal burden on an accused with respect to the excuse, and for that reason they are not considered to limit the right to the presumption of innocence in s 25(1) of the Charter.

Similarly, s 130 of the *Magistrates' Court Act 1989* applies to summary offences that provide exceptions, exemptions, provisos, excuses or qualifications, and only requires the defendant to point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the exception, exemption, proviso, excuse or qualification. The burden remains on the prosecution to disprove those facts beyond reasonable doubt.

I therefore do not consider that the rights in ss 24 or 25 of the Charter are limited by any of the offence provisions.

Provisions that require people to perform work

Some clauses in the Bill require people or entities to perform work. Clause 295 allows the chief psychiatrist to give a direction to a service provider to improve the services provided and to address any aspect of their services. Clause 272 requires service provider staff to provide reasonable assistance to the chief psychiatrist or their authorised officer and clause 524 requires the same for the Mental Health and Wellbeing Commission. These clauses may engage, but do not limit the prohibition on forced work (s 11).

Freedom from forced work

Section 11(2) of the Charter recognises that people must not be made to perform forced or compulsory labour. Section 11(3) of the Charter clarifies that 'forced or compulsory labour' does not include work or service that forms part of normal civil obligations. The United Nations Human Rights Commission has expressed the view that to qualify as part of 'normal civil obligations', the work or service must be provided for by law, must be imposed for a legitimate purpose and must not have any punitive purpose or effect (see *Faure v Australia*, Communication no. 1036/2001, UN Doc, CCPRC, 85, D/1036/2001 (2005), [4.11] and [7.5]). I consider that the requirements imposed under the Bill would likely constitute normal civil obligations, and that therefore this right is not limited.

The Hon James Merlino MP
Deputy Premier
Minister for Education
Minister for Mental Health

Second reading

Mr MERLINO (Monbulk—Minister for Education, Minister for Mental Health) (10:20): I move:

That this bill be now read a second time.

In March 2021, the Royal Commission into Victoria's Mental Health System released its final report, setting out an ambitious 10-year plan to transform the face of mental health and wellbeing services in Victoria.

As I said at the handing down of that report during a historic special sitting of Parliament, we know that our mental health system is broken and must be rebuilt from the ground up. The royal commission's report gave us the blueprint for delivering the biggest mental health reform in a generation, ensuring that all Victorians can access the mental health care that they deserve.

This bill is a fundamental part of the reform journey on which we have embarked. It will give effect to the royal commission's recommendation for a brand new mental health and wellbeing act, which is

essential to promote good mental health and wellbeing for all Victorians and reset the legislative foundations of our mental health and wellbeing system.

I would like to begin by acknowledging our partners and collaborators, without whom we could not have progressed this legislation, nor indeed any of the royal commission's vision.

First, to those who have lived and living experience of mental illness or psychological distress, whether as consumers of mental health and wellbeing services or as family, carers and supporters: thank you for the valuable insights, awareness, and opportunities you have generously shared with us as we embrace this systemic and cultural change. Thank you.

The bill will enable the views, preferences and values of people living with mental illness or psychological distress, families, carers and supporters to be at the forefront of everything we do, centred in this reform, true to the vision of the royal commission.

I would also like to acknowledge our mental health workforce. In particular, the clinical, community and support staff in our public mental health system who have faced the additional challenges imposed by the pandemic head-on. You are true heroes, and I thank you on behalf of the Victorian community.

Working alongside our dedicated mental health and wellbeing workforce, we will create the service system envisaged by the royal commission, providing world-leading mental health and wellbeing services for all Victorians.

The proposed bill has been informed by the findings of the royal commission, an expert advisory group appointed to support the bill's development, and extensive feedback through engagement in 2021 and this year. We received 283 written submissions to the discussion paper released last year, along with hundreds of direct engagements with stakeholders and sector leaders throughout the past 12 months. Since the beginning of the bill's development, the level of public engagement on this work demonstrated high community expectations for this bill and how eagerly it is anticipated.

The royal commission said that a new mental health and wellbeing act's purpose should be 'to promote good mental health and wellbeing in Victoria' and the new legislative objectives should reflect the aspirations of the future mental health and wellbeing system. These new objectives include frameworks for supported decision-making, recovery-oriented practice and human rights protections.

I would like to emphasise the word 'aspiration'. This is an unapologetically aspirational bill.

But it would be naive to expect that the reforms of the royal commission can be implemented overnight. It took us so many years of underinvestment to get the broken system described by the royal commission, and it will take at least a decade of unwavering commitment to this reform to build the system that Victorians deserve.

Legislation alone cannot mend a broken mental health system, and this bill will not—and cannot—be all things to all people. But my sincere hope is that it represents a significant leap forward in the legal foundations of this work, building new system leadership, establishing a wellbeing and rights-based approach to mental health and centring voices of lived experience.

The royal commission saw as imperative that new legislation be passed this year, and they were absolutely right. This bill will establish key elements of the system architecture, such as the Mental Health and Wellbeing Commission and regional boards, to guide the system across the reform journey ahead.

During our engagement, some stakeholders expressed cynicism that the new legislation will achieve the royal commission's vision without significant investment in implementation and long-term service development. They too are absolutely right.

I consider that there are three core foundations necessary to achieve success in this reform. They are workforce, legislation, and large-scale sustainable investment. Without a strong commitment to all three, we cannot hope to achieve the vision set out by the royal commission.

We are well on our way to developing and sustaining the future mental health and wellbeing workforce. Between the last three state budgets, the government has invested over $600 million into workforce pipelines and retention. We will deliver over 2500 more mental health professionals across the forward estimates, precisely what our December Mental Health and Wellbeing Workforce Strategy told us was necessary.

Today we deliver on the second critical component, a new legislative framework that delivers on the vision for rights-based mental health and wellbeing laws which reflect the diverse needs of our communities and creates the structures that will hold government to account on providing the high-quality, compassionate public mental health system of the future.

And importantly, we have already implemented the recommendation of the royal commission to create a mental health and wellbeing levy, which ensures an ongoing, sustainable funding source to keep mental health services accessible, responsive and strong. Without that levy, there would be a $3.7 billion hole in mental health funding, which would mean beds without nurses, community centres without social workers, no new facilities and vulnerable Victorians still falling through the cracks in an underfunded system.

We have heard from some that we are moving too slowly—that the directions outlined by the royal commission must be acted on as soon as possible.

On the other hand, we have also heard from some in the sector that we are moving too fast to change a public mental health system that is already operating under huge pressure.

I believe that we need to strike a balance. And I firmly believe the royal commission was right in asking us to deliver this bill this year.

This is an enabling bill—it sets up the new system architecture, alongside the necessary powers and functions for entities and others in the new system.

One lesson that we have learned from feedback about the implementation of the 2014 act is that more investment is needed to support transition to new legislation, especially in the context of an already overstretched system.

Recognising this need for investment, $29 million was allocated in this year's state budget to support implementation of this bill, once passed. There will be 23 expert practitioners and change leaders embedded within area mental health services. We will develop and deliver comprehensive training on the new legislation across the mental health sector and support for consumers, carers, families, and supporters to understand the act and their rights under it. We are providing dedicated funding to peak bodies, including the Victorian Mental Illness Council (VMIAC) and Tandem, to create materials for consumers and carers, and resources to help navigate the new legal system from next year onwards.

The new legislation will commence no later than 1 September 2023, giving us at least 12 months after passage of this bill to enable the service system to prepare, as well as for our reform investment to mature, alleviating some of the current pressure on providers and clinicians.

I turn now to a brief overview of the bill. This bill, consistent with the recommendations of the royal commission, repeals and replaces the Mental Health Act 2014.

Its operation sits alongside the Victorian Charter of Human Rights and Responsibilities as outlined in the statement of compatibility I have tabled. The obligations of the charter will apply to entities and service providers under the bill.

The introduction of modernised rights-based mental health principles will guide service providers and decision-makers to support the dignity and autonomy of people living with mental illness or psychological distress. For the first time, mental health legislation will include a 'diversity of care' principle, a 'least restrictive care' principle and a principle to specifically call out the health, wellbeing and autonomy of children and young people.

This important shift in focus will ensure that our legislative foundations reach beyond merely authorising and regulating the use of compulsory treatment and restrictive interventions. We are setting out a vision for the future of mental health and wellbeing services in Victoria—one where lived experience voices are at the centre and mental health professionals are supported to deliver on world-class care in facilities that actually help people recover.

Importantly, the bill also includes a statement of recognition to acknowledge the Victorian government's commitment to Aboriginal self-determination in achieving positive health outcomes and delivering health services that cater to the unique needs of Aboriginal Victorians.

The inclusion of the statement will progress a key reform priority of the Aboriginal Health and Wellbeing Partnership Forum to enshrine commitments to Aboriginal self-determination in Victorian government health statutes for the first time.

The bill includes measures to increase the uptake of safeguards that promote supported decision-making and the agency and autonomy of people living with mental illness. It also establishes in legislation an 'opt-out' mental health advocacy service, to better support people subject to compulsory treatment orders navigate both the clinical mental health system and the legal system that surrounds it.

Significantly, the bill establishes key new entities and offices for the governance and oversight of the mental health and wellbeing system. This includes the new Mental Health and Wellbeing Commission, regional mental health and wellbeing boards, regional and statewide multiagency panels, and the chief officer for mental health and wellbeing.

The regional mental health and wellbeing boards will provide a valuable opportunity to capture the voices of local communities and be guided by the needs in commissioning mental health and wellbeing services in each of the eight regions. This will shape implementation of exciting new developments such as the 50 to 60 local adult services, infant child and family hubs and expansion of area mental health services.

The royal commission also recommended the establishment of a new independent oversight body—the Mental Health and Wellbeing Commission—to provide statewide monitoring of the mental health and wellbeing system.

The bill establishes the commission as an independent statutory body reporting directly to Parliament and comprising a chair commissioner and three commissioners to be appointed by Governor in Council. The commission will include people with lived experience of mental illness or psychological distress and with lived experience as a family member, carer or supporter.

We have heard from stakeholders and community about how important it is that the commission is not a 'toothless tiger'.

The commission will incorporate the existing complaints function of the Mental Health Complaints Commissioner and have a suite of broader powers, including an 'own motion' investigation power. For the first time, carers and families will be able to make complaints directly to the commission in circumstances where their own treatment has been subpar.

The commission will be empowered to hold government to account for the performance, quality and safety of the mental health and wellbeing system; the implementation of recommendations made by the royal commission; and ensuring the mental health and wellbeing system supports and promotes

the health and wellbeing of consumers, families, carers and supporters and the mental health and wellbeing workforce.

The commission will also report on non-compliance with the act and report to the secretary any matters arising in relation to a mental health and wellbeing service that pose a serious risk of harm to a person or community.

Further, in line with the rights-based framing of the act, the commission will promote, support and protect the rights of consumers, families, carers and supporters.

And it will report directly to the Parliament as it sees fit.

Excitingly, the bill also establishes a new statutory entity, Youth Mental Health and Wellbeing Victoria (YMHWV).

We know that since the royal commission's report, the ongoing impacts of the pandemic have created real and enduring challenges for our children and young people—in some ways they have felt the impacts the hardest. There is an urgent need to expand the work of the royal commission and provide system-wide leadership in youth mental health—and to give agency to the voices of young Victorians to share their mental health and wellbeing experience and help us develop the services that will help them live their best lives.

This new entity will champion the voice of young people, including young people with lived experience, on its governance board. The entity will also be advised by a youth council, made up of young Victorians with diverse backgrounds and experience.

Youth Mental Health and Wellbeing Victoria will support strong strategic partnerships with specific youth mental health service providers not already regulated as public health services or public hospitals in Victoria and oversee those services to ensure safe and high-quality care for young people.

It is proposed that Orygen will be the inaugural partner, providing services within the west and north-west metropolitan regions. This model will complement our existing youth mental health services statewide and not overlap with the important work already underway in other services across Victoria.

The royal commission also recommended that the statutory provisions relating to compulsory assessment and treatment be 'simplified and clarified' such that they are no longer the defining feature of Victoria's mental health laws. However, no firm recommendations were made as to specific legislative changes to achieve this objective.

The final report recognised that, for some people, the experience of compulsory treatment has been a damaging and traumatic one. One of the consequences of the current broken system has undoubtedly been an over-reliance on the use of compulsory treatment to provide people with help and support when they are at their lowest ebb.

The royal commission has therefore called for a reduction in the use of compulsory treatment and measures to mitigate against its impact, though it did not recommend an end to compulsory treatment altogether. This is because there may be times when medical professionals and psychiatrists are obligated to take action to prevent harm—including at times making difficult treatment decisions against people's will and preferences.

The royal commission's final report set a target for the elimination of restrictive interventions (including seclusion and restraint) within the next 10 years. In doing so, they recognised that much of the work to reduce the rates and impacts of restrictive interventions will involve the implementation of broader system reform, as well as significant practice and culture change and sustainable sector investment to improve outcomes for all consumers.

Importantly, the bill acknowledges that restrictive interventions offer no inherent therapeutic benefit and highlights the aim of elimination within 10 years. It's an ambitious goal, but this is an ambitious bill, and we must do better for our must vulnerable Victorians.

Whilst this bill achieves these important steps forward in safeguarding the use of restrictive interventions, there is a lot more work to do before we have the mental health and wellbeing system that protects the rights and dignity of all consumers, their families and carers.

Through engaging with the sector and community, one theme we heard very strongly was a need to delve deeply into the laws around compulsory treatment and restrictive interventions. Key stakeholders including VMIAC, Tandem, the Royal College of Psychiatrists and the AMA all called for more time to work through these complex issues, outside the tight time frames for introduction of this bill. For this reason, we announced in December that an independent review panel would be established to examine best practice in modernising these laws for a future amending bill.

The review will also consider the related issue of how the legislation might more closely align with personal treatment decision-making laws—such as the Guardianship and Administration Act 2019 and the Medical Treatment Planning and Decisions Act 2016. The review significantly brings forward consideration of these decision-making laws from the five- to seven-year time frame set by the royal commission, delivering a better outcome for consumers and advocates.

The terms of reference for the review will be developed collaboratively with consumers, families, carers, supporters, workers in the sector and service providers using co-design principles.

I am pleased to advise the house that the Honourable Justice Shane Marshall AM will lead the review. Justice Marshall was a Federal Court judge for 20 years and is currently an Acting Judge of the Tasmanian Supreme Court. He has been a strong educator and advocate on mental health issues, particularly those faced within the legal profession, and informed by lived experience.

Justice Marshall will be joined on the panel by eminent psychiatrist, Professor Richard Newton; lived experience consumer representatives, Ms Flick Grey and Ms Erandathie Jayakody; and lived experience carer representative, Ms Lisa Sweeney.

The independent review panel will commence its review in October this year once its terms of reference are finalised. The panel will report back to government in 12 months and its recommendations will form the basis of amending legislation.

I would like to extend my gratitude to the members of the panel for taking on this important work.

The royal commission recommended that emergency service responses to people experiencing a mental health crisis in the community are led, wherever possible, by health professionals rather than police.

Following extensive consultation with emergency services, the lived experience community and our police and ambulance partners, the provisions of the 2014 act have been redesigned to better protect the rights of people experiencing mental health crisis in the community.

To enable this new response, some health professionals will now be authorised to take people to be examined for an assessment order.

All authorised persons are obliged to give proper consideration to, and make all reasonable efforts to comply with, the mental health principles of this bill in addition to two additional principles specifically: powers must be used in the least restrictive way possible and, wherever practicable, led by a health professional.

These principles are critical for the cultural change envisioned by the royal commission, including ensuring compulsory treatment and restrictive interventions are only used as a last resort and people in this particularly vulnerable situation are given support to make their own decisions, including about assessment and treatment.

This means people must be provided with alternatives—for example, assistance from peer workers. Peer workers will never be asked to use force or coerce a person, but they are crucial in helping people voluntarily access treatment, support and care. Ensuring that people can easily access the support and care they need, without the need to utilise these powers, is the best outcome and the ultimate goal of these reforms.

The diversity of the workforce is really critical—not only in developing a health-led response to mental health crisis but also across the whole spectrum of care. We are expanding the footprint of the mental health and wellbeing system, which means bringing in multidisciplinary teams to cater to a breadth of treatment and support needs. In recognition of this, we have included a new definition—mental health and wellbeing professional—to better recognise the diverse workers who make up our new system. This definition explicitly calls out professionals such as registered psychologist, registered paramedic and counsellor of a prescribed class as persons who perform duties in connection with mental health and wellbeing services.

Because at the end of the day, the beating heart of this new system is undoubtedly our compassionate, dedicated workforce. Without mental health nurses, psychiatrists, social workers and peer support workers we could not help a single Victorian improve their mental health and wellbeing. We are all indebted to these people who dedicate their careers and lives to others, and who are, every day, helping us build a new mental health and wellbeing system from the ground up.

Before I conclude, I wish to acknowledge the hard work of the many people who have contributed to the development of this bill.

I am grateful to those people and organisations who took the time to respond through the engagement process last year and more recently in a more targeted stakeholder consultation.

I would also like to acknowledge the contribution of the expert advisory group who carefully considered the policy positions and advised on all aspects of this bill from first principles onwards.

And I would especially like to thank the hardworking teams within the Department of Health and the Office of the Chief Parliamentary Counsel for the preparation and drafting of this bill to meet the rigorous time frame set by the royal commission.

I am proud to bring to this house a bill that establishes, in law, the vision of the royal commission and puts people living with mental illness or psychological distress, families, carers and supporters at the centre of our entire reform program, delivering better mental health and wellbeing for all Victorians.

I commend the bill to the house.

Ms KEALY (Lowan) (10:44): I move:

That the debate be adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned for two weeks. Debate adjourned until Thursday, 7 July.

LOCAL GOVERNMENT LEGISLATION AMENDMENT (RATING AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed on motion of Ms D'AMBROSIO:

That this bill be now read a second time.

Mr RIORDAN (Polwarth) (10:44): I am here to speak this morning to the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. The Local Government Legislation Amendment (Rating and Other Matters) Bill is an interesting bill that this government has brought through, and it comes from a long line of discussions that the government has been having in recent

years about doing a better deal for Victorians and ratepayers across the 79 municipalities here in Victoria. This bill is made up, I guess, of feedback and responses by this government to the Fair Go Rates system that began back in 2016 and the Local Government Act 2020. There was the *Local Government Rating System Review: Report of the Ministerial Panel* in 2020 and a 2021 Ombudsman's report on hardship provisions. In this body of work that has been undertaken now over the last eight years there have been lots of recommendations to the government about how rating could be fairer and how rating could be less impactful, particularly for many rural and regional ratepayers. Of course those of us who represent regional electorates know only too well the effect that the annual rate notice has in our community when it goes out, particularly on our ratepayers on farming properties. This year is no exception, and there is great concern from one end of the state of Victoria to the other, whether you are in Gippsland, central Victoria or out west and beyond, where I am, where there have been significant increases in land values—and of course that has its corresponding flow-on effect to rates.

This government has very crudely, it could be described, tried to intervene and bring in some degree of fairness to rates with its rate capping, but after five or six years now that has proven to be quite ineffective. It does not really address the long-term systemic problems that exist in the rating system or the local tax system, for want of a better description. In fact the ministerial panel report on the *Local Government Rating System Review* in 2020 went to some lengths to give recommendations that the sector was hoping to see in this legislation that is before the house now, and they were many elements about how to build in an inherently fairer approach to rating local properties. Sadly, this bill does not address any of those, and in fact much of the feedback I have had from the Municipal Association of Victoria (MAV), from local council officers and others is that this bill actually represents a missed opportunity by this government to actually build on the reforms it attempted back in 2020. This was the missing piece: how do we make rates fairer in Victoria? How do we raise the revenue that we need to keep local communities and local services available to all Victorians, and how do we do that in the fairest way? The opportunity has been missed, because unfortunately this Local Government Legislation Amendment (Rating and Other Matters) Bill really is very, very silent; it is deafeningly silent.

It is not just me saying that. I will just quote some of the feedback, particularly from the MAV. Before I read into *Hansard* what the MAV had to say about, it is also worth noting that considering that rate collection in the state of Victoria is one of the largest taxes or collections of public monies for public benefit that we have in the state, you would think that this government, if it was genuinely concerned about making these improvements, would have actually engaged with the sector. Like the opposition, the local government sector only found out through the press release the minister put out on Wednesday, 8 June, that this legislation was even being put forward. There had been almost zero contact with the sector, and the media release that went out was in many ways quite scathing of local government. Of course like everything in government, and particularly when you are wanting to have such an important sector as the local government sector on side, coming out and publicly demonising them is probably not the best way to go. So it comes as no surprise then that the MAV's commentary I think says it all in its press release response to the government, and that was that they 'received a kick in the guts by the Andrews Government'. That is in the headline from the MAV on their view of this legislation.

Local communities benefit hugely from consistent policy and practice across councils, so there was a desire by local government to work with the government to get a fairer and more equitable rating system. Councils were very quick, at the outbreak of COVID, to work with their local communities through hardship concessions to small business, helping those who were genuinely under stress. The sector is of the belief that they did a pretty good job of that, and I think that the Ombudsman's report plays that out. The Ombudsman, while noting some exceptions, overwhelmingly found that the local government sector did the right thing. Certainly, as the Shadow Minister for Local Government, there was basically no feedback to me at all that councils were overly heavy-handed. People do not like paying rates at the best of times, but it is the view that rates are a necessary evil. They need to be paid, and therefore local governments need to have some measures in place to collect. It is also worth noting that if people do not pay their rates and councils have to spend extraordinary sums in an effort to collect

those rates, it is in fact the other ratepayers who pick up the bill, so there is an equity question. We need to have fairness in hardship provisions, but at the same time rates still need to be paid.

Speaking to the lost opportunity that this bill is, I will just quote the MAV again. They feel that this bill is a cheap shot from a state government hell-bent on grandstanding about its attempts to improve rates rather than leading with some good governance that will allow local government to do more:

> The proposed legislation will be as useful to the sector as arriving at the football at full time, the game has been won and everyone is heading home.

I think that is a very colourful description of where I feel this legislation is heading as well. The opposition will not be opposing this legislation because there is not a lot to oppose. The sector generally finds that the hardship provisions are entirely embraced by the sector already. This legislation just seeks to go through the motions of legislating guidelines and activities that the sector basically agrees with. It is worth noting that the government put a lot of effort into this bill without talking it through with the sector. It is also worth noting that in the period that the government was doing the research on hardship provisions there were 28 properties sold for debt collection across the entire state, which equates to 0.00001 per cent. It is an absolutely minuscule percentage of rate collection and rate notices that go out in the state of Victoria. They were the ones that were sold up. In the greater pool of cases that ended up in debt collection or further legal intervention, there were 7000 cases across the entire state in the financial year 2018–19, which equates to 0.002 per cent of all properties valued. As is demonstrated by the MAV, this bill is seeking to solve a very, very, very minuscule problem in the state of Victoria. But on the big, big problem, which is rate fairness—equity for people across metro and regional areas—it is completely silent.

It is also worth noting that the other key stakeholder in putting together a better and fairer rating system is the ratepayer advocacy group. That group certainly did not have debt collection and ratepayer recovery as its highest priority, but it did give feedback to the government that ratepayer groups feel that hardship provisions are important, but it is also important that ultimately rates are collected and there needs to be a very transparent way of determining hardship. For example, the government is silent on having an independent view on what hardship means, and some of the feedback I received from the councils was that it is the local councils that currently make that interpretation.

There would be no objection to having an independent body that determined if there was hardship, because, sadly, while there are definitely people in our communities that suffer hardship—and councils are certainly prepared to work with them on working through their rate debts based on those hardships—there are also people that for whatever reason are slightly malicious or mischievous about their inability to pay rates. And it is always necessary to be able to verify the genuine hardship that people may feel, because a rate not paid is a rate cost picked up by other ratepayers and it prevents local governments providing the services that everybody benefits from. It is also a fact that the sizes of rate collections across our various municipalities vary enormously. One missed payment in an inner-city municipality would not have the same effect as one large ratepayer not paying in a rural or regional capacity. The cost of non-payment of rates of course will vary across the various municipalities.

Moving to some of the points that I think are worth noting as concerns about this bill—they are not reasons to not support the bill, but they are worth just bringing to the house's attention—I guess the first bit is getting back to rebates and concessions. The two main local government acts that oversee the sector already speak very clearly about rate exemptions in terms of schools, benevolent institutions and others; that is already clearly allowed for in the rates system. What this bill does under clause 7 is bring in another new category of rate exemption, and it is around public benefit. The need for public benefit was mentioned in the Victorian government's rating system review. There was a little bit of uncertainty about what public benefit means and who gets to decide that. It appears that the government's intention is that local councils will decide what agency or organisation or property owner delivers a public benefit. The ideas around public benefit are relatively clear. These are agencies or organisations that would provide a direct provision of goods or services to the public, or a substantial

portion of the public, free of charge or at a nominal charge, where the land is not used, or will not be used, primarily for the distribution of profit to an owner. I think they are entirely reasonable aspirations.

The only concern that was raised with me around this provision is that it may seem benign at the moment, but the local government sector of course will recall very clearly that only a few months ago the government tried to move legislation that would see their public housing stock exempt from paying rates. This caused a huge concern to the local government sector. It was going to come at a cost shift of some $100 million to $120 million a year to the sector, and they quite rightly were very concerned about that.

I would also raise the spectre that the government is looking to undertake other various actions of public benefit, perhaps in negotiations on its treaty act or other elements that may creep into government over time that the government may deem as public benefit. My concern really would be most particularly for rural and regional councils or smaller councils that may in fact have large tracts of rateable property where in isolation what sounds like a public benefit and a good idea could in fact come at a huge financial cost to those local ratepayers. Any decision by government to exclude the payment of rates of course will have a flow-on effect and a cost effect for the remaining ratepayers. That is an issue on which hopefully the government stays true to its word—that it is purely an element for the local government municipality of the time to make those decisions. I guess we will have to see, and perhaps the upper house in committee may in fact be able to tease that out more with the minister in that place.

I would also just raise—this was another common problem or issue raised by the secretary at the time—that in the government's attempt to make hardship provisions more concrete what they have done is put in place a train of mechanisms that will actually cost local government, depending on the case, quite a bit to actually recover funds. There is a payment plan process that has been put in, which most councils are doing already. This payment plan process is quite extensive. The main core of it is that a ratepayer who has not paid can take up to two years to enter into a payment plan with very modest capacity for the municipality to charge interest on unpaid sums. So the ratepayer will enter into a payment plan that could take quite some time. They can then stay in that payment plan, but if they default on the payment plan it is then another further two years before the municipality can in fact undertake legal action to reclaim that. If you look at that over a period, you could be looking at a four- or five- or even six-year period of unpaid rates, which is not helpful to the ratepayer and is certainly not helpful to the other ratepayers who are having to chase those funds.

I would make the observation that for a debt that is at that level and under that much hardship, a six-year period of waiting to deal with it is not really the best way to go. In fact I would offer the observation that other elements of government do not have such generous and unwieldy approaches to collecting debts, whether it is the tax office or whether it is the State Revenue Office or other collection points for public funds through the government. I would make the observation that in future this area could be a concern, because a malicious or actively recalcitrant ratepayer could in fact see this as a very cheap source of money, a cheap source of funds, and a very legal and effective way to avoid paying their rates in a timely and appropriate manner and could in fact use the legislation in a rather malicious way. So I make that observation.

All in all this bill seeks to clean up many other elements. In a bit of wording, it is essentially codifying what local government already does. The biggest change is potentially in the public benefit element. Also it does put quite a handbrake on the way councils can attract their overdue rate payments. With that, the local government sector do not really find anything overly offensive in the bill apart from the tone and tenor of the government's engagement with them in the lead-up to this bill.

I guess it does leave this state Parliament and this legislature really a greater challenge of moving on with a more genuine attempt at improving the rating system and the lot of many people, in particular the farming community and the agricultural community, who have long suffered from a rating system that skews to that industry very heavily compared to many other industries. It has been acknowledged many,

many times by various reviews of the rating system that there is a huge discrepancy across the state in the way that we collect these very important funds that provide those basic levels of local government. So the opposition will not be opposing this legislation, and I draw my comments to a conclusion.

Ms CONNOLLY (Tarneit) (11:04): I too rise right to speak on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. I am really pleased to hear from the member for Polwarth that the opposition will not be opposing this bill today, but I was pretty surprised to listen to the member for Polwarth talking here about how we are putting on a handbrake for the way in which councils can go ahead and recover fines and other things like that. I think it is particularly offensive. He mentioned this morning it was the Municipal Association of Victoria (MAV) talking about this being like turning up to a football game at full time after the game has already been won and it is time to go home and it does not do much more.

This type of legislation, and certainly this bill going through the house today, is more like turning up to the end of a football game when one team has won and everyone is going home with 1600 bucks in their pocket due to the great work that we did in this area around rate capping back in 2015–16. This is protecting people in our community—the most vulnerable people in our community—and putting in place a framework for people to apply for a hardship framework in order to be better able to pay down and address debts that they have.

I want to start by reading something out. I was reading through the notes, and there was a media release on 9 June 2022 with comments from Financial Counselling Victoria. I want to read this into *Hansard* because this is really important and I want my community to hear this. This is about protecting you and the most vulnerable people in your streets and your neighbourhoods.

> Financial Counselling Victoria … today welcomed the announcement of new legislation that will require Councils to be more consistent and community-minded when dealing with rate payer debt.
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> …
>
> "For … years, financial counsellors have observed Councils behaving harshly and aggressively towards residents in hardship," said Dr Sandy Ross, FCVic's Executive Officer.
>
> …
>
> "We have been advocating for some years, alongside community law centres such as WEstjustice—

Westjustice, by the way, is very, very, very well known and very well respected in the western suburbs and in particular Wyndham—

> for improvements in Council responses to hardship … there have been a number of Councils, across rural, regional and metro areas, that have chosen to use disreputable debt collection agencies, take away people's houses, or bankrupt people over relatively small debts.".

So I completely, completely disagree with MAV. This is a very important bill to come before the house particularly at this point in time, because what else is going up? The cost of living is going up. I do not know if the member for Polwarth has filled up his car recently or gone to the grocery shop to see the rising cost of fruit and vegetables or seen what it actually costs to fill up your vehicle at the moment—again more economic hardship on working people, on vulnerable people, on some of the most vulnerable people in Victoria's community.

This bill introduces one of the biggest reforms to the operation of local government since the amalgamations in the 1990s and the introduction of the Local Government Act 2020. The biggest focus of this bill is helping some of our most vulnerable Victorians who are experiencing financial hardship. And let us be honest, after the last two years of a global pandemic there are a lot of people in our community, in our neighbourhoods and in our streets—they might be family members of ours—experiencing severe financial hardship and struggling to get back on their feet. We know that the pandemic has been a tough time for the most vulnerable in our communities, and this affects governments at all levels; this affects us at all levels. That is why the Victorian Ombudsman conducted an investigation into how councils responded to ratepayers who were experiencing financial hardship and struggling to pay their rates.

In 2018 our government committed to a review of Victoria's council rates system to see if rates were fair and equitable for our community. That was back in 2018. What this review found was that our rates are an important source of funding for local services and infrastructure. I do not think anyone in this house or anyone in our local community would deny that. Fortunately for Victorians our rates system is not broken—that is what we found—and it is in fact in line with many of the principles that underpin a good taxation system. So that can be a tick for local government. In relation to the recommendations made by this review, our government has committed to 36 of them, with a priority of reforms that support ratepayers in financial hardship—we are making that our number one priority—improve transparency and consistency of decision-making and build greater equality and fairness. This bill is the first step in that process, with another bill to continue this process in the works and expected to be introduced in 2023. What this bill does is act on recommendations 28, 30 through to 34 and 36, all of which focus on financial hardship measures and assisting vulnerable ratepayers. I say to the ratepayers of Victoria and most certainly folks in Wyndham: we have your back; this bill is about you.

In addition to this review, the Ombudsman's investigation into how councils in Victoria respond to ratepayers in financial hardship tells us more about the story of how the system is faring. It is not equal across the board. The investigation looked at how accessible the payments were for ratepayers, how fair the assistance offered was and whether it was fair and reasonable, as well as what we can learn from the COVID relief schemes. I think in this country and indeed this state the amount of things we have learned over the past two years in grappling with, tackling and trying to come through a one-in-100-year global pandemic—there is a lot to be learned from that. Some of the processes can be improved, and where they can, we should go ahead and do it.

What the investigation did find, first and foremost, was that council assistance was not really easy to access for those who were looking for it or may have needed it. I recall really early on in the pandemic—it might have been around March or April—that my office was getting lots of calls from constituents, and I was taking lots of calls, from folks worried about whether councils were going to be implementing rate relief or some other form of assistance. Whereas you might have a utility company that can actively identify customers in hardship—utility companies know who their hardship customers are—with councils you need to go to them and put your hand up to say you are in hardship.

What this report found was that of the 79 councils in Victoria, all but two utilise debt collectors to chase up unpaid fees. That is 97 per cent of all Victorian councils. In some hardship cases the interest built up—this is just unbelievable—to the point that it accounted for 25 to 50 per cent of the total debt owed by ratepayers. That is a poverty trap. That is why Westjustice in Wyndham, its office in Werribee mind you, were working overtime, to try and get people out of this financial trap that they found themselves in. It is clear now more than ever that hardship relief to help Victorians get on top of their local rates is an absolute priority, and it should be a priority of governments at all levels. This bill is about getting that underway.

I wholeheartedly support this bill. This is about Victorians. It is about Victorian families. It is about trying to make sure that you are protected in your hour of need. It is not about not having to pay your debts, it is about finding a way for you to pay them off and hopefully not incur them in the future. It is about you being able to still have some money in your pocket to put some fuel in your car and food on the table for your family. This is a really good bill. It is the first step in what will be a longer process of introducing reform in this sector to ensure all levels of government are looking out for all Victorians.

Mr McCURDY (Ovens Valley) (11:14): I am delighted to rise and make a contribution on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022, which we are not opposing. As we have heard, the bill is largely technical in nature, with the majority of the provisions being minor amendments to tidy up other legislation, which is what we have become used to in this 59th Parliament—tidying other bits of legislation as we go along.

This bill is a long overdue response to two reports: the Ombudsman's *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship* in 2021 and the *Local Government Rating*

System Review of 2019. It does, however, make a few reforms in key areas. A portion of the bill is dedicated to implementing payment plans by adding to the Local Government Act 1989. That allows councils to determine the terms of a payment plan, including the duration of the plan, the amount of the repayments and the frequency of those repayments.

As a former councillor myself and a former deputy mayor of the Moira shire, I do understand the matters of local councils and how they operate and some of the challenges they face. I think in that respect there is certainly some room to move to try and assist people in how these repayments can get developed and support people rather than use the big-stick approach—which is not what most councils do, but certainly just anything that gives more flexibility is a step forward.

Councils can also determine any other payments or terms of a payment plan. This reform will mostly affect a small number, as we have heard, of ratepayers. In amongst the Ovens Valley electorate we have three councils: the Rural City of Wangaratta, the Moira shire and the Alpine shire. There is $5.3 million listed as rate debtors—and this is an accumulation over many years of debtors—and the combined rate revenue of those three councils was $94 million within the Ovens Valley in the 2020–21 fiscal year. Council already has ways of dealing with those people in arrears, so this is not new. But as I said before, any flexibility will certainly assist for those who are most vulnerable and need financial support and would like other ways to try and be able to pay the debt without the debt collector coming knocking at the door. Only eight properties were sold for debt collection in Victoria in 2018–19, which is obviously a small fraction of the properties. There were also 7000 cases of debt collectors being used by councils in that 2018–19 period. So to me, this reform, as I said, improves what is already in existence. It can certainly assist to help handle outstanding dues. It is a small group of people that it affects, but again, to those people it is very important.

The bill also takes away council's ability to impose rates or charges on the provision of water supply or sewerage services, and that is further justified by the fact that councils no longer supply these services, so I think that is common sense in that respect. There are also amendments to the act that allow the minister to make guidelines relating to the payment of rates and charges. We know there is already room for the minister to make guidelines following the 2020–21 Ombudsman's report. The bill makes changes to rebates and concessions, and the bill inserts into the Local Government Act 1989 that councils may grant a rebate or a concession to land being used for public benefit. Good examples of public benefit are charitable organisations and religious, educational and social support services. It provides more flexibility for councils in that rating regime for land specified as being used for the direct provision of goods and services free of charge or for a nominal fee. So again it just offers flexibility along the way. It then lists a variety of ways a person could receive profit from the specified land, which leaves an ambiguous definition of what does and does not constitute public benefit in some ways.

Councils are already able to offer concessions and rebates, providing concessions to pensioners and others under the State Concessions Act 2004. We already know that the councils in regional Victoria are feeling the strain of trying to provide more services whilst also maintaining and building thousands of kilometres of new roads. At the end of the day, we want to support our vulnerable ratepayers, we want to make sure councils have flexibility in terms of being able to offer various ways for them to make payment plans, but at the same time we do not want to expose councils to more costs, because they simply do not have the funds. There is a new structure required, we all know that, and however that will pan out into the future—whether it is funded federally or it is the state coming to the party—there is no doubt particularly regional councils are battling to pay their way and keep their roads up to date. This is just the maintenance rather than new builds and new infrastructure and new investment; this is about just maintaining what we have already got. The rate base is not as high, for example, in the Moira shire or the Alpine shire. In the Alpine shire 92 per cent of the area is public land. If you compare that to, for example, Whitehorse shire or a council in Melbourne that has a much larger ratepaying base, that certainly makes life a lot easier from a financial perspective, but obviously with that come more concerns and different issues as well. Council will try to fill the gaps in the budget that come as a result of the concession. That is why I say we need to be careful that we do not make life

too difficult for councils. This is most likely going to get passed on to other ratepayers, so in terms of the amount of money that is available, if you put it in one pocket, it has got to come out of another one, and we just want to make sure that we do not create a heavier burden for other ratepayers.

The legislation also amends the Local Government Act 1989 to require the minister to fix the maximum interest rate on unpaid rates and charges from councils. It is another minor amendment, and whether that needed any change or not, I am not sure, but the interest rate was previously fixed under the Penalty Interest Rates Act 1983, which provides that the Attorney-General will from time to time fix that penalty interest rate. Again it is in place, but if this can make changes, that is certainly fine by me.

As I said, I am a former councillor, with the Moira shire. I have three great councils in the electorate of Ovens Valley: the Rural City of Wang, the Alpine shire and the Moira shire. I recently had the mayors in—just last sitting week actually—Dean Rees, mayor of the Rural City of Wang; Sarah Nicholas, Alpine shire; and Libro Mustica, the mayor of Moira shire. Those three came in with other mayors from the north-east to talk to the member for Euroa and me about the many issues that are going on, not just specific to their municipalities but more broadly in the north-east. Certainly they highlighted health care, aged care and roads as massive issues.

While we want to always assist vulnerable ratepayers in our electorates, at the same time we have got to make sure that we do not make life more financially challenging for the councils themselves because it is not as easy as you would think for them to put their rates up and cover that base, because there are more and more challenges for a council all the time. I work closely with those councils, and they continue to ask me to make sure that the cost shifting does not come to them. They are the third tier of a three-tier system—federal, state and local—and they often see themselves as at the bottom of the tree. They end up with the 'what's left'—they have to fix what is left. They are at the coalface and they continue to say, 'Make sure that we do not have all this cost shifting continuing to go on', because they just do not have that ability to increase rates and the revenue streams that maybe a metropolitan council does. If you look at car parking or fines, for example, in a larger Melbourne council versus what you could get in the Moira shire or the Alpine shire, it is quite insignificant; in fact it is nearly a cost to the council to have a car parking inspector because the revenue is just not there versus what you can accumulate in the larger councils in Melbourne.

But on the bill, in the last couple of moments that I have, it also makes amendments to the Local Government Act 2020 with the purpose of changing some of the requirements around the release of confidential documents. The focus has been on documents to be used during internal arbitration and councillor conduct hearings. This is a change that will allow for more evidence and documentation to be used in these hearings. Also mentioned are council integrity and the code of conduct. The bill, as I said earlier, is largely technical. It does make some moderate changes, needed changes, but most of those provisions are available under the current act. I commend the bill to the house.

Mr EDBROOKE (Frankston) (11:24): I rise to speak on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. This bill forms part of a set of legislative reforms arising from the *Local Government Rating System Review* in December 2020. It also incorporates recommendations from the Ombudsman's 2020 report, which was entitled *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship*. I have an intimate knowledge of this, living in Frankston and seeing how some ratepayers, some of our constituents, have been treated when they owe money, especially people in fairly financially and socially insecure positions. So it is with great delight that I am standing here today to see a bill like this come through this house. We will get to that, though.

The Ombudsman's report basically shone a light on the way that many councils respond to ratepayers in need. Some councils have clearly improved their practices out of a need during COVID, but overall I think the local government sector has fallen behind many other sectors in the compassionate stakes and their proportionate treatment of people who are vulnerable and facing financial difficulties as well. I would put on the record, though, Frankston City Council—we have been through some times, that

council and I, since I was elected. We have got some councillors now who are amazing people, but during COVID they bucked the trend. They stepped up, whether it be with call centres or whether it be approaching me and ministers asking, 'How do we stimulate our economy?', with outdoor dining programs and things like that as result, and they did a really good job.

This bill amends the Local Government Act 1989, and basically it improves council practices for imposing rates and ensuring ratepayers experiencing that financial hardship are actually treated fairly. That means providing alternate means of paying rates via a payment plan, which we formalised in this legislation, especially for those even experiencing things like family violence. The bill provides a new requirement for the Minister for Local Government to set a maximum rate of interest that may be levied by council on unpaid rates and charges, making sure that that maximum interest rate, which is currently 10 per cent, does not place those experiencing financial hardship under even more financial strain and making sure it is proportionate for unpaid local government rates and charges.

When I say my community has experience with this and I have intimate experience with this, it is because my office is an open door to the community. People come in for referrals and for help, and we will get them that help or tell them where they can get the help. One place we found that a lot of people were going was the amazing Peninsula Community Legal Centre (PCLC) run by CEO Jackie Galloway and her amazing team. It was this government that actually paid for the fines clinic pilot down there in Frankston, and that was because we were hearing these incredible stories—just incredible stories—like the woman who came to my office with a bill and then came to my office once again, thinking she was going to go to jail. The back story which I do not think anyone had heard, and there was probably no conduit to hear it at the time, was that in her family her partner, her male partner, got cancer and had to go to Peter Mac for treatment. In their household he took care of most of the bills, which is not uncommon. So when she was visiting him every day at Peter Mac, going up and down EastLink, she was accruing fine after fine after fine, not knowing that she actually had to buy a pass because they did not have an e-tag.

Roll on a couple of months—a lot of grief, caring for her partner, bills stacking up, and she starts getting letters of demand. And she starts hearing that some of her options are actually going to jail, because these fines have stacked up and stacked up and stacked up. That is when that great advocate for our community Jackie Galloway and her team at PCLC came and said to me, 'Let's start a fines clinic. Let's actually have a table that people can come to. They can tell us the issue'. They can have lawyers negotiate with different companies, usually multinationals, and get payment plans. That was unheard of, and that had great success. It has relieved so much pain for my community. I mean, can you imagine coming home from visiting your partner in hospital, who is terminally ill with cancer, and getting a letter saying that if you do not pay a fine, which was maybe $1000 but is now $10 000 because you have not paid it, you might go to jail? It is not proportionate, it is not fair, and that is why we fully backed PCLC and that fines clinic.

Today we are bringing this to councils as well—that kind of mantra that it has got to be a fair and proportional response when people owe money. The bill will also allow the Minister for Local Government to make ministerial guidelines for councils on the collection of unpaid rates and charges under financial hardship. The ministerial guidelines will require councils to proactively work with ratepayers experiencing financial hardship to explore different arrangements and solutions, and more punitive actions such as legal actions and the application of penalty interest will be only available when ratepayers refuse to engage and all other approaches are exhausted. Sometimes when people refuse to engage, 'refuse' is a pretty clear word, but through my experience and through that of my office, sometimes people have not refused, they just have not realised. They have got a letter that is fairly plainly written, and because of other things that are happening in their life it has gone onto the desk. I think there is a way to actually engage those people. There is a way to ensure that they pay their rates, or they even pay their fines in the dialogue that I was speaking about before, and councils and companies get their money but without jailing people and without exorbitant fines attached as well. Currently 77 out of the 79 councils routinely use debt collectors to recover unpaid rates. The new

arrangements will ensure that people are fairly treated and that the use of court actions and forced sales of property are an absolute last resort.

This bill also makes amendments to the Local Government Act 2020 which will affect the processing and handling of FOI requests by councils. Essentially it improves the transparency of council information by ensuring that councils process FOI requests for certain categories of confidential information under the Local Government Act 2020 in accordance with the applicable exemptions under the Freedom of Information Act 1982.

I stand here today after reading the local newspaper, the *Frankston Times*, and reading on the front page—sadly again to one extent—'Councillor sent to arbitration again'. That was in the *Frankston Times* of 14 June 2022. I could be angry about that—that Frankston has to see that again—but we have been through a stage where Frankston council had monitors there basically doing a lot of the duties of the council for them, and I think that showed. At the last council elections only one person was returned out of nine councillors, and we have got a fresh bunch of people. The good thing about seeing this in the newspaper is that this council has been empowered, I guess, by this government to deal with bad councillor conduct on their own terms. They have got the power to do that, and they have taken action. We have read articles recently about the amount of money that is spent on legal fees by councillors because of stoushes between councillors.

This bill makes technical amendments to improve aspects of the Local Government Act in relation to council electoral provisions and councillor conduct processes without significantly altering the policy objectives of the legislation. That is certainly something that I know every councillor, every council officer, the CEO and members of my community in Frankston would love to know—that our council is empowered, that when they see someone do the wrong thing or something that is not up to the standard befitting of a councillor in our community of Frankston they can be held to account by the council and that there are processes they can go through which are much improved on what happened last time with the council.

In saying that—you know I support this bill, it is quite obvious—but I did just want to shout out to the current Frankston councillors. We have, like I said, come a long way over the years, but if you look at Frankston now, there is a shared vision between the state government, the federal government and our council for Frankston for the future. That is rolling out before our eyes, and that is because of a fantastic relationship and consultation on bills like this. They are not backwards in coming forwards, I am not backwards in coming forwards. We respect each other, and that is probably resulting in the best relationship between the three levels of government we have ever had in Frankston, I think. I commend the bill to the house.

Ms COUZENS (Geelong) (11:34): I am pleased to rise to contribute to the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. I want to thank the minister for his work on this bill. It is really important to people in my electorate, obviously ratepayers. Many people are being challenged by the increasing cost of living. The bill really does support ratepayers who are doing it tough. Mortgage rates, fuel costs and energy and food costs—all those things—are impacting on communities and in particular my community of Geelong. I share the comments of the member for Frankston, who just spoke on the bill. We have very similar communities, so I understand where the member is coming from in that aspect.

This government has put in place a range of supports for people doing it tough in our community. We have just got to look at free TAFE, free kinder, the $250 energy bonus and a range of other supports that we have put in place. The reason we have done that is that we do know that people are struggling with the cost of living at the moment. We are trying to put in place everything possible. And again, this bill does the same thing—it is protecting people from losing their homes and from being intimidated and harassed for overdue rates.

I understand that councils have a really important role to play in our communities and they have challenges as well. But where we have councils outsourcing debt collection that impacts enormously on people. I know in my community when that happens. We talk to financial counsellors in my community. They see this bill as a really important part of their support that goes to assisting ratepayers in the Geelong community and how important that is to them when they are negotiating on behalf of those people that are doing it tough. I think one of the things that is really clear to me and is outlined in this bill is the fact that often people do not know where to go; they do not know that they can contact the council to negotiate. Some councils probably do it very well and some probably do it very badly. I know the City of Greater Geelong have done some great stuff during COVID, but one of the first things they did was sack their workforce. There was a bit of a campaign, and local members who sit in this place, on this side of the chamber, lobbied to ensure that those workers got their jobs back. I think that was a bit of reminder to the council that they have a responsibility to everyone in our community, and to make decisions like that is certainly not a fair and just process.

There has been a lot of consultation with councils about this, and they generally support the bill. But the bill is about ensuring people struggling to pay their rates are not being driven further into debt or out of their homes, and that is the key to all of this. As I said, our financial counsellors in Geelong do a lot of work around these things. But as a government we are committed to having a rating system that ensures ratepayers facing financial hardship are treated fairly, and this bill does just that. As I said, our local governments play a significant role, and I think the fact that it is generally welcomed by local government is really important.

The Local Government Legislation Amendment (Rating and Other Matters) Bill 2022 implements a range of recommendations from the *Local Government Rating System Review: Report of the Ministerial Panel* and the Ombudsman's *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship*. The bill will empower the minister, in consultation with the Essential Services Commission, to set a maximum amount of interest that may be levied on unpaid rates and charges, which currently can be as high as 10 per cent, and develop ministerial guidelines councils must follow in dealing with ratepayers experiencing financial hardship. Councils will be limited to using Magistrates Court orders for recovering unpaid rates in situations where rates or charges have not been paid for two years or more. The bill makes a range of improvements to the ability of councils to provide rate rebates and apply special rates and charges. It also makes technical changes to a number of acts.

The Ombudsman's investigation in 2021 on how local councils respond to ratepayers in financial hardship made a range of recommendations in response to concerns from ratepayers, financial counsellors and community lawyers about the way councils treat people who cannot afford their council rates. The report found that people who were struggling to pay their rates were often met with debt collectors, high penalty interest and in some cases costly court proceedings.

It is really concerning that that has been happening. That is why this bill is so important, because we do not need people to be losing their homes, particularly now. There needs to be a system in place whereby they are given an opportunity to come to some arrangement—payment methods, whatever it might be—to ensure that they do not end up highly stressed by what is going on. Often it is not just the rates that are building up for people, there are a whole range of issues around that. When we look at mental health issues, family violence—I talk to many women who have experienced family violence, and often they are the ones that are left with these big debts, having to try and manage and deal with that along with their experience of family violence, and often there are children involved, and the costs of that. This is really important for people who need it the most.

As the bill indicates, if someone refuses to pay, that is a different scenario. This is about people who cannot afford to pay and who are potentially at risk of losing their homes. We cannot encourage that. We cannot encourage councils to continue to do what they are doing—we have to have this legislation in place. The court proceedings that have occurred have created more stress and fear of losing their homes for those who are already struggling financially. Other entities, including water corporations,

have found that through implementing early intervention and flexible approaches to payment collection methods they reduce outstanding debts and legal costs overall. I have to give a shout-out to our water corporation, Barwon Water, and the work that they have done in making sure consumers have every opportunity to make arrangements to pay when they cannot afford to, and to the work that is done by our financial counselling services. Barwon Water has done an extraordinary job in making sure that people have every opportunity to come to some arrangement to pay their debts. By bringing debt collection back in-house they are often able to work with people who are behind and find a way forward.

During the pandemic we saw councils adopt more flexible and compassionate approaches to those experiencing financial hardship, and that has been a really good thing. As I said, the City of Greater Geelong have put some great programs and great supports in place. I would like to think that they will embrace this legislation when it is passed, because it means that they can work directly with people in our community, people who are struggling and doing it tough—whether it is just an inability to pay for whatever reason, financial hardship, family violence or mental health issues, whatever it may be—that they are there supporting our community, which is so important for people in my community of Geelong. This will be further strengthened and supported through this bill.

The awareness of ratepayers that they can approach their council and seek assistance will also be strengthened through a uniform approach to hardship. Again, it is important that those experiencing financial hardship know that they can approach the council and know that they can get the support they need. Councils need to be playing a huge role in the education and awareness area as well so that when people are getting their rate notices, whether they are behind or not, they are advised that if they are struggling, this is what they can do—these are the things that can be put in place to help cover that. I commend the bill to the house.

Mr TAYLOR (Bayswater) (11:44): It is with great pleasure that I rise to speak in support of the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. I thank the Minister for Local Government in the other place, his team and the departmental staff who have done some great work in crafting this important legislation and a great deal of work in consulting with stakeholders, the sector and people who needed to be consulted with. I acknowledge the previous speaker, the member for Geelong, for her contribution and for talking about the importance of this bill not just for her community but for ratepayers right across this state and, as I will do in brief, talking about some of the key measures in the bill and the key outcomes it seeks to achieve to make our rating system fairer for Victorians, particularly for Victorians who are doing it tough.

We know the Andrews Labor government has a strong and proud record of making our rating system fairer for Victorians. The most significant piece of legislative reform in this space is rate capping, providing more surety for ratepayers, for Victorians, in terms of what their rates bill will be each and every single year by making sure it only increases by the CPI. Before this councils were getting away with extraordinary rate rises, putting significant pressure on people's budgets each and every single year. The rate cap applies to the overall rating base and is much, much fairer. It is making sure that people who are paying rates are getting a fair go. We know that our government is committed to ensuring that people who are struggling to pay their rates are not driven into further debt or out of their homes.

This bill implements a range of recommendations from the *Local Government Rating System Review* and the Ombudsman's *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship*, more on that in a tick. The bill will also empower the minister, in consultation with the Essential Services Commission, to set a maximum interest rate that may be levied on unpaid rates and charges, which currently can be as high as 10 per cent—that is absurd—and develop ministerial guidelines that councils must follow in dealing with ratepayers experiencing financial hardship. We know that this legislation means that councils will also be limited in using Magistrates Court orders to recover unpaid rates in situations where rates or charges have not been paid for two years or more. This bill makes a range of improvements to the ability of councils to provide rate rebates and apply special rates and charges, and it also makes a number of technical amendments.

In 2018 the government committed to a review of the local government rating system, and that, as it should have, involved extensive consultation with ratepayers, all 79 local government areas—all the councils—and peak bodies throughout the state, including the Municipal Association of Victoria and the like. The government responded to the review. In its response it supported 36 of the recommendations and committed, as we are seeking to do here, to prioritising the recommendations that relate to support for ratepayers, particularly those in financial hardship, which goes to the very heart of this bill. This bill is the first stage in these reforms and is, as I said, focused on ratepayers experiencing financial hardship and improving the ways that rates are collected. The second stage of these reforms relates to structural improvements to the way the rating system operates. It will be further explored in 2023, again in consultation with ratepayers and the local government sector.

The bill also implements recommendations of the 2021 Ombudsman's *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship*. We know the Ombudsman's report found that people who were struggling to pay their rates were often met with debt collectors, high penalty interest and in some cases costly litigation, all extremely unhelpful for people who are doing it absolutely tough. We know this creates more financial stress and fear of losing their homes for those who are already struggling financially and may be dealing with a range of other issues. As the member for Geelong touched on, these may be people who are dealing with family violence or with mental health issues, and this is further locking them into a place of really struggling to get out of a tough spot in their lives while dealing with a range of other issues.

I will say as well that over the last 2½ years we know that councils have had to pivot—like most in society, particularly every level of government—as we have all had to deal with people going through financial hardship, particularly during this one-in-100-year global pandemic. The seat of Bayswater is now just Knox City Council. I will note that Maroondah City Council did a reasonable job. I was disappointed in some of the layoffs of their staff, and that was addressed. However, given that Bayswater is now in Knox I will stick to dealing with Knox. I will say that Knox did not get everything right, but I think that Knox City Council did a very decent job. They certainly streamlined a lot of their processes in terms of dealing with their ratepayers and with local residents going through financial hardship.

This legislation will seek to enshrine that, provide those guidelines and provide surety for ratepayers, whether it be in Knox or anywhere else in the state for that matter. I think Knox council provided not just support for ratepayers going through financial hardship but also support to sporting clubs through a range of grants and businesses through reducing some of those levies, fees and charges. They provided a significant amount of food relief—another way that we can support locals at council level. So I congratulate them on some of that fantastic work they were doing. They continued the work of Meals on Wheels. And Knox City Council—correct me if I am wrong here—I believe did not see anybody lose their job. They kept employing their entire workforce, which I absolutely commend them on. As I said at the start of my speech, I know that there were some difficulties with different councils and the different facilities they run, own and manage due to the complexities of JobKeeper, but supporting your workforce is supporting locals, and I commend Knox council for doing that. Councils can often be seen in some parts of the media and elsewhere in other parts of the world as all roads, rates and rubbish. I can tell you that is just not the case. I was a local councillor, albeit very briefly, and the good Minister for Planning there also has a strong background in the local government sector—

Mr Wynne: But yours was a stellar career.

Mr TAYLOR: A stellar career, the Minister for Planning says.

Mr Wynne: Yours was a stellar career.

Mr TAYLOR: Mine was a stellar career? I was giving you a gee-up, but I will take it. A stellar career—short albeit, from 2016 to 2018, and one of the briefest stints as deputy mayor I think on record, but I will claim it. One of the best things I got to do was work alongside the fantastic staff at Knox City Council. Often it is a popular thing, a bit of council bashing, from time to time. I must say

I have never done that. Some may—I guess it is subjective—but I have always tried to work constructively with councils. I understand the challenges they go through. The staff often are at the receiving end of some of that bashing, and I will say that they do a fantastic job in what is often a thankless task. It is not just roads, rates and rubbish. We are talking about significant responsibilities with open space precincts. Pretty much whenever people say, 'What do local governments do?', I go, 'Look out your window, mate. It's pretty much all of that'. It is your nature strips, it is your roads, it is your parks, it is your gardens, it is your sporting clubs—

Mr Wynne: Your social services.

Mr TAYLOR: Social services—absolutely, Minister for Planning. There is just so much. And kinder—Knox council is one of the best councils when it comes to providing early years services. They do a fantastic job. If you are in Knox, you want to be in a Knox council run kinder. So it is kinders. It is the promotion of health, particularly around domestic violence and around women's health outcomes. It is mental health support. It is support for people who are victims of domestic violence, and we know the majority of them are women and children. Ageing and disability—Knox council have a fantastic program when it comes to supporting the ageing sector, and Knox in some parts is quite an ageing community, particularly down the southern end of it. They do a fantastic job. And there are millions of dollars of assets that need to be maintained each and every single year. So I am no fan of council bashing. I think councils have done a tremendous job in providing support for those going through financial stress.

This legislation will enshrine new processes that will make it easier for people to get support when they need it without bringing in the wolves, the debt collectors—making it fairer and making it easier. And that is exactly what this government is about. We are about supporting everyday Victorians and making sure we provide the legislation to ensure councils are doing the right thing so people who are doing it tough do not have to do it any tougher. I commend the bill to the house.

Mr SOUTHWICK (Caulfield) (11:54): I rise to make some comments on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022 and to say at the outset that the opposition is not opposing this bill. One of the biggest issues that many of my constituents talk to me about is the issue around cost of living. It has become such a huge issue for many Victorians—not just for my constituents in Caulfield but for many Victorians. Cost-of-living issues include especially many of the taxes that many Victorians have to pay, and basic food—you only have to visit the supermarket now and have a look. If you can get lettuce and other vegetable items, you pay just an exorbitant amount, and that continues to rise.

When your food costs are high and when your energy prices continue to increase—on 1 July there is another 5 per cent increase, thanks to the Victorian government, in energy prices, with foreshadowed additional pricing increases, particularly around gas supply—you are seeing cost of living being a real burden for people. Rates are just one of those things that many people struggle, quite frankly, to pay. They continue to rise. The burden of other cost-of-living issues for many households, just to balance the budget, is very, very difficult, and that is why it is important to look at things that can be done better. The last thing you want on top of a forever-increasing rates bill is compounding interest that might be charged for a rate notice that might be late, and potentially debt collection and getting yourself into a worse mess than you are currently in, so we need to do more around that. That is why it is very important to have more remedies in place and many supports in place to ensure that we can support many of those residents that are really struggling.

In this bill there is talk about when land or property could be used for other benefit, for public benefit, and that there could be rate relief for that. I think that is important. It is important to consider what that might be. I know that again in my electorate of Caulfield there are a number of properties that are not being used, some of which just remain empty, including some where the houses have been bulldozed and the land is vacant. In a situation like that there could be a good opportunity for that piece of land to be used for parks or for some other benefit to the community for a time. We have got the lowest

amount of open space of any municipality, which I talk about quite often. I know the council has been exploring pocket parks. If you try to purchase in some areas of my electorate just the smallest of blocks of land to then bulldoze the home and turn the land into a pocket park, you are talking millions of dollars just to be able to create that opportunity. We should be looking at other ways to utilise these pieces of land while they are sitting idle, doing nothing.

There is a real issue around rooming houses, which I have mentioned many times. These are not those that are run responsibly, those that are run legally and with the best of intent. These are effectively profiteers. These are people who come in and take an old home. While that old home is waiting to be demolished and a new house put on the land, the owner of that home says, quite often, 'Get whatever you like for it. It's yours'. In that time, what you will find is that people who are vulnerable are squeezed into these homes and taken advantage of. Quite frankly it creates a whole lot of issues around the neighbourhood. I have spoken about it numerous times: we desperately need legislation to fix that. I note that in those homes, while people are waiting, there is an ongoing rates obligation. In many of those instances those that own those homes are paying those rates, and therefore whatever they can get in rental benefit they take. There might be an opportunity again, pointing to my earlier comment, if this property could be bulldozed and the land utilised for a number of years—until such time as those people are ready to develop—for public benefit, opened up for public benefit in that time.

What I am saying is that what we are doing at the moment is not working. The cost of living continues to increase. In my area open, green space is one of the key problems that we talk about time and time again. We need better opportunities to use open, green space. Whatever I can do to think about this laterally, being a bit more creative in that, I will certainly be proposing that to this chamber. As I say, when we talk about this social housing, the profiteers that are trying to go in there and take advantage of vulnerable people need to be closed up. That needs to be fixed.

So cost of living is a massive issue. You only have to look at things like car registration. It is over $800 now just for your car rego. Energy prices continue to increase. Food prices continue to increase. And then you have got your rates and you have got your other stamp duties. If, heaven forbid, you want to scale down or scale up or just even pay the bills when you need to sell, all those property taxes are huge. I know there are many elderly people in my area that talk about issues around land taxes and stamp duties and what have you. Many of those self-funded retirees really are struggling, absolutely struggling. They do not have superannuation. They do not have a pension. Their superannuation and their pension are effectively the one or possibly two properties that they have saved all their life for. They are paying rates, they are paying property taxes, and in many cases they are struggling to even put food on the table. I know that is hard for some people to believe, but I can tell you I see it absolutely every day. Every time when the valuations come out and the land tax appraisal comes out, I can tell you I have a queue lining up outside the front of my office of people really trying to say, 'What can you do to actually help?'. It really is a problem, and I can tell you most of those people are over 80 and have saved every single penny and really desperately need that help.

So it is a real issue—cost of living is a real issue. I have no doubt that will be a big issue heading into the election where people are looking for solutions. There have been 42 new taxes under this government—42 new taxes—when the government said they would not increase any taxes. Well, I tell you what, they have just whipped them out and away they have gone, just one after the other—tax after tax after tax. A lot of them are complex. A lot of them you just do not even understand—a lot of the business taxes. Again, you wonder why you would even bother in terms of the cost of the bureaucracy of collecting them versus what you actually get at the end. We desperately need reform in that space.

We must do everything we can to support many of the struggling residents out there, the households that are barely able to put food on the table. They cannot buy their groceries. They are struggling with their rates. They are struggling with all of the new taxes. They are struggling with their car rego. They are struggling, effectively, to make ends meet, so they desperately need help. As I said, the energy crisis at the moment is not helping them one bit. That will continue to bite them at the moment, as we

see. I never would have thought—even in the last term we were talking about people that were at a point where they were not even able to have hot showers. They were sitting there in the cold and in the dark because they could not afford to heat and light their home. I tell you what, fast-forward to now, it has actually got a lot worse, and you are hearing more and more of those stories. You only have to talk to many of those people that provide basic food services, many of the charities that are out there. They are servicing people that they have never serviced before. It is quite surprising. I go out there and do a lot of food drives. It is not just the commission homes where we are delivering food parcels anymore. You would be absolutely surprised who is on the other side of the door when you are delivering a food pack. It would absolutely surprise you to think that families that have never, ever—out of pride—asked for one thing are now asking at this given point in time. Why? Because they are desperate. Why? Because governments have failed them, and the costs are at a point where they need help. They need help, they need certainty, and they just cannot afford things any longer. So I say we need to do more. This state is the highest taxing state in Australia. We are absolutely taxing people to the nth degree. It has got to change, and therefore whatever we can do to make life easier for people, we should be advocating to do.

Mr HAMER (Box Hill) (12:04): I too rise to make a contribution on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. I would like to begin by acknowledging and thanking the minister for bringing this important bill to the Parliament. I do believe that I am catching up with the minister in the next few days to talk about the fantastic outdoor activation program that was delivered through his office, and I am sure that elements of this bill will also be canvassed through that time.

The bill does make a range of amendments to the Local Government Act 1989, the Local Government Act 2020 and a range of other legislation. Similar to many other speakers beforehand, I do want to focus most of my contribution on the amendments contained in the bill that seek to create a fairer system for rate collection, particularly for those experiencing financial hardship who are struggling to pay their council rates. I suppose similar to the member for Caulfield, it might not be apparent initially to say, 'Well, where would I have this area of disadvantage in a seat like Box Hill?', but if you drill down a little bit into the demographics, there is a disproportionate number of retired people who are living in large family homes. The median price of homes is significant in many of our suburbs, and that translates to a very significant rate burden. So in a suburb like Mont Albert, based on the current median price, you are looking at close to $4000 a year in rates. Across a lot of the suburbs these rates have gone up 4, 5, 6 per cent in the last year. This is based on the council's draft budget that it has recently released.

For those who are retired—they may be on a pension or they may be self-funded retirees through one or two investments—finding that money is tough. Finding that money can be really difficult. They might have what on paper is an expensive asset, but finding that annual cost along with all the other costs—electricity bills, petrol costs—can be really tough. I do get quite a lot of traffic into my office even when the rates notices come out about how people might be struggling to pay them. Certainly the introduction of the $250 power saving bonus that the government announced a few weeks ago is hitting these homes really importantly, because anything that can help with the cost of living is certainly appreciated.

Looking in terms of this specific bill and how it is going to assist ratepayers and assist people who are struggling to pay their rates, it seeks to implement a range of recommendations from the *Local Government Rating System Review* and the Ombudsman's *Investigation into How Councils Respond to Ratepayers in Financial Hardship*. It will create a fairer system for rate collection. While many councils offered a rate deferral process during the pandemic for those experiencing financial hardship, for some, as I have explained, these hardships persist even though the worst of the pandemic is over—and those supports have also been removed. Some of the collection processes have actually exacerbated the hardship rather than offering relief.

Just looking at the Ombudsman's investigation in 2021, the Ombudsman launched an investigation after fielding some concerns from financial counsellors, ratepayers and community lawyers into how some councils treated people who were struggling to pay their council rates. The Ombudsman found that the councils relied too heavily on debt collection agencies, charged penalty interest which increased the debt burden on those already experiencing hardship, and in some instances launched legal action against ratepayers who were victims of family violence or were experiencing mental health issues.

The government agreed with the Ombudsman that you should not have to fall within a particular local government area that has a fairer approach to ratepayer hardship if you fall on hard times and that a fairer and more equitable system was needed. The amendments presented here in the bill do create a fairer system, where the maximum amount of interest is set by the minister and is not arbitrarily applied depending on which council area you live in. The present system under the Local Government Act 1989 allows for penalty rates of interest up to 10 per cent to be charged, while this amendment will cap that rate to a rate that is set by the minister.

I was pleased to see in the Ombudsman's report that the local government area that Box Hill is in, Whitehorse, were one of the lowest charging councils in terms of the rate of interest that they applied—it was only 5 per cent—but they do use debt collection agents, which does threaten to further snowball the costs imposed on ratepayers who are doing it tough. If a ratepayer cannot pay their rates on time, the Local Government Act 1989 currently grants councils powers to collect the unpaid rates through a range of mechanisms beyond penalty interest. This can include rent diversion—if a property is rented out—to council, and a council can compel the tenant to pay their rent to council rather than to the landlord, through to court actions and forceable sale. To its credit, Whitehorse council decided that it would not pursue any ratepayers for unpaid debts during the COVID-19 pandemic, but prior to the last two years and the COVID pandemic Whitehorse had increased its use of legal action for debt recovery according to the Ombudsman's report, which does greatly exacerbate the stress on people who are already struggling financially. Legal costs along with debt recovery agency costs are a menacing combination which threaten people with the loss of their homes. This bill does limit councils' right to take legal action for recovery of unpaid rates in a situation where rates or charges have not been paid for two years or longer. This will buy ratepayers some time to negotiate debt payment plans and seek hardship relief. In the specific case of Whitehorse council, it does offer rates deferral but it does not offer fee waivers, and they are not offering any residents who may be struggling the full suite of options that the legal framework provides for. This bill does facilitate a more commonsense approach by formalising payment plans agreed upon between council and ratepayers as an alternative way for ratepayers to pay their outstanding rates and charges.

I do want to just also touch on another element of the bill, which is a change to the Local Government Act to insert a definition of 'waste, recycling and resource recovery services', which really goes to the heart of how our circular economy is changing. Council is not and probably has never really been just about roads and rubbish, but particularly in the rubbish space there is so much more than just your weekly collection of waste that goes to landfill. I am pleased to see that Whitehorse council has finally introduced a food and organics waste collection. Numerous other councils have done this. I know we have had it in Boroondara for a couple of years, and it is just amazing how much food waste and other waste that was previously going to landfill is now being diverted, is being treated and will be reprocessed for use in council's parks and gardens and other assets.

There are many other opportunities through the circular economy that this government and particularly the Minister for Energy, Environment and Climate Change has been leading very strongly where councils will partner with the state government to deliver major changes in the environment. This is just one of a number of areas where councils provide fantastic services to the community, and I commend the bill to the house.

Mr CHEESEMAN (South Barwon) (12:14): It is with pleasure that I rise this afternoon to make my contribution on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. I must say I do so having had, albeit a number of decades ago now, some experience on the

City of Ballarat as a councillor way back when I was in my early 20s. From that period through to now I have taken a real interest in all of the various taxation measures that we use in Victoria, whether it be from the perspective of the state government or whether it be from the perspective of local government.

There are a few things that very much occurred to me at that point in time back in the late 1990s when I was given that great opportunity of being a local government councillor. One was that the various rates arrangements that we had in place at that point in time very much saw a very fair way by which people would contribute through their rates to the services delivered by local government. Of course at that moment in time in 1999, when I was given that great opportunity, local governments were enduring, and being challenged very much by, the Kennett government and the compulsory competitive tendering arrangements that that government imposed all on local governments. At that point we saw a whole lot of services that had historically been generated and delivered by local government workers outsourced. I had the responsibility of being the secretary to the Labor government's policy committee which decided the platform that we would take to the 1999 election to remove compulsory competitive tendering and to have a best-value approach, which addressed a lot of the challenges experienced by local government through that Kennett period and saw services brought back into local government. I certainly know from my observation that we saw a lot of work had been outsourced from local government, not through any desire of local government but because of that rather brutal approach adopted by the Kennett government. It enabled us as a community and as a council to bring those services back in house.

From the perspective of a big regional centre, I think that very much did see a return of the opportunity for people to establish a career in local government to support the delivery of infrastructure and services to the community. I certainly know through that period, with the consultation that I had with councillors in writing that policy and indeed my experiences in local government, that the profound impact of compulsory competitive tendering was endured even more so by rural and regional councils, because indeed what that did see was the work, previously delivered by local government workers living locally, being delivered by, more often than not, Melbourne-based contractors who did not live in the town and who would not pay that little bit of additional effort to deliver a service.

You know, if you were an outsourced gardener and your responsibility was gardening and there was some litter left in the street, because it was not in your contract, because it was not recognised in that way, you would not take that extra 2 minutes to pick it up and to appropriately deal with it. We saw a lot of care, delivered previously by local government workers, neglected as a consequence of that rather brutal approach adopted then by the Kennett government. So I, through that period of time of course, not only reflected on those particular models but also thought about our rates base and the important role that it very much does play in giving local governments the tools and the resources to be able to deliver that infrastructure and indeed the revenue needed for those local government bodies to do their work. My reflection on rating is that in so many ways it is a very fair tax delivering a service.

In South Barwon and in some of the seats particularly in our tourist areas we have some new and emerging challenges, particularly in terms of key worker accommodation. What we have seen is a real increase in the number of residences that are being taken up through either Stayz or Airbnb-style services. And what we are seeing in so many ways as a consequence of that is that it is becoming even more difficult for key workers in our coastal hotspots and tourist areas to be able to secure the accommodation they need to live in that community so they can work in the cafe or work as a hairdresser or a teacher or a nurse in the local health setting.

What I would say in terms of reflecting on the rates circumstance is I think there is some further reform that I would like to see. This reform is to make sure that for those residential properties that do have a commercial application perhaps in the years to come we might see the opportunity for local government to recognise those properties as commercial properties and perhaps for there to be incentives for those residential properties to have a different rate at some point to recognise that they are for a commercial purpose. I would like to see at some point an opportunity for that reform to be looked at. I think not only will that see a supply of properties for key workers but it will make sure that we have and we continue

to maintain a fairer rate system that recognises both private use and future commercial use. Those challenges need to be looked at.

I would also say that one of the great challenges that we do have, particularly in the peri-urban areas, where the value of farming property goes through the roof, is that land remains zoned as farming and it becomes very, very difficult for that property to turn over because of that increased value. Yet the commercial reality is that the return on that land as farming land may well not accelerate to the extent that the value of that property does, and we need to think about that. I think it is a bit of a challenge, certainly around the Surf Coast and I am sure in other areas as well. There is some opportunity in the years to come to reflect on and look at that.

People's circumstances change from time to time. They find themselves not able to meet their obligations under the rates arrangement, and I think we need to make sure that where that does happen there is a fair way for people to repay those rates.

Mr RICHARDSON (Mordialloc) (12:24): It is great to rise on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022 and speak to a really important reform and a journey of reforms around a fairer rating system for all Victorians. It will be a chance to also reflect on the wonderful work that is done by our councils across the 79 municipalities and also reflect a little bit on some of the work that the Environment, Natural Resources and Regional Development Committee did in the previous Parliament under the stewardship of the member for Thomastown and the member for Sunbury in assessing the rateable base that our councils have and the challenges that particularly regional and rural councils face in rating.

I want to firstly put on record our deep appreciation for all the work that our local governments have done—well, they do it each and every day—through the course of the last two years. It has been incredibly challenging to maintain services to the standards that all Victorians expect in their local communities, but CEOs, their representatives, their leadership teams, their local councillors—indeed by no less than having an election in the middle of the pandemic as well—have shown how nimble and how flexible our local government sector is. They are at the front of so many different services and interactions, with more complexity than we have seen before in the work that they do and the services that they provide to their constituents, so a big shout-out to our local government sector, particularly in the communities that I represent, the City of Greater Dandenong and the City of Kingston, for the work that they do. The efforts that they made to support communities, small businesses and health services through those challenges of the pandemic were inspired. It was a collaborative approach that was taken, a once-in-a-hundred-year approach that was needed, and we commend their representatives as well.

This work to get to a fairer rating system is really important as we come back from some of the challenges of the pandemic with a more compassionate and supportive approach to how we engage with people doing it tough. We saw that with the important policies around JobKeeper and JobSeeker, the billions of dollars that we used as Victorians to support businesses and communities during their times of need—so much in relief, so much in support that saw us obviously have to go into more debt to support the efforts to keep businesses afloat and keep people in their jobs across state and federal efforts. But that comes with an approach now of needing to reflect on a more compassionate and supportive way of dealing with people who are facing financial hardship. We saw this recently in legislation that we worked on in this place around toll road operators and making sure that there is a fairer and more balanced approach to how we support people.

This was work that was started by the Victorian Ombudsman. I want to place on record our appreciation for their office and the work that they have done in getting to this point in time. That work was undertaken, I believe, in 2021, with the investigation into how councils respond to ratepayers in financial hardship. That was a really important review embarking on some of those lessons to be learned. Some of the key findings are worth reflecting on. While 96 per cent of councils have a financial hardship policy in some form, only three-quarters of those councils published their standard

hardship policy on their website, so for people who are already under the pump, who are already struggling to make ends meet and feeling like the debt collectors are going to knock on the door rather than taking a compassionate approach, they do not know where to turn for support. One in four councils were not offering that support. Forty-eight per cent of councils did not include rate waivers as part of their standard hardship policy despite having the discretion to do so. So one in two were not putting that forward—rather, debt collectors knocking on the doors, interest payments exploding, people being taken to the wall or, in extreme circumstances, a summons to the Magistrates Court. That is not how we treat people in Victoria going through duress and under a lot of pressure.

So that review was a really important moment. Twenty-six councils limit the use of deferrals as part of their standard hardship policies, and this is usually only applied to aged pensioners as the debt can remain on the property until it passes to the new owner. A lot of that work that was done and a lot of that engagement was really critical as well. This is a really interesting stat—before COVID as well: between 2018 and 2019 councils sued ratepayers for unpaid rates more than 7000 times. So rather than, as one in two do, having a hardship policy, having a deferral policy, one that is agreed by council and that is put forward as a policy through the Municipal Association of Victoria and other peak bodies as well, they went the legal angle—rather than with the values that their councillors put forward as well.

So we needed to have a look and a review of what could be done better to support people in financial hardship and struggling, and that is what this legislation does. It is really important legislation. It will expand the criteria for councils to provide rate rebates and concessions for properties that provide a public benefit. It will repeal some of those redundant service rates and charges powers that sometimes sit on rate notices as well and amend the powers for councils to declare a special rate or charge to ensure that services remain relevant and modern waste management activities are covered. That is particularly critical in the City of Kingston area where we are experiencing a significant transition for waste-based industries and areas into some of the work that we are doing with the chain of parks through the south-east suburbs.

This is the first part of these reforms. There will be a package of work that is done. I want to place on record my appreciation to the Minister for Local Government, who was out only recently meeting with the CEO, Peter Bean, and the mayor, Steve Staikos, of the City of Kingston in Mordialloc. We caught up to hear about some of those priorities. The minister is at the absolute front and centre of wanting to get out and hear directly from those representatives. I appreciated that time and the frank and open discussion that we had in the presence of the mayor and CEO; it was a great opportunity.

Importantly, the Ombudsman's report found that people who were struggling to pay their rates were often met with debt collectors, high penalty interest and, in some cases, costly court proceedings. Interestingly, the report highlighted cases where the interest charged built up over time to be in the vicinity, for some people, of 25 to 50 per cent of the total debt from the original charge. You have got people who are really struggling to make ends meet. We saw this during the COVID-19 pandemic. It was interesting that the first response from the government came on 31 March 2020. That is an interesting point. Our first COVID case was in January. We went into the first restrictions in April. We would not have imagined what was to come and the pressure and the impacts that would overwhelm communities, and the impacts on Victorians as well. This comes at a really good time when we are thinking about how to be more compassionate in the support of Victorians and how we engage them. Rather than, as I said, debt collectors and summonses to the Magistrates Court, we try to find ways to provide that support and provide that care.

There have been great success stories where part payments or collaboration with residents, with ratepayers, and being compassionate in that approach has led to better outcomes. Whether that is payment plans, whether that is deferrals, that is the culture that we want to set. We know it is a really challenging environment, the rate-capped environment, for local government, with a lot of extra services that we have seen. We have seen that impact in aged care. We have seen it with home and community care funding. We have seen that in the national disability inclusion space as well. We have seen so many different impacts. During the inquiry that we undertook on behalf of Victorians, the

parliamentary committee inquiry, we saw that many councils were under extreme pressure in regional and rural areas.

This came at a good time, this review, when we were assessing the rate system as well. That work will continue into 2023 and beyond, so beyond the current Parliament there will be more work to be done in that space. The first tranche and I think the critical focus that has come out of the department and the minister's office is how do we support Victorians facing financial hardship? It has been a value of this government to be supporting people. The power saving bonus that has been recently announced is an example of that, as well as free kinder, lowering the cost-of-living pressures on Victorians to make sure they can make ends meet, they can flourish and do the very best that they can on behalf of themselves and their families. It is really important work, it is great to see it hit the Parliament, and I wish it a very speedy passage through the house.

Mr FREGON (Mount Waverley) (12:34): I rise to make my contribution on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. It is always such a pleasure to follow on from the member for Mordialloc. He is an eloquent chap, my colleague from the sand belt. Whenever you are following someone of that esteem you know no-one is going to expect you to rise to that level, so it just makes you feel comfortable, as I am sure the shadow minister at the table, the member for Murray Plains, would agree.

This is an important bill, acknowledging cost-of-living pressures and what we can do, and I thank the minister for his work in this area, following on from other work that the Ombudsman has obviously done, to get us here. When others were speaking about the cost of living it reminded me of a phone call I got early this year, before the federal election campaign had ramped up, before everyone was talking about the cost of living, before petrol prices had gone over $2, before inflation was starting to go up and before rates were going up. Before all that, I got a call from a constituent, who told me that she was struggling financially and she had been struggling for some time. Obviously the last couple of years have been very difficult for everyone, including this woman that I was speaking to. She wanted us to know, as state lawmakers—but also the federal lawmakers—that the cost of living for her had risen significantly in the last two years. She told me that she lives on staples; week to week she lives on pasta, rice, flour, milk—very basic foodstuffs from the supermarket. She said she does not buy bread; she makes bread because it is cheaper. She does not drive a car anymore because she cannot afford petrol, and this is, as I said, before it was over $2.

What she said that sticks in my mind and will do for I think a very, very long time is that she keeps every receipt from Coles and Woolies. I am sure she is not the only one—I am sure there are many others in our community that do the same—but she keeps every receipt. She tallied them up for the last two years. In the year 2020 this woman spent $3600 on her food bill. I do not know about you, Acting Speaker Settle, but I am pretty sure I spend more than that; I am sure most of us would spend more than that. That is what she spent on her food bill for the year. In 2021 the same food bill cost her $4800. By my maths that is a 30 per cent increase for her basic foodstuffs. Now, I am lucky enough that I can go to Coles day by day and grab what I need and that I do not necessarily have to think about whether I am going to buy the $1 pasta or the $1.50 pasta or the $3 pasta, but for a lot of people in our community that is an ever-present thought for them to keep in their mind, like it is for this woman I spoke to. At the end of the year she is tallying it up and working out how she is going to get through next year. That was the point of the phone call. It was not to say even, 'My life is very tough and this is unfair'. She was not saying any of that. She just wanted us to know that this is her daily experience, this is her lived experience.

The bill today, which deals with some of the collection of debts in regard to local government, is an opportunity for us all to remind ourselves that a 30 per cent increase for staples, like for this woman in Mount Waverley—without any of us doing anything to make that happen or to not make that happen but just because that is what has happened over the last two years to the cost of living—is a real and ever-present problem for people in our community. So anything we can do assist with that I am sure will make a big difference in those people's lives.

A lot of the factors that lead to these costs of living are global. COVID has caused all sorts of problems with absenteeism, supply problems and logistics problems. The war in Ukraine is causing issues with energy prices all around the world. There are many factors that are beyond our control, but domestic factors play a role too—capacity constraints in some sectors and a tight labour market. Having policies at a federal level to keep wages low on purpose for a decade eventually does not work and wages will come back to a sense of where they probably should have been in the first place. You cannot hold everything down without eventually expecting it to come back up again. I think we are in for a challenging decade on all sides of politics as we all make that work and we try and rise to the challenge of the economy that we are looking towards, which will be a more inflationary economy. I have no doubt that our government will do that and we will help those who are in need, like we are today.

In regard to this bill today, we are talking about local government. I am lucky to represent an area that is in the Monash area, and I have a very good relationship with our friends at Monash. I noticed one of my colleagues talked about council bashing, and I will not do that because I think Monash really have done a lot of great work, especially over the last two years. As the member for Mordialloc said, every day our councillors do an amazing amount of work in their roles, and I thank all of them from all sides of the political divide. It is often a thankless job for them, and on record I do thank all of those councillors in our area of Monash. Stuart James is the mayor at the moment, with deputy mayor Tina Samardzija. My ward councillors for Mount Waverley are Brian Little, Rebecca Paterson and Anjalee de Silva. I note all of their work over the last couple of years, which have been very tough, and I thank them for that and also every other councillor at Monash.

I do have one small thing with Monash at the moment that we disagree on. They have a draft strategy at the moment for off-leash dog areas. I have had a lot of constituents in my area who have prompted me to advocate for a fenced off-leash dog park in our area of Monash, and this is something I support wholeheartedly. I do not think I would let my dog off in it because she does not necessarily respond to us all of the time, as dogs need to do, but for other people who have great control over their dogs it would be a fantastic addition. Submissions are being called for at the moment from the public, and I am using this little bit of time to encourage everyone to talk to Monash and give them your opinion about what you think about this fenced off-leash area. It is something that I am sure I will say more about over the next few months.

But getting back to the bill, this is an important bill because it will provide a sense of comfort for people who are struggling to know that councils will need to keep this in mind. Not necessarily Monash—I have not had any complaints about their collection—but some might have been a little bit overexuberant in their use of debt collectors and the legal system. I think this is a very good bill that puts the comfort of those who are vulnerable and in need at heart, and I commend the bill to the house.

Mr MAAS (Narre Warren South) (12:44): It gives me great pleasure to rise and to make a contribution on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. As has been said by many of my colleagues here, there are really some very, very sound objectives behind this bill. Firstly, the objectives are to implement reforms to the local government rating system, including the arrangements for ratepayers facing financial hardship. Secondly, they are to amend the Local Government Act 2020 to address concerns raised by the Office of the Victorian Information Commissioner in relation to confidentiality provisions which affect the processing and handling of freedom of information requests by councils and to make other minor and technical amendments to improve the operation of the Local Government Act. Thirdly, they are to make minor and technical amendments to the Workplace Injury Rehabilitation and Compensation Act 2013, the Accident Compensation Act 1985 and the Essential Services Commission Act 2001. Finally, they are to make a minor amendment to regulation-making powers under the Domestic Animals Act 1994.

The bill itself forms the first part of legislative reforms arising from the *Local Government Rating System Review* from December 2020 and incorporates recommendations from the Victorian Ombudsman's 2021 report *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship*. These reports have really shown the way many councils respond to ratepayers that are in

need. Some councils have clearly improved their practices as a result of the pandemic, but overall the local government sector has fallen behind other sectors in the compassionate and proportionate treatment of those who are facing financial difficulties. In essence the Andrews Labor government is ensuring people that are struggling to pay their rates are not being driven further into debt or indeed out of their homes. It implements a range of recommendations from the *Local Government Rating System Review* and the Ombudsman's *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship*.

The bill will actually empower the Minister for Local Government, in consultation with the Essential Services Commission, to set a maximum amount of interest that may be levied on unpaid rates and charges, which currently can be as high as 10 per cent, and develop ministerial guidelines councils must follow in dealing with ratepayers experiencing financial hardship. Councils will be limited in using Magistrates Court orders for recovering unpaid rates in situations where rates or charges have not been paid for two years or more. The bill makes a range of improvements to that ability of councils to provide rate rebates and apply special rates and charges. It also makes technical changes to the acts that I have previously mentioned.

In essence, councils will just no longer be able to send the debt collectors around after ratepayers except in extreme circumstances under new protections to ensure that struggling Victorians will not be driven out of their homes. It will explicitly define financial hardship and require early engagement from councils with ratepayers in that regard. The Andrews government has introduced legislation that will force councils to be fairer on ratepayers who are finding it difficult to make payments. It will spell out a clearer definition of financial hardship and require councils to deal with ratepayers early to address stress on their budgets. Under the changes, the Minister for Local Government will consult with the Essential Services Commission to set a maximum on the amount of interest added to unpaid rates and charges, because we know that many Victorians are doing it tough, and that is why we are working to reform the rating system. The minister recently said:

> Good hardship relief schemes strike a balance where the rate burden is shared while ensuring people in hardship are not driven further into debt or out of their homes.

That is what this bill is seeking to achieve. The government has introduced new laws to ensure the highest standards of integrity in local councils, including appropriate, respectful behaviour amongst councillors as well. The act includes a suite of provisions to improve integrity in local government, including improved gift policies, tighter controls on the use of private council meetings and new rules covering conflicts of interest.

The minister has also announced further support for women in local government, increasing the government's support for the Australian Local Government Women's Association's mentoring program to $41 000. The funding will help support 60 women councillors in this term of council and provide opportunities for leaders in the sector to be trained as mentors.

A new rate cap of 1.75 per cent has been set for all Victorian councils for the 2022–23 financial year, and that will help ease cost-of-living pressures for all Victorians. Before the Fair Go Rates system was introduced, residents faced an average rate increase of about 6 per cent every year, and the current rate cap of 1.5 per cent is the lowest since the system was first introduced. Councils collect rates from residents annually to fund and deliver essential community infrastructure and services such as local parks, libraries, community centres, roads, kindergartens, waste collection and sportsgrounds. During the pandemic many councils expanded their hardship policies to provide relief to those doing it tough and started engaging earlier with ratepayers who fall into debt. This bill ensures that councils do not revert to those past practices.

It also comes following the release of the *Local Government Rating System Review* and the Ombudsman's *Investigation into How Local Councils Respond to Ratepayers in Financial Hardship* report, with recommendations relating to greater support for ratepayers in financial hardship. The Ombudsman report found that people who were struggling to pay their rates were often met with debt

collectors, high penalty interest and in some cases very costly litigation too. That created a great amount of stress for those ratepayers and a great fear for those who were already struggling financially and/or dealing with a range of compounding issues—for example, family violence or other associated mental health issues as well. As I have said, the bill will allow the minister, in consultation with the Essential Services Commission, to set a maximum amount of interest levied on unpaid rates and charges, and ministerial guidelines to assist ratepayers assisting financial hardship will also be developed for councils to follow.

In essence this is an excellent bill. It does cover a wide range of matters, but its objectives are very clear and focused on better supporting ratepayers who are dealing with financial hardship and on improving council operations. On that basis, I commend the bill to the house.

Ms WARD (Eltham) (12:54): While I recognise we have got about 5 minutes and 30 seconds before lunch, I will do my best to fit in all of the information that I need to—everything I want to say—within this 5-minute period. Like the speakers before me from this side of the chamber, I welcome this legislation. There are some terrific things in here, including the support that there is going to be for councils to help those who are experiencing rates stress.

There is a particularly interesting dynamic within my community. I represent two municipalities, which are Banyule and Nillumbik. In the case of Nillumbik there is a bit of a historical context to go around our rates. While I know that those opposite get a bit frustrated when we talk about the Kennett years, there is a need to talk about the Kennett years in this context because we used to have the Shire of Eltham, the Shire of Diamond Valley and the City of Heidelberg. When Jeff Kennett decided to amalgamate all of our councils he did quite an odd thing with Nillumbik. He made it long and skinny. He took out the commercial centres of Greensborough and Montmorency and he created a municipality where only 10 per cent of it is urban. That means that there is a huge amount of land mass in Nillumbik that needs to be managed but there is a very low rate base through which to do it. We end up in Nillumbik in a situation where our rates are quite high. They are really quite high, and there is quite a contrast between Nillumbik and Banyule. In the suburb of Eltham North you can have people on one side of a street paying Banyule rates and people on the other side of the street paying Nillumbik rates, and there is hundreds and hundreds of dollars difference. With what we are doing here there is a recognition that that quarterly rates bill that you get in the post is not always easy for people to manage, particularly when you are talking about rates like those that Nillumbik charges.

Also, in a circumstance where people may not necessarily be on high incomes or where they have retired and they are now on fixed incomes, property values have gone up quite a lot in the last few years. This means that people's rates have gone up, and there can be some real challenges in paying a quarterly bill for rates that can be anywhere between $600 and $800 or $900. To be able to have a mechanism that encourages councils to work through how to support people to pay their rates, and not only that but also work through the penalties or the interest rates that might be applied to any late rate payment, is really important. It will be important for people in my community, it will be important for the people in the electorate of Yan Yean, but it will also be quite important for the people within the seat of Eildon in that northern part of Nillumbik. I really welcome these changes and I think that they will be incredibly important.

I also welcome the changes that relate to councillor conduct processes. I think it is really important that we do have some pretty straightforward and clear processes as well as expectations of councillor behaviour. We have been hearing quite a bit lately about the disappointment that there is with some councillor conduct. We hear about frustrations around bullying and around inappropriate conduct that happens across a number of municipalities. With your indulgence, Acting Speaker, I will talk about the previous council at Nillumbik, where we had a councillor—a former vice-president of the Liberal Party, Peter Clarke—who upset a lot of local people with his behaviour. There were a number of local people who felt that he was a bit of a bully. We even had a circumstance where he—and he is quite a tall man—was towering over a group of children, waving his arms, yelling at them for walking on grass near council chambers, because grass is expensive.

To have a process where there can be a conversation around councillor behaviour and where they can be instructed, spoken to, counselled on how to behave better and what community expectations are, but also have some accountability, is really important, because we do want to have a community where respect is mandatory. We want to have councils where respect is mandatory. We want to have a situation where people feel comfortable running for council because they know that they will be in a respectful environment, but we also want people to be able to engage with council and know that council and councillors will be respectful back to them.

I look forward to this legislation being passed in our chamber because I do think that it is an important framework. It is something that will help people navigate council and work through any challenges they might have with council, especially financial but also behavioural, which is something that is very important. Our councillors need to be respectful.

Sitting suspended 1.00 pm until 2.01 pm.

Business interrupted under standing orders.

Questions without notice and ministers statements

CHILD PROTECTION

Mr GUY (Bulleen—Leader of the Opposition) (14:01): My question is to the Minister for Child Protection and Family Services. Yesterday the Auditor-General tabled a report into kinship care, which revealed the government's targets to ensure the safety and wellbeing of Victoria's most vulnerable children are being met less than 1 per cent of the time. The Auditor-General said the failures of the government put children in care at risk. Why has the government failed over 99 per cent of the time to even check if our state's most at-risk children are safe in care?

Mr CARBINES (Ivanhoe—Minister for Child Protection and Family Services, Minister for Disability, Ageing and Carers) (14:02): I thank the Leader of the Opposition for his question. Can I say that the decision by our child protection practitioners to remove a child from their parents is a decision made as a last resort. It is made in the interests of vulnerable children who may be at risk of neglect or abuse and those decisions, when they are made, overwhelmingly, as the Auditor-General's report stated, in 33 per cent in a growth sense that we have seen is for kinship care. Those decisions are made, as the Auditor-General has outlined in his report, because kinship care overwhelmingly is where we get the best results and the best outcomes for vulnerable children. We get those outcomes because it is overwhelmingly—and it is outlined in that Auditor-General's report—that our kinship carers are overwhelmingly women, they are overwhelmingly grandparents and great grandparents who are stepping up and stepping in when family situations go wrong to care for vulnerable children who they know because they are best placed as their kith and kin to look out for them, to bring them up and to look after them when everything else is going wrong in their lives.

When those decisions are made by our child protection workforce to put those vulnerable children in the care of their kin, before that is done police checks are done. They are done—they are absolutely and utterly done. Working with children checks are also commenced and done. Those checks are made before our child protection workforce, those professionals, make those decisions to place those vulnerable kids in the care of kin and we are very thankful for the work that they do 365 days of the year. Those child protection workers might not be emergency services workers in a uniform, they might not work in our hospitals, but they are heroes nonetheless. That is why our government has invested in an additional 1180 child protection practitioners since we came to office. That is why $2.8 billion has been invested in our child protection system in these past three budgets alone.

What the Auditor-General made very clear in recommendations that my department has accepted in full is, as we have always said, we can do better for vulnerable children. But it starts with action and it starts with a demonstration of the care and commitment not only to vulnerable children but to those who need to make those hard decisions every day of the year to keep them safe. Overwhelmingly the

decisions that those professionals are making are to put those kids in the care of their extended family, and I thank them for the decisions those people are making to put themselves first with those children that they know and care for so that we get the best outcomes for them. Our government is committed to always doing better, to always investing in those workforces and to making those hard decisions. To the kinship carers that do overwhelmingly amazing work right out there in our workforce and in our community, we thank them.

Mr GUY (Bulleen—Leader of the Opposition) (14:05): Children in care have overwhelmingly previously experienced significant trauma, including sustained sexual and physical abuse. Further, almost one in six vulnerable children entering child protection has not been allocated a caseworker support by the government. That is over 2500 vulnerable children that have been left without the support they need when they need it. Given the proportion of children without a caseworker has more than tripled over the last year since the minister was appointed, are these children being placed at risk of yet further harm because of this government's systematic failures?

Mr CARBINES (Ivanhoe—Minister for Child Protection and Family Services, Minister for Disability, Ageing and Carers) (14:05): I thank the Leader of the Opposition for his supplementary question. Case allocation, case allocation—let us go to case allocation. Case loads under our government for our child protection workforce are down. Case loads are down. Case allocations: 86 per cent—

Members interjecting.

The SPEAKER: Order! I just ask the minister to pause for a moment. This is a really serious topic, and members on either side shouting across the chamber when the minister is trying to answer this question will not be tolerated. People will be removed from the chamber without further warning.

Mr CARBINES: As I said earlier, case allocation under our government is up at 86 per cent—individual case allocation.

Mr Andrews: Up from 81.

Mr CARBINES: Eighty-one per cent under those opposite. More kids, vulnerable kids in care, are getting individual case management than ever before, and there are more child protection practitioners with lower case loads than ever before. That is the record of our government, and it happened because of a $2.8 billion investment over the past three budgets and 1180 additional funded child protection practitioner positions.

MINISTERS STATEMENTS: HEALTHCARE WORKERS

Mr FOLEY (Albert Park—Minister for Health, Minister for Ambulance Services, Minister for Equality) (14:07): I rise to update the house on this government's record of working with, not against, our healthcare workers in our safe system. We are in the position of being one of the nation's leading areas of public health achievements through this global pandemic through the efforts of our nurses, doctors, ambos, allied health professionals and ward clerks—the whole ecology of our team in public health. That is because it is this side of the house that have spent every day over the past 7½ years building that relationship and building that workforce with our healthcare workforce—as opposed to another strategy of a former Minister for Health, who now might be the Shadow Treasurer, who came up with the idea that what you do is you cut. You go into your workforce and you say, 'Let's cut our nurse workforce to allow them to pay their own wage increase'. That is a strategy we reject. Interestingly enough, it is also a strategy rejected by the Australian Nursing and Midwifery Federation, the ANMF, which said, imagine if the opposition:

> … had been in charge during the pandemic.
>
> They are in no position to criticise nurses and midwives because they're the very nurses and midwives that they sought to …

sack and get rid of. Pause for apology. No? What a surprise. They will never apologise. If given half a chance, they will do it again because they do not like public sector healthcare workforces. They do not value them whereas we do value them, and our record of achievement and investment reflects that. We have delivered over 9464 more nurses. We have increased by over 4000 doctors and other medical professionals and by over 2000 paramedics. We work with our healthcare workforce.

CHILD PROTECTION

Mr GUY (Bulleen—Leader of the Opposition) (14:09): My question is to the minister for child protection. A key reason for the Auditor-General's assessment that vulnerable children in care are not safe but at risk of further harm is serious failures to support volunteer carers. This comes just a week after new data showed that far more Victorian carers are leaving the system than entering it and revelations that a report to government highlights the inadequacy of support for carers in Victoria. Why is the minister refusing, even under freedom of information, to release the KPMG report into the true cost to vulnerable children of carer burnout?

Mr CARBINES (Ivanhoe—Minister for Child Protection and Family Services, Minister for Disability, Ageing and Carers) (14:10): I thank the Leader of the Opposition for his question. Just within the past couple of weeks I was with the Centre for Excellence in Child and Family Welfare in relation to Fostering Connections, which is a new program that we were launching to recruit and retain more foster carers and kinship carers in the system. It was at the launch of Fostering Connections in the past couple of weeks that it was also brought to my attention by many of our stakeholders who were engaged in the launch of that campaign to bring in more foster carers—our foster carers are ageing, and our kinship carers, and we need to explain and ensure that people understand the role that can be played by new foster and kinship carers in our community. It was explained to me that it was great to have the Fostering Connections program back, to engage in that program, because apparently it had been cut by those opposite. They, the centre for excellence, and our many carer organisations welcomed the Fostering Connections program to recruit and retain more foster carers in our community, and I welcome that. In relation to other reports, I do not comment on matters that are not the purview of public documents.

But I do say that the Fostering Connections program is about, again, supporting the community and responding to our foster carers in their desire to have a Fostering Connections program to recruit and retain more foster carers in the system and also to make sure that there are opportunities through things funded in our budget this year—the $5.8 million carer help desk, a priority through our carer strategy for our foster carers and kinship carers, a go-to place for specific support and all the life administration such as Medicare cards. We all understand the different pieces of paper and work in running and managing and looking after your family, but when you are suddenly taking on the support and the care of vulnerable children you also need some assistance with managing Medicare cards and other bits and pieces of the paperwork. We have said, through our carer strategy, prioritised by our foster carers, that our $5.8 million commitment on the carers help desk will be delivered—

Mr Guy: On a point of order, Speaker, on relevance. As you said at the start, this is a very serious topic about the safety of children. My question went straight to—

Mr Cheeseman interjected.

The SPEAKER: Order! The member for South Barwon can leave the chamber for the period of 1 hour.

Member for South Barwon withdrew from chamber.

Mr Guy: About time. The question went—

Members interjecting.

The SPEAKER: Order! The Leader of the Opposition on the point of order.

Mr Guy: The question went to a freedom of information report still being unable to access a KPMG report of the minister's—and around carer burnout, I should say—and I ask you to bring the minister back to answering that specific question.

The SPEAKER: Order! I am happy to rule on the point of order. The question was a long one with a large preamble relating to care, and the minister is being relevant to the issues that were raised. The minister has concluded his answer.

Mr GUY (Bulleen—Leader of the Opposition) (14:13): Lack of carers means many vulnerable children are placed instead into group residential care units. Victoria's independent children's commissioner has said that children in these units are routinely targeted by paedophiles, forced into prostitution and raped, and they abscond for long periods and engage in drug use and violence. Can the minister at least confirm that this suppressed KPMG report highlights longstanding inadequacies of support given by the government to carers and recommends a 67 per cent increase in the care allowance to retain more carers?

Mr CARBINES (Ivanhoe—Minister for Child Protection and Family Services, Minister for Disability, Ageing and Carers) (14:13): I thank the Leader of the Opposition for his question. It went to several matters. Firstly, in relation to reports that the Leader of the Opposition refers to, they are matters of course that he can pursue with the department. They are the department's reports. Can I say further, in relation to residential care and the work of the commissioner for children and young people, who does really fantastic work as an advocate in her role, her independent role, on behalf of vulnerable children, I am also very pleased to say in our budget this year a further $19 million has been allocated for residential care support for those community service organisations. I want to thank them, in UnitingCare, in Anglicare, at Berry Street, at MacKillop, for the work that they do for the most vulnerable children in our community who do not have the supports of kinship care, who do not have the opportunity to have the support of our foster carers, and who are in residential care. They might be in small numbers, but they get huge support from our community, our community service organisations and this government.

MINISTERS STATEMENTS: VICTORIA POLICE

Ms NEVILLE (Bellarine—Minister for Water, Minister for Police) (14:15): I just want to remind the house of the incredible work that Victoria Police members have done over the last two years. We have asked much more of them than ever before. They have been in the community supporting the health response to the pandemic. We have also during this time been reminded, unfortunately, of how dangerous their jobs are, with five police officers' lives lost in the line of duty since 2020. These sacrifices and service must be acknowledged and respected. But they also must be met by more than words; they must be met with actions.

That is why this government has always backed in police with the resources, the equipment and the new laws that keep Victorians safe. That is why we have invested in policing in every single budget. In fact in 2016 we made the biggest ever investment in Victoria Police's history in staff and equipment, taking the budget now to $4.5 billion over the past eight years—an 86 per cent increase. When we first came to government, just in 2013–14 expenditure on police per head of population was $394, below the national average, but not only that, the lowest in the country. Now it is $610 per head of population, the highest of all the main states other than the Northern Territory and WA. So lowest to highest—that is our record. We funded the modernisation of the police force with new equipment, tasers, longarms, body-worn cameras, modernising it with smart devices. We support police every single day. We support the chief commissioner and police members, and we do not undermine them. And it is showing real outcomes, with crime rates being reduced down to, in the last lot, 11.5 per cent—down below 2013–14 and what we came to government on. I am so humbled by the service that Victoria Police members give every day, and this government will continue to support them.

ECONOMIC POLICY

Ms STALEY (Ripon) (14:17): My question is to the Treasurer. In a rising interest rate environment, why has the government exposed Victorians to a net debt of more than $160 billion, more debt than New South Wales, Queensland and Tasmania combined?

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations) (14:17): I thank the member for Ripon for her question. The one thing that Victorians can count on: we will use our balance sheet to ensure that Victorians are well catered for and protected against the trepidations of a global pandemic. Thirteen billion dollars of support this government has given to households, to businesses—well, directly to businesses; households of course have also had considerable support from this government. To give you an illustration, in the November 2020 budget and the May 2021 budget we managed to spend some $76 billion of increased effort in order to ensure that we were resourcing our healthcare system, in order to ensure that we were adequately resourcing our pandemic fight. And through all that we have managed to produce the fastest growing economy in the nation.

Mr Andrews: And the lowest unemployment rate.

Mr PALLAS: Of course the Premier quite rightly observes that our unemployment rate, at 3.7 per cent, is in fact almost 3 percentage points below that which we inherited from those opposite, the great economic managers who would not know what an economy was. They are so obsessed with the fact that this government has, quite deliberately, used countercyclical investment to grow economic activity in the state. If you look at the turnaround in our budget, it is nothing short of phenomenal—in the last 12 months a $23 billion turnaround in material circumstances in our budget. Indeed if you looked at the New South Wales budget you will have noticed that the deficit that they are identifying for the 2022–23 financial year is $11.26 billion, compared to our deficit of $7.864 billion. The other point that I would make to the member is: look at the entirety of the debt, because the ratings agencies look at a thing called gross debt. They look at gross debt, not net debt. And why do they look at it? Because in New South Wales they have this habit of basically filtering away a lot of their debt in their public non-financial sector. You might know about it—it is called Transport Asset Holding Entity—and all the difficulties that they had associated with that through their Auditor-General. We of course have an Auditor-General that signs off on our accounts, and we can demonstrate that this state is in a very strong position going forward.

Ms STALEY (Ripon) (14:20): In 2025–26 the government will have racked up over $23 000 in debt for every single Victoria. This is more than three times the debt per capita of Queensland and far above that of New South Wales. What is the government's debt repayment strategy?

Mr PALLAS (Werribee—Treasurer, Minister for Economic Development, Minister for Industrial Relations) (14:21): I thank the member for Ripon for her supplementary question. If you think our debt is of such traumatic circumstances, you should look at what is going on in the federal budget. Poor old Jim Chalmers. He has inherited a catastrophe—five times greater levels of debt than the state of Victoria. Let us not forget that this government used its balance sheet in order to invest in infrastructure that grows the economy and protects jobs—actually creates jobs. Indeed we have been in a position where we can demonstrate to the people of Victoria that we did exactly what the Reserve Bank governor said and exactly what every other state and territory Treasurer agreed had to happen, which was use your balance sheet and use your capacity to protect the wellbeing of your state—and that is what we did.

MINISTERS STATEMENTS: EVENTS INDUSTRY

Mr PAKULA (Keysborough—Minister for Industry Support and Recovery, Minister for Trade, Minister for Business Precincts, Minister for Tourism, Sport and Major Events, Minister for Racing) (14:22): It is obvious that it is exceedingly difficult to run major events during a global pandemic with people jammed together, with international travel restrictions and with a largely unvaccinated

population. But through 2021 our workers and their employers made an extraordinary effort to get vaccinated with the support of the government. So this year, unlike the previous two years, we had, for example, the biggest four-day grand prix crowd in the world ever. We had 90 per cent hotel occupancy in the city for the first time since the pandemic began. We had four perfect Melbourne days broadcast to the world. We had spectators, staff, crews and drivers all fully vaxxed. With other states actively pursuing our race, our events calendar and our global brand, I can scarcely convey to the house how important it was for this year's event to be a stunning success.

And it was. That is the difference that a year makes, and that is the difference that our vaccination effort and the effort of those workers has made. It is why the Australian Open was able to proceed, fully vaxxed. It is why *Hamilton* and *Moulin Rouge!* were able to open to packed audiences. It is why over 40 000 people could pack into Marvel Stadium for the world lightweight title fight between Haney and Kambosos. It is why our pubs and restaurants can be once again operating at full tilt. It is why fans are back at the footy, and it is why the May races were so much fun—because of the effort of our workers, because of science and because of the great effort of Victorian workers. It has allowed our state to hum again. It is a beautiful thing to see, and we cannot thank our workers for doing their bit more than enough.

GAS SUBSTITUTION ROAD MAP

Dr READ (Brunswick) (14:24): My question is for the Minister for Energy, Environment and Climate Change. The government promised it would release its gas substitution road map in the first half of this year, of which there is only a week left, but it has been reported that its release will now be delayed until after the November election. I ask the minister to advise: when will the government release this vital energy plan?

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes) (14:25): I thank the member for Brunswick for his question. I will remind the member for Brunswick that the gas substitution road map was actually our initiative, and it is an initiative that is well on the way. It will be released when we are ready to release it. But can I assure the member for Brunswick that we do not wait for documents to be released before we take any action, if that is where he wants to take this conversation. We have absolutely got a track record that is second to none right across this country in terms of growing renewable energy and in terms of decreasing our carbon emissions at the fastest rate of any jurisdiction in this country. We are doing that today, we did that yesterday and we will continue to do it tomorrow and into the future.

Dr READ (Brunswick) (14:26): I guess that during the current energy and climate crises, with gas prices rising, local supply diminishing and plans to import gas through Corio Bay, we really do need a future energy strategy on gas. Would the minister agree that delaying the release of the transition plan means potentially preventable increases in Victorian household energy bills and preventable increases in carbon emissions will continue unnecessarily over the coming months while we wait for this?

Ms D'AMBROSIO (Mill Park—Minister for Energy, Environment and Climate Change, Minister for Solar Homes) (14:26): I thank the member for Brunswick for the supplementary question, but I think that supplementary question was written before my answer to the substantive question. As I have said, we are leading the country in terms of the plan to decarbonise our energy system. It is not just about electricity, it is about gas too, and we are absolutely very aware of the rising cost of gas and the impacts that is having right across our economy. Can I say, for those reasons, I do want to lead the member for Brunswick to the very fact that Victoria is the best insulated state when it comes to those rising costs because of the ambition that we were delivering yesterday, are today and will continue to do tomorrow.

MINISTERS STATEMENTS: MENTAL HEALTH IN SCHOOLS PROGRAM

Mr MERLINO (Monbulk—Minister for Education, Minister for Mental Health) (14:27): I rise to update the house about how the Andrews government is supporting schools with investment in mental

health. Firstly, I thank all school staff in every sector for their selflessness, professionalism and dedication over the past 2½ years. Enjoy the term break; you have earned it again. This year the challenge has shifted from remote learning to staffing impacted by flu and COVID. But despite all those challenges, all schools opened on day one, term 1 this year. Those opposite have been desperate for schools to close this year—desperate.

But even before the pandemic the Andrews government recognised that more needed to be done for students' mental health. It is why in 2018 we promised a mental health worker in every government secondary school and specialist school—a promise made and a promise kept, a year ahead of schedule. It is why we promised a Royal Commission into Victoria's Mental Health System and accepted all the recommendations—only on this side of the house. It is because we accepted all those recommendations that we are acting on those recommendations, rolling out the $200 million School Mental Health Fund this year and why this week we announced the single biggest mental health initiative for students in Australia's history. Building on the success of the mental health in primary schools pilot, we will fund a mental health and wellbeing leader in every single government primary school and every single low-fee non-government primary school. That is 1800 school campuses.

On this side of the house we understand that ongoing and sustainable funding is what makes reform possible—not agreed by everyone. Indeed there are those who when asked whether they would cut funding to mental health have said, 'If we can, we will'. The Leader of the Opposition will be damned by those words all the way to 26 November this year.

METRO TUNNEL

Ms RYAN (Euroa) (14:29): My question is to the Minister for Transport Infrastructure. Yesterday's Auditor-General's report found that the Metro Tunnel project is likely to cost $12.58 billion—$220 million more than predicted in the budget just seven weeks ago. In total, this is $3.5 billion more than initially promised by the government. Only 4 per cent of this overrun is attributable to COVID, according to the Auditor-General. Minister, why is this project so far over budget?

Members interjecting.

The SPEAKER: Order! Members on my right! The member for Sunbury is warned.

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure, Minister for the Suburban Rail Loop) (14:30): I thank the member for Euroa for her question on the Auditor-General's report that was tabled yesterday. I am pleased to advise the house that the Auditor-General actually found that the Metro Tunnel project 'is being delivered satisfactorily'—that it is a project that is being delivered satisfactorily. On that point, do you know what was not satisfactory for the Metro Tunnel project? Do you know what was not satisfactory for people relying on more public transport in the city or the country?

Members interjecting.

The SPEAKER: Order! I know this is the last question on a Thursday, but members who are shouting will go, so please let the minister answer this question.

Ms ALLAN: Thank you for that support, Speaker. What was not satisfactory was this was a project that was discarded by those opposite for four long years. If you want to talk about the cost of delivering transport projects, do you know what one of the biggest challenges in delivering transport projects is? It is time. Time is money. If you can get on and deliver a project and you can deliver a project as quickly as you can, that has a direct impact on the cost of the project. Just like we are ahead of time in removing 85 dangerous or congested level crossings, just like we are ahead of time on so many of our other projects in road and rail, do you know what we also know from the Auditor-General's report and other reports on the Metro Tunnel? The Metro Tunnel is a full year ahead of schedule despite the challenges that the project has had.

The member in her question mentioned the pandemic, and I want to thank those 8000 workers who have been working on the Metro Tunnel, because do you know what they were doing during the pandemic? They were delivering the Metro Tunnel project. They were finishing the tunnelling part of the project, they were fitting out the station boxes. And they had to do all of that during a pandemic when they had a significantly impacted and changed working environment because of the requirements to operate in a COVID-safe way. Yes, that did have an impact on the project budget, and we have been transparent in releasing that information. That is why we are determined to deliver this project—because of the enormous benefit it will bring in delivering more train services for the state of Victoria.

Ms RYAN (Euroa) (14:34): The Auditor-General found that a large part of the government's commitment to high-capacity signalling on this project has been de-scoped. A third of the previously announced high-capacity signalling system will not be put in place. What is the projected impact on travel times and congestion of the removal of one-third of the high-capacity signalling on the Metro project?

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure, Minister for the Suburban Rail Loop) (14:34): In answering the member's question I am going to quote the Auditor-General's report again directly on this matter, because the Auditor-General's report found, when referring to the scope changes with the Metro Tunnel project and particularly this issue on the changes to the high-capacity signalling, that those scope changes were 'prudent'. So not only is he saying the project is being delivered satisfactorily, he is also saying that it was prudent to make those changes. Do you know why we had to make these scope changes? Because the Metro Tunnel is enabling us to deliver the airport rail project and the Cranbourne line duplication and to make the Pakenham and Cranbourne lines level crossing free. Those opposite stopped the Metro Tunnel project previously, and they have said they would do it all again if they were given the chance.

MINISTERS STATEMENTS: SICK PAY GUARANTEE

Mr ANDREWS (Mulgrave—Premier) (14:36): I am delighted to rise on behalf of all Victorians to thank the thousands and thousands of insecure and casual workers right across our Victorian economy and community who worked tirelessly throughout our most difficult of times, through the worst of this one-in-100-year global pandemic. On this side of the house we know that casual and insecure workers are the workers that Victorians have relied on. They have got us through. Without them, well, who knows where we would have been in the most difficult of times: the supermarket and warehouse workers, factory workers, hospitality workers, disability care workers, aged care workers, cleaners, chefs, waiters, service station attendants, goods receivers, call centre workers and many, many more. I want to thank each and every one of them for their amazing commitment, their hard work, their passion and their dedication to the wellbeing of others, often putting themselves in harm's way—particularly in those early and most uncertain days of this global pandemic event.

They are, sadly, though, some of the most vulnerable and lowly paid workers in our community. That is why the government, acknowledging the toxicity of insecure work, has acted in a nation-leading way to do something about this. The Victorian sick pay guarantee, a two-year pilot, is giving Victorian workers in a number of key industries an opportunity to get what many of us take for granted—a sick pay entitlement, those basic entitlements—so they do not have to make a choice between keeping themselves, their co-workers, their customers and their clients safe or feeding their families. It is not that they made the wrong choice; what is wrong is that they had to make that choice at all. Because of insecure work, so many have to make that choice. Well, we can change that, and we must. There is over $3 million in sick and carers pay that has already been paid out. Thousands have registered. We support this. We are delivering it. Others have bagged it, and that tells you all you need to know.

Constituency questions

MURRAY PLAINS ELECTORATE

Mr WALSH (Murray Plains) (14:38): (6436) My constituency question is to the Minister for Health. A constituent of mine has asked me to raise with the minister the issue that the reimbursement for travel and accommodation costs paid under the Victorian patient transport assistance scheme, or VPTAS, has not kept pace with the increased costs of fuel and overnight accommodation. What information can the minister provide my constituent as to when there will be a review of the reimbursement rates under VPTAS? The travel reimbursement at the moment is 21 cents per kilometre, yet the ATO ruling on reimbursement is 66 cents per kilometre. The overnight reimbursement is $45 per night, exclusive of GST, which is well below the cost of a motel room in a regional centre. Many country pensioners are finding it extremely challenging to be able to afford the cost of travel for critical medical appointments and believe a review of the reimbursement rate is well overdue.

SUNBURY ELECTORATE

Mr J BULL (Sunbury) (14:39): (6437) My question is to the Minister for Public Transport. Minister, what is the latest information on design and planning for the upgrade of the Sunbury bus interchange in my electorate? As the minister will be well aware, this is a terrific project, made possible of course by a more than $3 million commitment from the Andrews Labor government. This is a local project that many within the community talk to me about often. We are making sure that we are investing in the bus interchange and supporting the local community, and again I ask for the latest information on design and planning from the minister.

CAULFIELD ELECTORATE

Mr SOUTHWICK (Caulfield) (14:40): (6438) My question is to the Minister for Agriculture. Pet Medical Crisis is a deductible gift recipient charity located in my electorate that assists with the financial costs of medical care for pets of elderly owners or those with disability. Pet Medical Crisis has made an immense contribution to the welfare and mental health of their clients, delivering quality service despite the huge demand they have faced since the onset of the pandemic. As such, they are in great need of support to continue operating. Given the minister announced funding for a similar organisation in Ocean Grove on 4 May 2022, will the minister look at what can be done to assist Pet Medical Crisis with urgent funding to continue their operations?

ST ALBANS ELECTORATE

Ms SULEYMAN (St Albans) (14:41): (6439) My question is to the Minister for Public Transport. My question is: what can be done to improve bus route 423 that runs through St Albans for local residents in the community? This is a key connecting service for communities, particularly people needing to reach Sunshine Hospital, Ginifer station, St Albans station or Victoria University Secondary College. I know that older residents also rely on this service. It is a main bus service for St Albans west going along Furlong Road. This is important to many bus users, as I said, to local residents and also to school students. I look forward to the minister's response to this important matter for my local community.

EILDON ELECTORATE

Ms McLEISH (Eildon) (14:42): (6440) My question is to the Minister for Health. Why has the government ceased support for the successful Be Well in the Ranges program? This program has played an important role across the Kinglake ranges in the last three years through the provision of free counselling, psychological support and music therapy to those fire-affected communities through the neighbourhood house. Dealing with the long-term impacts of the Black Saturday bushfires and triggered by the more recent fires, residents have turned to this service to deal with anxiety, depression, PTSD, grief and loss. Currently five psychologists, counsellors and therapists conduct approximately 400 client sessions every six months, a need greater than originally anticipated. Since COVID-19 there

has been an influx of patients, 30 per cent of which are under the age of 25. Kinglake is without a medical practitioner and the next closest mental health service specifically for young people is in Greensborough. Without ongoing funding, the program will be forced to close, leaving many people without help.

BAYSWATER ELECTORATE

Mr TAYLOR (Bayswater) (14:43): (6441) Recently we announced the single biggest local environmental project in Knox's history, which will reimagine Blind Creek and Lewis Park and in turn create the Green Heart of Knox spanning three suburbs. My constituency question is to the Minister for Water: how will this valuable investment benefit my community? The magnitude of what we have just announced cannot be understated. This project will restore a 1650-metre section of Blind Creek to the surface, returning our waterways back to the community to connect with and enjoy. It will improve the health of local waterways and create tons more open space—33 hectares to be exact, or around 17 MCGs. Because we know our waterways and open space are one of our biggest assets, this massive project, which will run through the spine of Knox along Blind Creek, will create a regionally significant community space right here in Knox. It will mean the creation of three new wetlands, over 6 kilometres of new walking paths, nearly 700 000 new plants, improved waterway quality, more flood storage, more harvesting, nearly 2000 trees to be planted, a boardwalk through the wetlands to Lewis Park and lots of community infrastructure to engage with, and it is going to create lots of good, local jobs. This will create, hands-down, the most exciting and significant environmental space for tens of thousands of Knox residents to enjoy for generations to come. It is huge.

PRAHRAN ELECTORATE

Mr HIBBINS (Prahran) (14:44): (6442) My constituency question is for the Minister for Solar Homes, who is in the chamber today, and I ask: what is the government doing to ensure that residents in the Prahran electorate can access the Solar Homes program and increase the uptake of solar within our community? Our community wants to be powered by 100 per cent renewable energy, but the uptake of solar panels and batteries and the number of installations through Solar Homes compared to the other areas is low, no doubt due to the high number of renters, which make up the majority of residents in Prahran, as well as the high number of apartment dwellers. But even given that, the number of rental properties with panels provided through Solar Homes in the Prahran electorate is less than 10. This means that residents, particularly younger people, are missing out on the benefits of solar, the benefits to our climate as well as the cost of living. I would like to know what the government is doing to increase the uptake of Solar Homes on rental properties, which is currently well below the government's stated target, and how they are facilitating solar to be installed on apartment buildings.

BASS ELECTORATE

Ms CRUGNALE (Bass) (14:45): (6443) My question is for the Minister for Police. I understand that work is continuing to deliver the residents of Clyde North and surrounding suburbs a new police station, and I am seeking an update on this work. It is important for the local police to continue to work closely with the local community and community leaders to strengthen their relationships, and I welcome the ongoing work between the local police and local council on community safety initiatives. This work increases the presence of police in the local area and reassures my constituents that they will continue to receive a 24-hour police response. I also note that the most recent crime stats show a decrease in offences recorded of 10.4 per cent, thanks to the hard work of our police. I look forward to the update from the minister about the Clyde North police station to provide surety on the police presence in the area to my community.

BRIGHTON ELECTORATE

Mr NEWBURY (Brighton) (14:45): (6444) My constituency question is for the Minister for Mental Health, and I ask: can the minister advise me as to what the Labor government is doing to improve early intervention in specialist care services for young sufferers of an eating disorder? The

Australian Patient Association's *Australian Healthcare Index*, released this week, confirms that the mental health shadow pandemic sting, in the words of the experts, is in the tail. The index shows that one in four people say their mental health has declined in the last six months and that almost 60 per cent of people have been waiting for over three months for support. With issues like eating disorders, sufferers cannot wait. We know that the best path to early intervention includes ensuring that general practitioners recognise the condition and connect patients to services. Consideration should also be given to more at-home specialist support to assist families. We also need to do better in providing specialist care. Children in the southern region have access to services at the Wellness and Recovery Centre Butterfly program through Monash Health, but there is a very small number of places. We need to do more. We must do more.

CRANBOURNE ELECTORATE

Ms RICHARDS (Cranbourne) (14:46): (6445) My constituency question is to the Minister for Health. How is the government continuing to support healthcare workers throughout an extended period of high demand in the health system? I was pleased to share with my community that healthcare workers in the public sector will be receiving a $3000 retention bonus. This will be important in easing the daily pressures on our frontline workers and is so well deserved given the high-level skill, empathy and compassion required to continue in their profession. With several significant pressures coinciding during this year's flu season, how is the government responding to healthcare workers' needs for support?

Bills

LOCAL GOVERNMENT LEGISLATION AMENDMENT (RATING AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed.

Ms CUPPER (Mildura) (14:47): I rise to speak on the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022. The bill aims to achieve a number of objectives, but I would like to focus on the matters of financial hardship, rate rebates and concessions. Rate rebates are a very hot topic in rural and regional Victoria. If I could speak for a moment on behalf of my constituents, we need a rate rebate alright—we need a mass rebate from the system. The current Victorian rate system makes a mockery of the general Australian tax principle that citizens should not be subjected to wildly different tax rates depending on where they live. In my electorate a farmer in Buloke is paying up to six times the rates of a resident of Toorak with a property of the same value. A farmer in Manangatang is paying four times the rates of their metropolitan counterpart, though with a far more variable income, generally speaking.

I know this issue well, having been a councillor for six years before being elected to state Parliament. Being a councillor is a tough gig, but being a proud Mallee kid and somewhat of a political animal I still loved every minute of it, even if the old boys club did not love every minute of me. Alongside the joys were the challenges. The most challenging aspect of being a councillor in a rural or regional municipality is charging rates, and not just because it is a bill that no-one likes, but because councillors are constrained by a system that is rigged against rural and regional ratepayers. It is a system that councillors have no control over, but they cop the blame for the consequences over and over again. That is why when I was elected to state Parliament I was determined not to throw my former council colleagues under the bus and pretend that it was no longer my problem, because as a state MP it was squarely my problem, and the same can be said of our federal MPs or any federal MP. Rates policy is their problem too, because the origins of the problem for rural and regional ratepayers and the levers for fixing it sit with state and federal parliaments, not with councils.

I have raised this issue, the rural and regional rate scandal, in Parliament many times before as part of my RateGate campaign, and the name works because the statewide rates disparity is an economic

scandal. I have consulted widely with stakeholders, including the Municipal Association of Victoria, small councils in Victoria and the Victorian Farmers Federation; I have collaborated with eminent experts, including Merv and Rohan Whelan; and I have co-designed policy proposals that would help fix the problem. I have lobbied the federal government. I have lobbied the state government. I have written to every rural and regional Victorian MP asking them to stand in solidarity with their rural and regional constituents across party lines.

Unfortunately the former federal minister, the assistant minister for local government, declined to help. The former federal shadow minister declined to help. Of the 63 rural and regional Victorian MPs contacted, most did not reply. We received a letter of support from a handful of crossbench MPs and some polite knockback letters from a very small handful of big party MPs, and that was it. I do not know other electorates; perhaps it is not a burning issue in other rural and regional electorates, but it is in mine, and it is not just a matter of economic justice but also one of social cohesion.

When I was a councillor, whenever there was a budget or, even worse, a rating review, different sections of our community would turn against each other. Farmers would be irate at the sheer size of their rates bills and they would demand relief, usually in the form of a blanket differential. That would require the burden to be shifted to another class of ratepayers within the community, usually the business community, which would be just as irate about the size of their rates bills. Meanwhile, residents would be bombarding councillors' inboxes and the opinion pages of the local papers with stories of major disparities between their rates bill and the rates bill of their friend or sister or family member in Melbourne. And while there were not quite riots in the streets, there were trucks in the streets packed with hay bales and anti-council slogans about the unfairness of the rate burden. Frustrated farmers would gather around both entrances to the council building to eyeball councillors as they arrived. There is a house in one little town in the southern Mallee with a permanent rates protest written across its corrugated iron roof.

I remember as a new councillor still being ambivalent about that farming differential, but it was a tough sell. One family member—remember I come from a long line of family farmers—said I did not deserve the family name. A form letter was produced saying how ashamed my grandparents would be and that I had 'no children and no family'—that was the quote—and that is why I did not care. The rates debate inevitably turned community members against councillors and each other, because economic stress and economic inequality and inequity does that; it undermines social cohesion. And while everyone is stacking on to councillors and councils, it might be tempting for state and federal governments and MPs to lie low, but, based on my perspective and my experience, that would be unconscionable because, as I have said, councils cannot control the key drivers of their cost pressures and their financial sustainability. They have little choice but to load up ratepayers with a rate burden that is up to six times higher than the average rate in some metropolitan municipalities.

To the credit of the Minister for Local Government, Shaun Leane, he has been very open to this conversation with me. He has committed to doing what he can to allocate more of the financial assistance grants to the small councils that need them most if the federal government will allow it. Unfortunately, as I mentioned, the previous federal government was not interested in using any of its levers to help address the problem, but now we have a new federal government. That provides an opportunity for a fresh conversation. I would encourage our Minister for Local Government in Victoria to have a conversation with his federal counterpart, Catherine King, on two matters: one, restoring the financial assistance grants to 1 per cent of Australian tax revenue, because they have slipped back over past decades, and that has not helped, and also allowing this state government to give a greater share of that money, of the financial assistance grants allocation, to the councils that need it most.

But there is a third conversation that I think should be had, and that is in relation to the special case of farming rates. The core problem for farmers, as distinct from other categories, is that their asset wealth does not necessarily match their income, at least not reliably or with any consistency, and rates bills of $100 000 are not uncommon in the Mallee grain belt. Also not uncommon are drought or poor commodity prices or the multitude of other vicissitudes that impact the real annual income of farming

families. Some might believe that the answer to this issue is to implement bigger and bigger differentials, but the problem with this, as I have stated, and it has always sat uncomfortably with me, is that someone else within our community, another rate class, has to pick up that tab. That is residents in the community, and even though they generally have more consistent and reliable income streams, they also have their own set of pressures, so that has never been an optimal answer.

That view has got me into trouble as a councillor, and it has certainly upset members of my family. But I still think there is a better way, and I believe the better answer might lie with the federal government if they would be willing to collaborate. The federal government has a variety of tax levers available to help address the fundamental problem at the heart of the farming rate issue, which is the inbuilt incongruence of a wealth tax that is charged as if its income tax. Finding a meaningful and sustainable solution to the unique situation of farmers is the current focus of our RateGate campaign, and we are researching how this might be achieved with greater fairness for farmers but without shifting that burden to businesses and residents.

In the meantime, I welcome the government's attempts to alleviate financial pressures within the system. But it has to be said that for many rural and regional ratepayers it is the system itself that is the problem and it is the system itself that needs fixing.

Mr McGHIE (Melton) (14:56): I move:

That the debate be adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned until later this day.

CHILDREN AND HEALTH LEGISLATION AMENDMENT (STATEMENT OF RECOGNITION AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed on motion of Mr CARBINES:

That this bill be now read a second time.

Ms KEALY (Lowan) (14:56): It is Thursday today. It is wonderful to have the opportunity, as always, to be the lead speaker on important legislation passing through this place. This legislation is particularly important because it addresses some of the issues that we have in management of the very, very vulnerable young children who are particularly in care. There are elements of this bill which we have already seen pass through this chamber during this term of Parliament—and I will refer to that in greater detail later in my contribution—but I am very concerned that the changes that are outlined within the legislation before us today should be a greater priority. They should be a focus of this government to pass sooner rather than later. They are sitting in the upper house at the moment. The debate can be brought on, and these changes could be made much, much sooner. But for whatever reason, rather than putting through the suite of changes that have been brought forward in the previous iteration of these amendments, one specific section has been cut out of that and brought forward in the bill that we will be debating today.

I do want to make it very, very clear at the outset that the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022 has the full support of the Liberals and Nationals. But can I say that the previous iteration, the Children, Youth and Families Amendment (Child Protection) Bill 2021, similarly had the full support of the Liberals and Nationals. We want to see additional protections in place for some of Victoria's most vulnerable children. We know that there are plenty of opportunities to be able to do that, but for too long this has been a sector that is seen as too difficult and there have not been appropriate interventions and supports put in place to support these vulnerable children. So while absolutely we do support the bill before us today, we do encourage the government to go back to the Children, Youth and Families Amendment (Child Protection) Bill 2021 and to consider bringing that forward in the upper house so that legislation can be passed

that will unlock exactly the same legislative changes that the bill before us today will enable but also bring in other important elements that will provide greater protections to some of Victoria's most vulnerable children.

Firstly, I will go to what this specific bill will seek to address. This bill includes an Aboriginal statement of recognition and recognition principles relating to child protection in the Children, Youth and Families Act 2005 and makes a range of other changes to children and health legislation. The key purpose of the bill is to amend the Children, Youth and Families Act 2005 to include an Aboriginal statement of recognition and recognition principles relating to child protection decision-making for Aboriginal children, to make amendments relating to authorisation of principal officers of an Aboriginal agency, to provide for use and disclosure of information to and by principal officers authorised under sections 18 or 19 of that act, to enable judicial registrars to exercise powers of magistrates to issue warrants for the purposes of having a child placed in emergency care and to enable judicial registrars to exercise the powers of registrars.

The main purposes of the bill are to amend the Social Services Regulation Act 2021 to make transitional provision for suitability panels and to amend the Child Wellbeing and Safety Act 2005 in relation to the reportable conduct scheme to amend the definition of 'employee', to enable the Commission for Children and Young People to commence proceedings for offences relating to the reportable conduct scheme and to provide for the commission to monitor and enforce compliance with requirements under that act in relation to notification of reportable conduct by the head of an entity.

It will make minor amendments to the Child Wellbeing and Safety (Child Safe Standards Compliance and Enforcement) Amendment Act 2021 relating to commencement of proceedings. It will amend the Magistrates' Court Act 1989 to enable judicial registrars to exercise powers of registrars. It will amend the Commission for Children and Young People Act 2012 to enable the commission to assist and support child protection clients, children and young persons in out-of-home care and children and young persons making the transition to independent living and amend other acts consequential to the Social Services Regulation Act 2021. It will amend the Health Services Act 1988 to include an Aboriginal statement of recognition and statement of recognition principles. It will also amend the Public Health and Wellbeing Act 2008 to include an Aboriginal statement of recognition and statement of recognition principles.

These are of course all very, very important, particularly given what we have seen in the Parliament this week with the passage through this chamber of legislation relating to progression of treaty. We are increasingly seeing recognition of those Aboriginal statements of values within legislation. It is an important step forward for us that we recognise that harms have been done but that we are willing to walk with the First People of this land and ensure that we can in some way close the gap and provide better health outcomes, better educational outcomes and better societal outcomes for some of the more vulnerable people in our community. I am sure they will, but if these steps to incorporate statements around Aboriginal people within our legislation help to close that gap, then this is something that we should all definitely support.

I would like to just go back through some of the background of this legislation. The government's child protection strategy for Aboriginal children and young people is guided by *Wungurilwil Gapgapduir* of 2018, a partnership with Aboriginal communities and the child and welfare sector based on the principle of self-determination, supporting the child and family sector based on the principles of self-determination, supporting Aboriginal organisations to case manage Aboriginal children in care and providing culturally safe and responsive reunification support services. The government committed to reducing the over-representation of Aboriginal children in the care system by 45 per cent by 2031 as a signatory of the Closing the Gap national agreement. It is frightening to consider that there is a gap that could be closed by such a significant amount, but unfortunately that is what we see is the case here in Victoria.

In Victoria one in 10 Aboriginal children on any given day is in care. This is the worst rate in the country, and it has not improved over the past seven years. That is a catastrophic blight on the Victorian people and particularly the Victorian government. Having worked in the Northern Territory in the health system and having seen some devastating impacts on children of a system that has failed to listen to Aboriginal people and failed to enshrine self-determination in all elements—I note this was in the early 2000s, and things have certainly changed throughout the Northern Territory over that time—it is desperately distressing to see particularly Aboriginal children in situations where it is nearly accepted that they have worse health outcomes or societal outcomes than other people within our community. This should never be expected, and it should never be accepted.

I have seen horrific things in my time. I have seen the impacts of abuse and neglect. This is not just within Aboriginal communities; it is in all backgrounds and ethnicities and cultural backgrounds as well. It is a blight on every single Victorian that we allow this to happen at all. It is even worse that we allow it to happen at such a high rate to Aboriginal children in this state. As I said, one in 10 Aboriginal children on any given day is in care. It is disturbing, and it is something that must be addressed as a matter of urgency and not simply put in the too-hard basket; it is not something that can be ignored for a period of time or just accepted.

The Commission for Children and Young People's annual report found that there had been a disproportionate increase in deaths of Aboriginal children in recent years, including representing 13 of the 45 children's deaths last year. The Liberal-Nationals have been calling for greater powers for Aboriginal organisations for a significant period of time now. We will continue to be a strong voice and to walk with the Aboriginal community and First Nations people to ensure that we can close these gaps and not have these horrific numbers or statistics, which of course are reflective of individual Aboriginal children whose lives are being taken from them all too soon. It is why I encourage the government to re-look at a piece of legislation that came to this Parliament last year, the Children, Youth and Families Amendment (Child Protection) Bill 2021. While absolutely the changes that will be put into the legislative framework as part of the bill before us today are very, very important, the bill does overlook other improvements that would help strengthen protections for vulnerable children, including Aboriginal children, and help to close the gap but, most importantly, reduce the number of deaths of children in care each and every year.

It is very, very traumatic for some children in our community to be put in care—how they work through that system and sometimes the inability or the limited opportunities for them to get support for them to have a stable home environment. Consider this in the context of there being a reason that they are in state care, that they are allocated to a case worker and that they are receiving state government support, and that is that they have been through a traumatic experience in their original home environment. These children have not had the best start to life. That is why it is so critical that when we identify these children the government puts in place supports that react very, very quickly and that it makes sure that these children are put in as safe a scenario as possible, with those wraparound supports that they may need to help heal the trauma that they have experienced. It must also ensure that they receive long-term care and support that addresses any areas that they have fallen behind in either in their learning, in their cognitive development, in their education or just in their social integration—how they relate to other people—in a way that they feel safe, that they can express themselves and that looks after not just their physical but also their mental and emotional health as well. That is critically important.

One of the first steps that happens when a child is identified as in need of protection is that they are allocated a caseworker. What we found through the Public Accounts and Estimates Committee hearings earlier this year was that more than 2500 vulnerable children in Victoria were unallocated cases or yet to be allocated a case manager. Over the COVID pandemic Victorians were hit extraordinarily hard by the impacts of lockdowns and restrictions. We saw the incidence of family violence and abuse in the home significantly escalate. The use and abuse of drugs and alcohol also significantly escalated. People were unable to access mental health support because the system was

completely overwhelmed. And in many instances children found it very difficult to speak up because those opportunities to leave the dangerous environment of their own home were taken away from them. They were not able to go to school and to have a teacher who might pick up a change in their behaviour, perhaps a bruise that should not be there, a disassociation from their student community or from their interest in classwork or the other changes that our educators do such a fabulous job in identifying and reporting, as they are mandated to do.

Our children were taken away from their sporting activities, and we have so many opportunities through sporting engagement. You grow a child's family and ability to access responsible adults in their life in a way that often is not available within a discrete family unit. I think it was Les Twentyman who first raised this with me about eight or nine years ago: that it increases a child's access to adult mentors and support people and people who they can go to if they are distressed by about 90 people if they are just involved in one single sport in the community. It really does make an amazing difference in making sure children have access to more people who can help give them guidance and support and protect them if they are involved in sporting activities or music or the arts—whatever it might be. To be engaged in those elements just makes a massive difference to their lives. But, again, that was taken away from them.

We also saw a restriction in the ability for checks to take place by people who are employed to do that. One of the key checks of course is the first visit after you have had a baby by a maternal and child health welfare officer. The MCH nurses are absolutely fabulous. I am so fortunate to have had the support of wonderful Jenny and Jennifer when I had my gorgeous little girl, Ella. She is a COVID baby, and I certainly went through that experience of not being able to have visitors in hospital and of my son not being able to see his new sister and not knowing where his mum had gone. He was not able to come into hospital. But then it is that disassociation with one of those key people who identify when things are not quite right, and that can be the identification of anxiety and depression for the parents. It can be identified in that first home visit, which is a visit to the new mother's home to make sure they are safe, that there is not anything dangerous going on. It could be a physical danger, such as an environment where there is clearly some drug abuse or there is criminal activity happening in the house. It could be that they identify there is a physical risk with someone who is particularly aggressive in the home environment. It could be that somebody in the family has not adjusted at all to having a new baby in the household. It can just be structural things that they do not have access to: a cot or those things that those who are more fortunate do not have to think about or worry about. But maternal child health nurses have not been able to conduct those in-home visits for the last 2½ years. It is a critical time in a lifetime—in those first few weeks, in a six-week visit—to have a maternal child health nurse come into a home and check. So often that would have picked up vulnerable mums and vulnerable dads but particularly vulnerable children, and they have not been able to return.

There have also been a lot of limitations on caseworkers and child protection workers to actually enter a home. If they hear of a report, whether it has come through a call to perhaps Kids Helpline or through another agency where someone has reached out for support, those referrals come through. The child protection services should come in, but they were limited in their ability to do that because of the restrictions and lockdowns. That has also accumulated in having harsher impacts on vulnerable children, who we should have stepped in earlier to help, who we should have made sure were removed from situations that were dangerous and were put an environment where they were safe and loved and had a roof over their head and food in their tummy and they were able to go to school. That was taken away, and we are just feeling the impacts of that in the Victorian community now.

I recently spoke to Kids Helpline, and they were such a valuable support mechanism for so many children across Victoria to assist them to reach out for help and support. This was not just for kids who were suffering from, as we know, much higher rates of anxiety and depression or feelings of loneliness because they were cut off from their friends and family, particularly those that did not have siblings or anyone in the home that they could relate to that was of a similar age, but it was also where kids were using particularly their web-based services, their web chat, to engage and reach out and say, 'Things aren't

quite right in the home'. There were an escalated number of children who were contacting Kids Helpline over the lockdowns and restrictions in Victoria who were reporting sexual assaults in the home. There were children who were reporting family violence where they were at risk or their parent, their mum in particular, was at risk, and that sometimes would require Kids Helpline to call the police and get that intervention in place. I would like to put on the record the fabulous work of Kids Helpline. I cannot speak highly enough of them. Honestly, over the lockdowns and restrictions those organisations such as Kids Helpline, which is specifically designed to talk to and engage with children in many different mechanisms, but particularly with the way that they developed their web-based engagement, were fabulous. For some kids this was their only outlet, the only safe way they had to reach out for help and support. They did a great job. It is not just Kids Helpline—we know that other services did an amazing job—but specifically for kids we know they do it best.

When I spoke to Kids Helpline they were speaking about how so many children find it much easier to engage with the web-based program, which is a typing program where you engage with a counsellor that way rather than on the phone, and that is because they could do it safely in their room or they could go to the bathroom and do it. There was no noise that would come out of it. It was something they could do silently and feel safe and not judged. In some ways not having to articulate something verbally actually meant that they were able to convey some of their emotions and how they were feeling and describe some of the risks around them in a way that was great for them at their level.

It was not just children who were reaching out to Kids Helpline, it was also parents who were putting their children onto the line for additional support. Kids as young as five were engaging with Kids Helpline. They are an amazing service. As I said, they are still picking up a massive load from the impacts of lockdowns and restrictions on children in Victoria. We are seeing some COVID funding cut at the end of this month—$500 000 in additional funding that was provided to them. I would love to see the government see what work they are still doing in the community to deal with that ongoing impact of Labor's lockdowns and restrictions and to provide ongoing funding for them because they are a vital service that can adapt and connect with children when a lot of other face-to-face services put barriers in place inadvertently. If you are a kid, it is really hard to make it to the nearest Headspace service if your parents do not know what you are doing, because you have to organise transport there. My electorate of Lowan is a rural electorate. There are often not buses that connect in. It is nearly impossible unless you are speaking to an adult, and sometimes the adult that you have to rely on to transport you to those types of appointments is the person who is putting pressure on you or being violent and putting you in an unsafe situation, so it is really important we support those services that engage with our children and support our children in safe and accessible ways.

It is concerning that there are these 2500 vulnerable children who are unallocated cases, because cases that are unallocated are sitting in the system, and they can be sitting in the system for an extraordinarily long period of time. We know that some of this backlog will be simply due to the impact of the restrictions, which blocked child protection workers from going into homes. I just want to make it very, very clear that this is not a criticism at all of child protection workers, because they work in an extraordinarily difficult space. They do a fabulous job. It must be so emotionally draining to see children in those scenarios, but they need to be provided the additional support to make sure that they can do their job well and not feel like they are just overwhelmed and sinking in an abundance of demands on their services and their time. If I was a child protection worker, I know I would find it overwhelming to think that there are 2500 children waiting to be allocated to workers. That pressure on the child protection workers from not being able to handle that load because they have not been resourced to do so must be enormously difficult, so I do greatly appreciate all of the work that they do, not just during lockdowns and restrictions but at any time, because the work that they do can turn children's lives around and put them—

Mr Newbury interjected.

Ms KEALY: Yes, it can. Absolutely, member for Brighton—it can save their lives. Certainly that is something that is enormously worthy and should be supported, and they should be more supported.

It is deeply concerning that unprecedented numbers of young people known to child protection have died in this term of government. More than half of those children who have tragically died had not been allocated a child protection worker. The minister knows that there are vulnerable children currently in dangerous and at-risk situations who do not have a case manager. It is time for the minister to accept that more children deserve to be and should be protected, and that is something I absolutely stand by and urge the government to take immediate note of. That is why, while we support this bill, we certainly also encourage the government to reconsider going back to the additional legislative changes that were included in the Children, Youth and Families Amendment (Child Protection) Bill 2021 that came through this place last year and is sitting in the upper house just waiting to be debated and passed—because the numbers are there to pass that legislation.

There are particular elements of the bill that was passed here in 2021 which have been overlooked, and I would like to go through those elements, in particular the Home Stretch program, that were outlined in the previous legislation. The Home Stretch program has always had bipartisan backing and is a fabulous service, launched by Georgie Crozier in the other place. It has done an amazing job of ensuring that children, when heading towards that age of 18 and heading out of care, are not just abandoned and not supported. It actually makes sure that we close the loop in the transition between when you are in a care environment and then being out in the big wide world by yourself. That is a really important transition, when so many children can fall through the gaps because they still may be suffering trauma and they still may need ongoing supports around trauma they have experienced in the past. There still can be additional supports that those individuals require. After we have gotten a vulnerable child into a safe environment it is just not acceptable that they fall out of the program simply because they tick over a number in their age. So I would strongly encourage the government to reconsider the bill that is currently in the upper house, or alternatively, if this is going to be pulled apart into three separate pieces of legislation, do that with utmost priority. We have seen one of three parts come through today, but it is really important that all three elements of that original bill come through the Parliament. As we say, it has got full Liberal-National support. We want to see that in play as soon as possible, because we want to be able to protect every single child in Victoria, particularly those that are most vulnerable.

The original bill that went through this place in 2021 was supported by the Liberals and Nationals and sought to hand greater powers to Indigenous-led organisations, which is being replicated through the bill before us today. It provided a legislative framework for extended care; provided services to young people exiting out of home care beyond the age of 18—or the Home Stretch program, as I referred to earlier; and enhanced the ability of staff from the community sector organisations to attend with child protection workers in order to seek to ensure vulnerable children receive case management support. So the bill assisted in addressing some of the issues that we have identified recently, like the 2500 vulnerable children that remain unallocated cases in the state of Victoria.

I think all of these changes have extraordinary merit in the state of Victoria. It is something that clearly was identified by the government previous to 2021, because it would not have made it into drafted legislation if it had not been identified by the sector and by the department as an area that needed legislative change to make sure vulnerable children were made more safe. So I really do encourage the government. While it is good we are seeing some progress, I do not want to see this part of the legislation again stalled. We have seen that iteration of the Children, Youth and Families Amendment (Child Protection) Bill 2021 stalled for far too long. It was in October last year that it came through the Legislative Assembly. It has been sitting in the upper house since then, and it really is imperative that those three key elements that were raised in that original bill are passed through both chambers and are enabled and legislated to become law, because those three changes will create enormous changes to support Victoria's most vulnerable children.

While we absolutely support this legislation that is before us today, there are areas that can be improved upon. There is more work to be done. We have stalled for far too long, and I do urge the government not to stall any longer, because it is simply unacceptable to have so many children dying in care in

Victoria. We have not seen an improvement to the rates under the Andrews Labor government. We still have one in 10 Aboriginal children in care, and they are dying in care. It is not acceptable in the state of Victoria. We have solutions that have been in front of the Parliament for almost a year now. It is time to act and not just talk about what we might do. It is beyond the time for media releases. It is time to make these legislative changes that have the full support of the Liberal-Nationals; I assume they have the full support of the Labor government. You have the numbers to make this a law sooner rather than later. Please go back to the upper house and bring the bill on. We will debate it, it will be passed and it will provide safer and more protection for Victoria's most vulnerable children. I commend the bill to the house.

Mr J BULL (Sunbury) (15:26): I am very pleased to have the opportunity this afternoon to contribute on the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022. This is of course a significant piece of legislation that goes to fairness, that goes to the care of some of the most vulnerable within our community and that builds upon the acknowledgement, the recognition, the admission that we all have a collective responsibility to do far more in this space.

Yesterday was a historic and significant day within the Parliament and a historic and significant day within our state. It was a day that will not be forgotten, I am sure, by all members of this place and a day that should signal to the rest of the country that Victoria is indeed committed to treaty with our First Nations people. This bill covers a range of matters that I will go to shortly, but I do want to take the opportunity in my contribution this afternoon to acknowledge all of those that were with us yesterday from the First Peoples' Assembly and of course all of those that were tuning in from around the state and around the country. We acknowledge and thank the assembly co-chairs, Aunty Geraldine Atkinson and Marcus Stewart, who spoke personally, powerfully, within this house to members of this house. The presence of the First Peoples' Assembly is indeed recognised as the beginning of a new pathway that acknowledges the pain, the trauma and the suffering of our First Nations people. As I mentioned, I will go to many of the specifics of the changes or amendments contained within this piece of legislation very shortly, but I do want to take this opportunity, because I know that many members did not get the opportunity to speak on the legislation yesterday, to thank them and acknowledge all of the work that was done but to also express my unreserved, deepest sympathy, apology and condolences to those that have been harmed, traumatised and affected by decades of historic injustice.

This legislation before the house, the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022, is about making sure there are provisions put in place by the state because we know—the evidence is clear—that the single biggest factor in improving health and social outcomes for Aboriginal people is achieved through Aboriginal self-determination. The bill provides significant reform, opportunities to achieve self-determination and self-management for Aboriginal people and strengthens provisions that uphold the importance of culture for the safety of Aboriginal children. We recognise that Aboriginal people are best placed to lead and inform responses for Aboriginal children and families. We also recognise that Aboriginal people have the strengths and the right to lead that change for their children. We heard so much about that yesterday, and I think as we move forward together it is important to continually maintain that and ensure that it is at the forefront of our collective minds.

We know of course that the bill progresses those key commitments and a priority strategic direction under the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* of 2018. At the heart of the agreement is a commitment to the reduction of the over-representation of Aboriginal children in child protection and alternative care. We are going to achieve that by enabling the advancement of Aboriginal models of care and transferring decision-making of Aboriginal children to Aboriginal community controlled organisations. There is a range of different measures that I do want to reference within the legislation, but I do want to go to the specific amendments that are contained within the bill.

This legislation amends the Children, Youth and Families Act 2005 to further embed the Victorian government's commitment to Aboriginal self-determination in the legislative framework for children and family services by introducing an Aboriginal statement of recognition and accompanying binding recognition principles enabling the effective functioning of Aboriginal children in Aboriginal care and enabling the Children's Court rules to delegate the powers to a judicial registrar; amends the Health Services Act 1988 and the Public Health and Wellbeing Act 2008 to introduce a statement of recognition and non-binding principles to further Aboriginal self-determination in the health system; further amends the Child Wellbeing and Safety Act 2005 to address those critical regulatory gaps in the reportable conduct scheme; amends the Social Services Regulation Act 2021 to provide for the necessary transitional provisions required to support the commencement of the new social services regulator and the worker and carer exclusion scheme; and finally, amends the Commission for Children and Young People Act 2012 to ensure the Commission for Children and Young People can advocate on behalf of children and young people in the child protection and care systems. We know that those amendments are designed and take some significant steps to ensure that some of those that are the most vulnerable within our community have the support and have the recognition and the guidance around them that we know is fundamentally important for not just support, safety and care but of course for—and critically—child protection.

We know that through the statement of recognition, which is to be inserted in the Children, Youth and Families Act 2005, which I mentioned, the bill acknowledges the truth in our history regarding some of those child protection policies. We of course know through the work that is being done right across government that so many of these injustices have occurred over many, many decades, and many of those were spoken about so powerfully in this house just yesterday, and we know that collectively we need to continue to work with our First Peoples to ensure that we are always taking those critical steps to listen, to learn and to go through a process whereby we are supporting the outcomes for our First Nations people as best as we possibly can to ensure that every single person within this state has access to those opportunities that they are rightfully entitled to.

I am conscious of time and only having a couple of minutes left on the clock, but I did want to take the opportunity to read into *Hansard* some of the *Uluru Statement from the Heart* which I think goes to some of the critical elements within this bill but also some of those steps that were taken yesterday. The statement from the heart reads:

> Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are aliened from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future.
>
> These dimensions of our crisis tell plainly the structural nature of our problem. This is *the torment of our powerlessness*.

As we take the opportunity to consider the legislation that is before the house this afternoon, and I know that there are a number of speakers certainly from this side of the house that wish to make important contributions on this bill, we do so with the knowledge and with the recognition and the understanding that given the many injustices that not only were spoken about yesterday but have been spoken about by our collective community for many, many years, there is an understanding, a recognition and an acknowledgement that far more needs to be done.

I want to take this opportunity to acknowledge the work that has gone into bringing this piece of legislation before the house—a bill that will make some important changes—and most importantly the recognition that we as a state, we as a society, we as a community and importantly this Andrews Labor government will continue to work with those within our community that need the support, that deserve the support and that should have the opportunity for a safe environment and for care and to be able to reach their full potential, and with those comments I commend the bill to the house.

Ms SULEYMAN (St Albans) (15:36): I rise today to make a contribution on the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022, and I echo the sentiments made by my fellow colleague the member for Sunbury. What a day it was yesterday, a

historic day for this place and for the Victorian community, where we saw the smoking ceremony on the steps of Parliament, and of course we thank truly the First Peoples' Assembly co-chairs Aunty Geraldine Atkinson and Marcus Stewart for their beautiful contributions in addressing this place and all members of the First Peoples' Assembly for all their hard work. I also begin by putting forward my condolence for any sufferings of the past, any traumas of the past, following in the footsteps of the member for Sunbury.

But today, again, we are on the footsteps of a historic change. Not only will this legislation change, but it will also change many lives. We know that today Aboriginal children are over-represented in out-of-home care across this country. There is no question of the government's commitment to facilitating solutions and most importantly decreasing this national over-representation. We know that there are solutions. And yesterday, that was a first step. Today we begin by acting and getting things done. These are difficult and challenging, but we are here today, and our government has never shied away from the difficult and challenging issues.

When Aboriginal children have previously had contact with the Aboriginal Children in Aboriginal Care program, reunification with families nearly doubled from 11 per cent to 22 per cent. These are examples of successful reunification that show what can be achieved. Our government is committed to sharing more of these stories and of course delivering, as we have seen, over $55 million over four years to expand the Aboriginal Children in Aboriginal Care program. In a national first, $11 million will be set aside for an Aboriginal response to protective intervention.

This bill seeks to cement procedural change that has been funded by further enshrining a commitment to Aboriginal self-determination in law. Aboriginal representatives are best placed not only to inform but to lead responses for Aboriginal children and their families and their communities, and we heard that yesterday. The Andrews Labor government and the Victorian Aboriginal community share in that aspiration—the aspiration to see increased Aboriginal decision-making for services in the Victorian Aboriginal community, and this includes greater control of planning and administration in services. I mean, what is better, as we heard yesterday, than people actually taking control and making decisions that affect their lives. There is no other place in this state for systems that do promote active and open involvement from the Indigenous leaders in their children's welfare. This is so critical in addressing the trauma of First Nations peoples.

A key part of this bill is introducing the Aboriginal statement of recognition, and this statement of recognition will be given prominence by the decision-makers under the Children, Youth and Families Act 2005. This statement was delivered most importantly in partnership with Aboriginal leadership and stakeholders. Now, the Aboriginal Children in Aboriginal Care program is self-determination in action, and it is Aboriginal leadership in action. Through the program, Aboriginal leaders and community members are central to making those decisions that impact them the most and providing key and culturally grounded support for their communities. We know the best care available to Aboriginal children is in their own community. Self-determination means power handed back to communities that are capable, that are able to articulate the concerns and goals and aspirations of their communities. The promise this bill holds is far from an empty one, and with it we give power to the Aboriginal community to act with authority and empathy.

This bill streamlines the authorisation process of Aboriginal agencies who provide cultural support through the investigation phase of protection orders. This means that Aboriginal leadership and representation will now be given the access they need to advise and supervise. The ability and the authority to access key information is critical to the caretaking of their children. Aboriginal agencies work alongside Aboriginal Children in Aboriginal Care and are engaged to consult on child protection. They can give access to information about a case and key issues. Specifically this bill allows access to all child protection records and those currently held in child protection client relationship information systems by Aboriginal agencies under section 18 of the act. I truly believe that the changes that this government is putting forward will benefit children along their path and long into the future. This is a

chance to make changes that will promote the cultural wellbeing of our youngest generation, and our government is seizing this—for the prosperity, for the future.

Today I also want to speak on another amendment, one to the Child Wellbeing and Safety Act 2005, which is the reportable conduct scheme in this bill. This amendment is important to my community. As everybody would know, the Joan Kirner Women's and Children's Hospital is in the heart of the electorate of St Albans, and it holds a very special place for the community of St Albans. This hospital sees thousands of babies and a lot of expectant mums coming through the doors. What a tremendous job in the last two years. Through the global crisis we have seen our healthcare heroes at the Joan Kirner Women's and Children's Hospital continue their great work. I always hear such great compliments from mums on the level of service, the level of care and the support they receive from our fantastic staff at Joan Kirner Women's and Children's Hospital. So this bill is important to the hospital and to children's welfare. We will always set out to protect children from harm and ensure that any allegations of abuse are reported and vigorously investigated.

This bill is very important. We have already heard from the member for Sunbury. I think what really is important, and what really touched me yesterday, was the contribution made by the member for Geelong. She is in the chamber here, and I thank her for sharing her story with us all. This is so important. It is about giving power back to the hands of Victoria's First Nations communities. It is about protecting and caring for our First Nations children. We owe that to every child in Victoria as lawmakers.

We have seen this week, as I said, such a beautiful contribution from the member for Geelong. But we also saw, in a historic first for this state, the Treaty Authority and how important it is to get this right. Our government is getting on with the job of delivering these important changes. I also want to commend the Minister for Child Protection and Family Services, the Minister for Aboriginal Affairs and everybody for contributing to this bill. This is a bill that we will look back on in the future and see the changes and how this has benefited the whole community. Most importantly, I commend the bill to the house and wish it a speedy passage.

Mr McGHIE (Melton) (15:45): I rise today to contribute to the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022. I do so on the lands of the Wurundjeri people, the traditional owners of the land that Parliament is built on. I would like to acknowledge them and their ancestors past, present and emerging as I did not get an opportunity yesterday to contribute to the Treaty Authority and Other Treaty Elements Bill 2022, which was unfortunate. But I do want to acknowledge the First Peoples' Assembly from yesterday. I also wish to acknowledge the great contributions by many, many members, but in particular—and the member for St Albans alluded to it—the contribution by the member for Geelong. It was an amazing contribution. I know she is in the house at the moment, and I thank her for that wonderful contribution.

This bill seeks to amend the Children, Youth and Families Act 2005 to further embed the Victorian government's commitment to Aboriginal self-determination in the legislative framework for children and family services. It does this by introducing an Aboriginal statement of recognition and accompanying binding recognition principles. It enables the effective functioning of Aboriginal Children in Aboriginal Care, and it amends the Children's Court rules to delegate powers to a judicial registrar. This bill also seeks to amend the Health Services Act 1988 and the Public Health and Wellbeing Act 2008 to introduce a statement of recognition and non-binding principles to further Aboriginal self-determination in the health system. I am also pleased that the opposition, those opposite, support this bill, and I am really pleased that we are a collective on such an important bill.

Further changes will be made to the Child Wellbeing and Safety Act 2005 to address critical regulatory gaps in the reportable conduct scheme; the Social Services Regulation Act 2021 to provide for the necessary transitional provisions required to support the commencement of the new Social Services Regulator and the worker and carer exclusion scheme; and the Commission for Children and Young People Act 2012 to ensure the Commission for Children and Young People can advocate on behalf of children and young people in the child protection and care systems.

This is the right time to introduce these amendments, with yesterday's introduction of that fantastic bill, the treaty bill. We have a lot to learn and still even further journeys to go on in the work needed for reconciliation and for treaty. A key feature in this legislation, along with treaty, is the need for recognition of self-determination. As a Western society we have done poorly in addressing this. Even this year I have had discussions with councils who want to advance Aboriginal services but have not even spoken to the local Aboriginal groups about their plans. We must change our outlook when we try to solve problems like closing the gap without asking those most affected by this disparity what they want.

Self-determination needs to be the first thought when all levels of government seek to make policy or address concerns for Aboriginal communities. I am proud to be part of a government that has started the process and introduced legislation like we saw yesterday and this legislation today, albeit it should probably have been done a long time ago. We need to walk towards reconciliation, and legislation like we have seen in this Parliament this week is the start of that journey. The evidence is clear that the single biggest factor in improving health and social outcomes for Aboriginal people is achieved through Aboriginal self-determination. This bill provides significant reform opportunities to achieve self-determination and self-management for Aboriginal people and to strengthen provisions that uphold the importance of culture for the safety of Aboriginal children.

We recognise that Aboriginal people are best placed to lead and inform responses for Aboriginal children and families, and we also recognise that Aboriginal people have the strength and the right to lead that change for their own children. This bill reinforces the Victorian government's commitment to Aboriginal self-determination in health and child protection systems. It also acknowledges the importance of culturally safe and appropriately resourced services to meet the health and wellbeing needs of Aboriginal people right across Victoria.

It also progresses the key commitments and priority strategic directions under the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* of 2018. At the heart of that agreement is a commitment to a reduction in the over-representation of Aboriginal children in child protection and other alternative care, and we are going to achieve that by enabling the advancement of Aboriginal models of care and transferring decision-making for Aboriginal children to Aboriginal community-controlled organisations. This bill is an important part of achieving that vision. It is an important step in our plan to meet the Closing the Gap national agreement target to reduce the rate of over-representation of Aboriginal children in care by 45 per cent by 2031. In particular this bill advances the objective of eliminating the over-representation of Aboriginal children and young people in care by increasing Aboriginal care, guardianship and management of Aboriginal children and young people in care and also by increasing family reunification for Aboriginal children and young people in care.

In the health sector the bill progresses a major priority of the Aboriginal Health and Wellbeing Partnership Forum by enshrining commitments to Aboriginal self-determination in our health legislation. It also progresses the government's commitment to Aboriginal self-determination as set out in the *Victorian Government Self-Determination Reform Framework*. Through this bill this Parliament will specifically acknowledge Victoria's treaty process and our shared aspiration to achieve increased autonomy and Aboriginal decision-making. This includes greater control of planning, funding and administration of services, including through self-determined Aboriginal representative bodies established through treaty. Through this we in the government will make clear our commitment to treaty and the reform work currently underway.

This bill aims to reduce Aboriginal over-representation in the child protection system, supporting the commitments of the Wungurilwil agreement, the National Agreement on Closing the Gap and the Victorian Aboriginal Affairs Framework. It supports the Victorian Aboriginal Affairs Framework through government working in partnership, and we all know that if you work in partnership you get much better outcomes, so we want to work in partnership with the Aboriginal people to meet the goal that Aboriginal children are raised by their own Aboriginal families.

In recognition of the historic importance of the statement of recognition and its importance for Aboriginal people, it is intended that it will be given prominence to decision-makers under the Children, Youth and Families Act 2005 by placing it up-front in the new part of the act. The bill recognises the critical role connection to culture and family plays in the development of Aboriginal children and in protecting them from harm and that this must be recognised, understood and considered from the outset of engagement with the child protection system. This bill is an acknowledgement that Aboriginal children achieve better outcomes and the over-representation of Aboriginal children in care is reduced when Aboriginal people and organisations are involved in making those decisions for Aboriginal children.

Across many commonwealth countries there has been a trend to acknowledge the harm successive governments have caused to local Indigenous communities, and many other jurisdictions have been working towards addressing these wrongs for many years. It was pleasing that with the change of federal government one of the first things Prime Minister Albanese addressed in his speech on election night was the need for the federal government to listen and take action in righting the wrongs of the past. The federal government is already making changes, with New Zealand Prime Minister Ardern being the first foreign leader to visit the new Prime Minister. It was an acknowledgement that governments could share notes on addressing injustices for Indigenous communities, and this is important, whilst knowing that each community is unique not just internationally but also often within clans and local communities. We cannot have a one-size-fits-all approach. This is where self-determination is vital and is working towards successful outcomes.

As I mentioned earlier, it is a shame that it has taken so long to get to this point, but with this Andrews Labor government and now a more progressive federal Albanese government, it is time to take real action. The journey together has begun. I commit as the member for Melton and the Parliamentary Secretary for Health to walk on that journey with Aboriginal communities and to support them and assist them as much as we possibly can. I support this legislation. I commend this bill to the house, and I thank the minister for bringing this legislation to the house.

Mr KENNEDY (Hawthorn) (15:55): It gives me pleasure to speak on the Education Legislation Amendment (Adult and Community Education and Other Matters) Bill 2022. This is a bill that effectively continues the reform and modernisation of our education system. What I want to say today is under just a few headings: adult education; education; education in Hawthorn, one of the leaders in education; some details about the bill; and then the linchpin that makes it all possible, teachers. So let us start with adult education. As clichéd as it sounds, I feel as though I have the weight of my experience to lean on when I say that education is truly a lifelong journey. Am I speaking on the right bill?

A member: We're on something else. We're doing a different bill.

Mr KENNEDY: Oh, sorry. I do apologise. I have already given this.

A member interjected.

Mr KENNEDY: I know! It was one of the great speeches, and soon will be a film and a musical.

However, here I am. It gives me pleasure to speak on the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022. This is a bill that will amend multiple acts in order to strengthen the regulatory framework around Aboriginal self-determination in Victoria. I want to make some overall comments, then say something specific to Hawthorn and Victoria, and then my final words will be on Indigenous reconciliation.

The evidence is clear that if you want to improve health and social outcomes for Aboriginal people, Aboriginal self-determination should be implemented. This bill reforms several areas of law to achieve this goal and further improves provisions that uphold the importance of culture for the safety of Aboriginal children. It is a straightforward principle that Aboriginal people are the best placed to lead and inform responses about Aboriginal children and families. The bill itself marks considerable

progress in key commitments under the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* of 2018. This agreement is rooted in a commitment to reducing the over-representation of Aboriginal children in child protection and alternative care. This is going to be done through advancing Aboriginal models of care and transferring decision-making for Aboriginal children to Aboriginal community controlled organisations. It also aids us in our attempts to close the gap and reduce the rate of over-representation of Aboriginal children in care by 45 per cent by 2031.

More than this, this bill will also enshrine Aboriginal self-determination in health legislation. It will also specifically acknowledge the Victorian treaty process, as well as our shared goal of increased autonomy and Aboriginal decision-making. One of the key changes contained within this bill is how it provides critical enabling functions to support the expansion of the Aboriginal Children in Aboriginal Care program. This program allows Aboriginal agencies to make decisions and provide culturally grounded support for Aboriginal families. This is another case of self-determination in action, and it is working.

Now to come to Hawthorn, the traditional owners in my electorate of Hawthorn are the Wurundjeri Willum people. I would like to thank their council for being incredibly supportive of our Bills Street public housing development, as it is actually on their land. Indeed I warmly welcome legislation like this, and I have found the people of Hawthorn to be, by and large, supportive of reconciliation. The Victorian Closing the Gap implementation plan is built upon genuine collaboration with our First Nations groups and wider Aboriginal community. It is our duty as a government to do everything in our power to assist Aboriginal communities in being drivers of genuine change. That is why I am proud of this legislation—because it represents our approach of prioritising self-determined solutions, solutions that promote culture and community as the cornerstones of closing this gap.

Turning now to Victoria, every jurisdiction in Australia, including Victoria, has a significant over-representation of Aboriginal children in out-of-home care. We are committed to reducing this over-representation, with the tripartite agreement between the Aboriginal community, the Victorian government and community organisations. In the 2020–21 Victorian state budget we committed over $55.8 million over four years to continue and expand the Aboriginal Children in Aboriginal Care program. This program works, with Aboriginal children being reunified with families in 22 per cent of cases under this program, compared to 11.1 per cent when managed by the department's child protection practitioners in areas where Aboriginal Children in Aboriginal Care is operating. This work is not easy, but it has been stirring to see the collective efforts of everyone involved in doing everything possible to meet these targets and ultimately improve outcomes for our First Nations people.

I have been thrilled to see the work in this vital area undertaken at Swinburne University, with the Moondani Toombadool Centre and the 2023 reconciliation action plan. The recent development of a new part of the AD building will bring together staff and students, creating a new space for First Nations people to build a strong community in both Swinburne and Hawthorn. I have been consistently impressed by the work Swinburne has done in this area and was glad to see them support the *Uluru Statement from the Heart*.

Concluding then on Indigenous reconciliation in general, in the Closing the Gap strategy we are guided by the overarching belief that when our First Nations people have a voice in the design of policies and programs that affect them, those policies and programs achieve better outcomes. It is going to take the combined efforts of local, state and federal governments to make serious progress in this area. I am heartened by the commitment of the new Albanese Labor government to the *Uluru Statement from the Heart*, and I fully reject the dogma of the conservatives opposed to the Uluru statement. Our First Nations people should have a voice; it is as simple as that. We, as a government, must strive to keep working with our First Nations communities to help drive change and to close the gap. More than 50 different stakeholder groups participated in consultation for this bill, signifying our commitment to a broad legislative process. There is no getting around the fact that the over-representation of Aboriginal children in child protection is a symptom of a significant gap between our outcomes for Aboriginal and non-Aboriginal people across the socio-economic indicators. That is why we are

passing this legislation. It is why we will continue to pass legislation—because we are committed to closing the gap.

There is no doubting that this is a gap created by past policies, that intergenerational trauma exists and that it was once deliberate government policy in this country to disconnect Indigenous Australians from their culture, from their country and from their families. I am proud of the Indigenous heritage of Hawthorn, Victoria and Australia. I earnestly believe that the commitment of our new Prime Minister and the Australian Labor Party to the *Uluru Statement from the Heart* has heralded a new era in Australia's relationship with First Nations people. We simply cannot allow children to continue to be separated from their families at high rates and so many Indigenous youths to be languishing in detention centres. For these reasons I commend the bill to the house.

Mr TAK (Clarinda) (16:05): I too would like to join the member for Hawthorn in acknowledging the Wurundjeri people as traditional owners of the land that Parliament House is built on, the Boon Wurrung people as the traditional people of the south-east and all First Peoples here, and I pay my respects to their elders past, present and future.

I am delighted to rise today to speak on the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022. It is another important bill, with its overall objective to further embed the Victorian government's commitment to Aboriginal self-determination in the legislative framework and update the Children's Court, the reportable conduct scheme, social services regulations and Commission for Children and Young People advocacy functions.

Once again I would just like also to concur with the member for Hawthorn in saying that this week has been a historic week here in Parliament. To have heard the contributions made by co-chairs Aunty Geraldine Atkinson and Marcus Stewart in this place was such an honour. What is more important is to be able to hear firsthand the contributions made in this house about self-determination for Aboriginal Victorians and what it means going forward, especially the First Peoples' Assembly, and to hear about what the establishment of the Treaty Authority means going forward. That process is changing the cultural landscape of Victoria. It is moving us all towards a better understanding of our identity, our history and our future. And that future is one where First Nations communities have autonomy, power and self-determination. It is very exciting, and I am very proud and honoured to have witnessed that process yesterday here in this place.

I am also proud to make a contribution here today on this bill, one that will progress key commitments and priority strategic directions under the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* 2018. The *Wungurilwil Gapgapduir*, which means 'strong families' in Latji Latji, is a three-party agreement between the Aboriginal community, the Victorian government and community service organisations. It outlines a strategic direction to reduce the number of Aboriginal children in out-of-home care by building their connection to culture, country and community. It is a landmark partnership, one that has been developed in consultation with the Aboriginal community as well as with the input of Aboriginal services and key mainstream child service organisations. The action plan details steps which the sector needs to take in addressing the over-representation of Aboriginal children and young people in the child protection and out-of-home care system.

The overarching principle of the agreement is self-determination. It involves governments and mainstream organisations relinquishing power, control and resources to Aboriginal organisations. We see that in the establishment of the Treaty Authority, an organisation led by First Peoples that will sit completely outside of the usual government bureaucracy and will not report to a government minister, an organisation grounded in First Peoples' culture, lore and law, appointed by an independent panel, not government, and also funded outside the usual political cycles and accountable to community. We see that overarching principle here again.

As mentioned, the bill progresses key commitments and priority strategic directions under the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* of 2018. This will also

provide the foundations for Victoria's plan to meet the National Agreement on Closing the Gap target to reduce the rate of overrepresentation of Aboriginal children in care by 45 per cent by 2031. The 2018 agreement notes that:

> …the rate of Aboriginal child removal in Victoria now exceeds that seen during the Stolen Generation era. The implications for this generation of Aboriginal children are potentially as profound as the Stolen Generation—lost culture, lost family, lost community.

We need to do better. The bill will make a host of amendments across multiple acts. It will amend the Children, Youth and Families Act 2005, firstly. to introduce a statement of recognition and associated principles. The Aboriginal statement of recognition is significant because it acknowledges the role that the child protection system has played in the dispossession, colonisation and assimilation of Aboriginal people, in particular through the separation of Aboriginal children from their family, culture, country and friends. As we have heard, Aboriginal people are 22 times more likely than non-Aboriginal people in Victoria to be in out-of-home care, so it is extremely important that Parliament acknowledges these wrongs and commits to work with the Aboriginal community to ensure this mistake never happens again.

This is a historically significant statement that is given prominence in decisions made under the Children, Youth and Families Act 2005 by placing it at the front of the act, providing an Aboriginal lens through which to read all provisions in the act. Further amendments will provide critical enablers to support Aboriginal-led models of care and enable the Children's Court to make rules that enable certain powers of a magistrate or registrar to be exercised by a judicial registrar. These are all very important changes.

The bill also recognises the government's commitment, as outlined in the Victorian Aboriginal Affairs Framework, to work in partnership with Aboriginal people to achieve objectives of the framework under goal 2: 'Aboriginal children are raised by Aboriginal families'. Further, the bill will progress a key reform priority of the Aboriginal Health and Wellbeing Partnership Forum to enshrine commitments to Aboriginal self-determination in the Public Health and Wellbeing Act 1988 and the Health Services Act 1988 for the first time. The amendments also align with Victoria's commitment to the national agreement outcomes of shared decision-making and building the community-controlled sector. Enshrining these commitments in the legislation also aligns with the Victorian government's commitment to Aboriginal self-determination as set out in both the Victorian Self-Determination Reform Framework and the Victorian Aboriginal Affairs Framework 2018–2023.

Victoria is leading the way on Aboriginal self-determination, leading the nation with the treaty process, and again here we are making positive and important changes when it comes to ensuring the safety and protection of vulnerable Aboriginal children and young people. We are squarely focused on addressing the over-representation of Aboriginal children and young people in out-of-home care and progressing self-determination for Aboriginal people through a range of initiatives. We have committed to reducing the over-representation of Aboriginal children in the care system by 45 per cent by 2031 as a signatory of the Closing the Gap national agreement.

And we will continue to invest and legislate like we are doing here today in this place to reduce the number of Aboriginal children in child protection and out-of-home care. We need to do better, and we will do better. I commend the bill to the house.

Mr EDBROOKE (Frankston) (16:15): It is always fantastic to follow on from the member for Clarinda, who is so eloquent in speaking on a bill such as this, which is quite historic. What a week it has been. Indeed last night the legislation to ban the swastika in settings other than where it is required was passed, which was quite a historic thing to see. Being in this house and standing here beside our First Nations people yesterday—I woke up this morning still buoyed by that.

We know that the Closing the Gap targets have barely moved. We know that since the federal government introduced those in 2018 we have been working hard, as a state and federally, to make sure we close those gaps, but it has not been working. It has been 14 years, and some of those gaps have even got wider. I think what it comes down to is essentially the work that has been done over the

past few years by the Minister for Aboriginal Affairs, her predecessors in that ministerial portfolio and the elected people of the First Peoples' Assembly, who have done the absolute hard yards to make a structure for truth telling and then treaty.

What they did yesterday was they invited us—I actually think they put their hand out and they said to us, 'We've worked on this. We want treaty as a First Nations people, and we want you to stand beside us while we hear the truth and walk with us on the journey to treaty'. I think that is what everybody in the chamber—well, 99 per cent of the people in the chamber—want. I think that if you do not agree that you would give our First Nations people that respect, well, then you are probably no better than the people that were the colonisers, who did not listen, who did not walk beside, who did not take action to be in a relationship with those First People in the first place.

This bill to me is another raft. It is another way we can stand next to our First Nations people by saying that we will make significant progress on embedding Aboriginal self-determination in the laws of our state. In doing that, this bill makes a number of changes to increase the effectiveness of Victoria's legislative system, and that is a very tangible step in empowering and supporting Victoria's Aboriginal community to improve outcomes for children and families and improve the health of our overall community. I want to give a huge shout-out to First Peoples Health and Wellbeing, who operate in my area of Frankston and Thomastown too. They have done the absolute hard yards through COVID, and they run an amazing clinic. Their books are almost full. We helped them in a few ways, but the self-determination evident in even the way that group of people and that CEO operate is amazing, and I think that is what is going to make a shift in those Closing the Gap targets.

With our plan, obviously in 2018 we had the Aboriginal children and families agreement established, a landmark partnership between the Aboriginal community, the government and the child and family services sector, and we committed to better outcomes for Aboriginal children and young people. This is the foundation of Victoria's plan to meet the National Agreement on Closing the Gap target to reduce the rate of over-representation of Aboriginal young people in care by 45 per cent by 2031. At the heart of this agreement is self-determination for First Nations people. Without First Nations people in the driver's seat, without those First Nations people actually deciding on their fate, deciding on matters that affect them and their families, we will not meet these targets. So this is the change. For 14 years we have seen Closing the Gap targets not actually closing up. Now we have taken that huge step, in partnership, for self-determination. This is us, yesterday and today, putting through Parliament the legal framework to make sure that our First Nations people have the power, they have the law and they have the agency to ensure that they can do what they need to do in their community.

Now, to achieve these goals essentially the bill has three objectives: to eliminate the over-representation of Aboriginal children and young people in care; to increase Aboriginal care, guardianship and management of Aboriginal children and young people in care; and to increase family reunification for Aboriginal children and young people in care. I do not think anyone is ever going to argue that those are not principles that we need to see rolled out and see tangible benefits from.

To achieve these goals the bill focuses on some key objectives. We have heard some people in this chamber talk about some granular aspects of those clauses; I am just going to go through a few of them that I think are really important and that I know my community would be very appreciative of, to know that our government has put this law in place to steer things in this direction—and, again, in partnership with our First Peoples. One of the objectives is embedding the Victorian government's commitment to Aboriginal self-determination in the legislative framework for children and family services and providing critical enablers to support Aboriginal-led models of care, and as we have just spoken about, the First Peoples Health and Wellbeing is one of those agencies, and it is amazing.

One of the other objectives is to advance Aboriginal self-determination to improve health outcomes and delivery of health services, recognising the key role of the Aboriginal health sector in the delivery of Aboriginal health services and supporting healing, acknowledging trauma and providing a foundation for future reform. Another is also amending a few other things, like the reportable conduct

scheme to address a critical regulatory gap impacting the effectiveness of the scheme. Also another objective is to provide the necessary transitional provisions to support the new Social Services Regulator and the worker and carer exclusion scheme, which of course is national and is very important. Just summing up those objectives, we are going to ensure that the Commission for Children and Young People can advocate for children and young people and support them in understanding and exercising their right to raise issues of concern and enable the Children's Court of Victoria to make rules that delegate certain powers of a registrar or a magistrate to a judicial registrar.

All this is about one aim, and that is self-determination for Aboriginal and Torres Strait Islander people—to be on the path to actually create the vision of their future, to enable them to do what they have tried to do for so many years where traditionally our traditional owners have traditionally not been listened to in a lot of ways. They know what is best for them, so this is giving the power to them, and I think it is amazing that we were here yesterday and we are today in this Parliament and we have literally seen the best of this Parliament. We have seen people speak up—people who have educated themselves a lot of the time on the facts and on what some would say overly whitewashed history. As I spoke about yesterday—people of my generation, sometimes the only thing they learned about Australia's history was the 200 years of white occupation and the didgeridoo, we know nothing more—I was just really buoyed by the amount of people in this chamber that knew and had read and had spoken to our traditional owners and actually knew the history. They knew that there were very bad things that went on. They knew that we have some traditional owner groups that we should be very proud of and traditional owners with legendary stories, like Pemulwuy, Cooper—the list goes on.

Part of what we are doing here today in passing this law is making sure that in 20 years we are not back here saying that we need to pass legislation to ensure that we are closing these gaps. There is a line in the sand, and it has to happen somewhere, and I think it did yesterday. I think we showed we are actually listening to people who want to be in charge of their own fate. They know what they want, they know how to fix some of their problems, which have not always been caused by them of course, and today I stand here as a very proud member of the Andrews Labor government once again passing legislation that is changing history to the point where I think in 20 years time we will not see anyone standing up talking about why these gaps are widening, why nothing is actually happening, why people before them did not do anything. We are doing it now, we are doing it today and I commend this bill to the house.

Ms KILKENNY (Carrum) (16:25): In the few minutes I have I would like to rise to speak on this bill, the Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022. It follows on from yesterday, a historic day in this place, when we heard from Aboriginal Victorians here on the floor about the pressing need for treaty and the need for self-determination. Following on from that Treaty Authority and Other Treaty Elements Bill 2022 yesterday, here we have this bill, another bill that sets out really significant opportunities for reform and for further work towards self-determination and self-management for Aboriginal people.

It is really timely, too. We have such a heartbreaking situation here in Victoria and across Australia as well with the number of Indigenous kids that are in the child protection system, that are in out-of-home care. It is unacceptable, and work needs to be done. As we heard so clearly from Aunty Geri yesterday, that work needs to be driven by Aboriginal Victorians. They need to be the ones who determine how to improve health and social outcomes for themselves. I just want to quote Aunty Geri, who said it so clearly and soundly yesterday. In speaking of Aboriginal Victorians, she said:

> Our community knows what is best for our community. It is essential that First Peoples lead this journey—essential because it is both the morally right approach and the most effective approach in achieving the best results.

She continued:

> There is no escaping the harsh reality that Aboriginal people have suffered immensely at the hands of the Victorian state. We were driven from our lands, murdered, herded onto reserves, torn apart from our families. We were unfairly targeted and discriminated against for generations, with the disadvantage and injustice

> compounding over the years. But you know what? We have survived. We survived the concerted attempts to eradicate us and our culture, and it should be of no surprise that many of our people find it hard to place any trust in Parliament or have faith in government systems. Indeed all too often these are still the sources of ongoing injustices.

These are such strong words and words that we must heed here in this place, and the bill before us recognises that and is part of that. This bill finally recognises and understands that Aboriginal people are best placed to lead and inform responses for Aboriginal children and families. We recognise that Aboriginal people, our First People, have the strength but also the right to lead change for their children. That is a really fundamental issue, recognising that they have the right to lead this change—and change we will. The bill before us recognises this. It recognises that more Aboriginal children need to be better supported to be connected to their culture, country and family. Significantly, the bill will introduce an Aboriginal statement of recognition and accompanying binding recognition principles. This is important. They will help to enact policy into practice. They will guide decision-making so that all decision-makers will be supported to approach decisions through an Aboriginal lens. What a cultural shift is this. It is a fundamental change. It sounds obvious, but it is going to require a lot of work, but I know we are going to get there. We are on the path to treaty; we are on the path to self-determination.

I want to thank everyone who has worked so hard in bringing this bill before us here today, particularly with the work on the Aboriginal statement of recognition and the accompanying binding recognition principles. I acknowledge that these have been co-designed with the Victorian Aboriginal Children and Young People's Alliance, representing the Aboriginal community controlled organisations, the Victorian Aboriginal Child Care Agency, Rumbalara, Njernda and the department. It is not easy work, but we are certainly heartened by the collective efforts of everyone who has been part of this. I commend the bill.

Mr CARROLL (Niddrie—Minister for Public Transport, Minister for Roads and Road Safety) (16:30): I move:

> That the debate be now adjourned.

Motion agreed to and debate adjourned.

Ordered that debate be adjourned until later this day.

GAMBLING AND LIQUOR LEGISLATION AMENDMENT BILL 2022

Council's agreement

The ACTING SPEAKER (Ms Suleyman) (16:30): I have received a message from the Legislative Council agreeing to the Gambling and Liquor Legislation Amendment Bill 2022 without amendment.

Business of the house

ORDERS OF THE DAY

Mr CARROLL (Niddrie—Minister for Public Transport, Minister for Roads and Road Safety) (16:31): I move:

> That the consideration of government business, orders of the day 8 and 9, be postponed until later this day.

Motion agreed to.

Bills

SUSTAINABLE FORESTS TIMBER AMENDMENT (TIMBER HARVESTING SAFETY ZONES) BILL 2022

Second reading

Debate resumed on motion of Ms THOMAS:

That this bill be now read a second time.

Ms McLEISH (Eildon) (16:31): I think everyone in this place agrees on how important it is to have a safe workplace, and for too long our forest workers have not had a safe workplace. They have been let down by the government, who at this very late stage have decided to take action to protect them but also to provide some small degree of protection for the timber industry, because we know that they are happy to see that phased out by 2030, but we also know that the timber shortages at the moment are of great concern. The government does need to make sure that some harvesting can continue, and it is important that it continues with these protections for our workers. For too long they have been subjected to some pretty ordinary behaviour, and I know this quite well because I have many of those coupes that we are talking about in my electorate but I also have a lot of timber workers in my electorate and they tell me the stories. They will come to my office. I have spoken to some of them in the street when I have bumped into them, and they tell me about the illegal behaviour that has been able to be tolerated up to this moment.

We know that essentially the environmentalists are protesting to stop timber harvesting. That is their ultimate goal. We know when there is timber harvesting that very heavy machinery is being used, and you need to have considerable expertise about how to use this equipment and how to use it very safely within the confines and the protections of the coupes. While some protests have been peaceful and have been legal, there are others that have not, and it is those ones that have not that have posed particular stressors to the timber harvesters and the workers. We have had people chain themselves to the gear, which prevents somebody from working and makes it very difficult for them to even unchain them. We have had people in tree-sits—and I have seen the photos of canopies in Toolangi where people have popped up—and you cannot continue to work in those circumstances.

That illegal activity is something that stops the harvesting, but we have that additional complexity and danger when we have camouflaged protesters making their way illegally into the coupe. We call these the 'black wallabies'. They have dark gear and balaclavas and they dart around, often in the dark. As the harvesters are getting set up to do their work for the day, they may for a short period of time be in complete dark while they have to go around and engage the lights, and they can have a protester pop out of the bush and scare them absolutely. Also with these people darting in and out of the bush in dark gear, heavily camouflaged, it is very easy for the machinery operator not to be able to see these protesters, and if they do not see these protesters, what can happen is that they can be hit. This is enormously stressful for the machine operator—it seems to be less stressful for the protesters darting around—but this has been able to continue, and it is about time that this will be stopped through the protections in this bill.

One of the things that I do like about this bill is that there are new powers for the police and the authorised officers to ban individuals on the spot. They will be able to ban them from one coupe or associated coupes or others in a wider area. There are offences already, but this is an additional level, and I think that is something that could be very useful if applied. I will just mention also that there have been additions to the prohibited items. The prohibited items are outlined in the current act, but these have been added to to include PVC and metal pipes, which apparently are things that the protesters are using to continue about their illegal activities.

There are a couple of things that I wish were a little bit tighter. Even though we have got the definition of the coupe and the roads coming into it, if you can see somebody who is just outside of the coupe—out of that protected zone—and you can see that they have prohibited items on their body, up their

jumper or things like that, the police are powerless in those instances to do something about it. That is something that I certainly think should be altered. But I was happy to support the timber workers in my electorate who for too long have been ignored, and I know that the CFMEU have been standing up for them. It has been falling on deaf ears in the government for quite some time, so it seems now that the government is starting to listen and to protect these timber workers.

The ACTING SPEAKER (Ms Suleyman): The member for Kennedy—sorry, Hawthorn. It is Thursday. I am getting too excited. My apologies, member for Hawthorn.

Mr KENNEDY (Hawthorn) (16:36): Thank you, Acting Speaker. I am looking forward to a name change for my electorate if I do the right thing—or the left thing. I am glad today to be speaking on the Sustainable Forests Timber Amendment (Timber Harvesting Safety Zones) Bill 2022. I have heard concerns from both the Greens and my own constituents about how these changes will affect logging protesters. I understand these issues, and I appreciate the civility of the constituents of mine who have approached me and my office about this sensitive issue. However, as has been explained to them, these changes only apply to timber harvesting safety zones. This means that individuals protesting safely outside these zones will not be affected by these proposed changes. Protesters who genuinely engage in safe activities can continue their business as before, as can citizen scientists and other individuals who use the forest within the law.

I understand the passion of these protesters, especially in the face of the existential threat of climate change and the associated ecological crisis. However, the 2030 ban is already an ambitious step, and we are a government committed to the protection of all workers. We saw this with our introduction of workplace manslaughter laws, and we see it again today. The safety of our workers is a fundamental commitment of the Labor Party, and this commitment extends to our timber workers. It is simply in our DNA.

I would like to just say a few words about the government's track record on logging. I would like to take this opportunity to emphasise the strong track record of this government. We announced the *Victorian Forestry Plan* in 2019, and we will continue to assist the timber industry as it transitions away from native timber harvesting. This will result in a continued supply of native timber until 2024 and then a gradual decline until the end of native timber harvesting in 2030. Plantations will be the future of the timber-growing industry in this state. Indeed since the 1980s we have seen a more than halving of the available native timber for logging due to the impact of bushfires and environmental protections. Once again there is more than just empty words at play here. We are a government that delivers on its commitments. To back this ambitious goal up we have delivered a $200 million transition package. This will support workers, businesses and communities as they go through this change. It will also back in industry as it transitions to alternative timber supplies, like plantation timber.

We all know how important our environment is. I have spoken to countless constituents, young and old, concerned about the effects of climate and the protection of our forests. That is why we have the 2030 end of native timber logging set in stone. This guarantee, combined with our innovative industry support, strikes a fair balance between the needs of the environment and the needs of our logging workers. I myself am a regular at our local environmental group, Lighter Footprints, and my support for ambitious climate targets is well established. Pre-poll I witnessed firsthand the groundswell of support for the new federal member for Kooyong, which was largely built on her well-founded desire for more ambitious climate action. But it is more than that; it is a genuine care for the environment and the future of our planet. We saw this with the massive climate protests led by our young generation. I am myself inspired to see this challenge taken up with such gusto as I strive for a Hawthorn that is fair, productive and compassionate.

But it is important to remember our logging workers, who have also contacted me about their concerns and their worries through the process. That is what this bill is about: protecting these workers whilst maintaining our ambitious climate and logging goals. Indeed from mid-2024 to 2030 a competitive process will be used to allocate timber. Then commercial harvesting in public native forests will end.

I see the end of old-growth logging as one of the great environmental achievements of our government, and indeed I learned to value our ecological diversity in the time I spent teaching in rural areas in Albury-Wodonga.

This brings me to the notion of striking a balance. This legislation, like many of the laws we debate within this chamber, is fundamentally about striking a balance between two competing rights. I recognise the qualms of environmental groups about this legislation; however, the need to maintain the safety of our workers is paramount. We have seen tens of thousands of protesting about climate change and other environmental issues in this state in recent years, and I applaud their commitment to that vital cause. We all know of the $2 billion spent and the legislation passed in this chamber on that issue. Our current logging laws are ambitious, and it is important that workers in this industry are protected and supported while it goes through this incredibly wideranging change. I sympathise with the concerns expressed by my constituents about this issue. However, the simple fact is that our logging policy needs to be implemented in a safe manner. Whilst I know I am repeating the same point ad nauseam, it is because I want to make it clear that this legislation is about protecting workers.

We are a Labor government; it is what we do. We know that our logging, overall climate and environmental policies are progressive and far reaching. We are proud to be the most progressive government in the most progressive state, Victoria, but whilst we roll out these ambitious policy changes, it is important that no Victorian is left behind. That is why these logging changes include $200 million in funding to support the transition, and that is why we are introducing these laws. It is vital that we support our timber workers, and that is just a simple aim of this bill. However, it is also important to remember how ambitious our logging and climate policies are. I have found this a very interesting topic. At our Hawthorn branch meeting, when somebody in the group got really upset about this particular piece of legislation, I was quite surprised by it, to tell you the truth. But when you try and put this in the context of balancing rights, and the rights that have been enunciated there, I think we can have some greater sympathy for the bill itself. So I am glad to commend this bill to the house.

The ACTING SPEAKER (Ms Suleyman): The member for Gippsland South.

Mr D O'BRIEN (Gippsland South) (16:46): Well done, Acting Speaker. Even the actual Speaker cannot get that one right most of the time. I have made a big impression in my eight years here obviously.

A member: Not memorable.

Mr D O'BRIEN: No, clearly not. It actually is a pleasure to rise to speak on the Sustainable Forests Timber Amendment (Timber Harvesting Safety Zones) Bill 2022 because it is the first time since I have been in the Parliament with the Labor government here that we have actually seen something that supports our timber industry, and that is a good thing. That is absolutely a good thing. We are supporting this legislation, the Liberals and Nationals, led by our Nationals leader, the member for Murray Plains, as the shadow minister on this. But this is a good piece of legislation to try and put an end to the outrageous protest action that has been consistently hampering the harvesting activities in our native forest sector for many years now and has only got worse in recent times. I would say that this is the exception that proves the rule. I guess the government does not care about our forestry sector, because it is actually closing it down. So let us be aware of that: it is in fact closing down the native timber harvesting sector, and this is but a small thing on the way to improve it for our workers.

Just on that point, I want to just take up some of the speakers opposite, the member for Hawthorn in particular, who talked about how plantations are the future. Well, they may well be under the government's policy, but the reality is that there are not the plantations in the ground for us to transition to. That is a fact that after a couple of years of talk the various ministers—Minister Symes and the current Minister for Agriculture—have ultimately acknowledged: that they have not got the timber in the ground. In terms of actually having a policy—and, again, the member for Hawthorn talked about this—and having a strategy and a plan, this government allocated $110 million to new plantations in

the Latrobe Valley in the 2017 budget, and it still has not put a single extra new tree in the ground. The best it has done is replace what was already plantation land—500 hectares—which is about a couple of days of supply for the Australian Paper mill at Maryvale. It has not done anything with that $110 million. I have been asking about this at every Public Accounts and Estimates Committee inquiry, and still there has been no announcement as to what is happening with it.

However, I do say that the government's decision is a good one with respect to this bill in bringing in these stronger penalties for protest action. The member for Eildon talked about the black wallaby actions, where camouflaged protesters run in and out to disrupt a harvesting operation. There are tree sits, where they literally set up on the road or elsewhere to stop logging activity from occurring. And of course there are the lock-ons, which are also addressed in this legislation.

But I want to address particularly the comments and the position of the Greens on this legislation. The Greens and green activist groups will say that this legislation is about stopping protests. Indeed the member for Brunswick said this is about stopping freedom of expression and human rights. The member for Brunswick also went on to say that this was authoritarianism. I do not remember the Greens standing up and worrying about authoritarianism when police were out there firing rubber bullets on protesters last year. It only seems to suit him when it suits their green argument. The notion that this is somehow stopping freedom of expression and human rights is absolute tosh. All this does is stop you from getting into a logging coupe and stopping those workers going about their legitimate business. You can stand out the front, exactly as—what are they called—Extinction Rebellion did on Tuesday, and protest in front of the Parliament. You can protest near the coupe, within 150 metres of it. The notion that this stops someone's right to protest is just rubbish, and the Greens stand condemned for peddling this false truth on this particular legislation. It is ridiculous.

I would just like to add some of the other comments made by the Greens. The member for Brunswick, who has come in to listen—I hope he actually does listen—talked about this being a bad decision when we are facing a climate emergency. I go to a statement by the Leader of the Greens actually, who said that protecting the carbon stored in Victoria's forests was essential climate action. Well, do the Greens not understand that when you cut a tree down and turn it into timber you do not let all the carbon disappear into the atmosphere? It is stored in the timber, and then you grow it again. And young trees absorb more carbon, so it is actually good for the environment. Indeed do not take my word for it, it is not just me that says this; the Intergovernmental Panel on Climate Change said in its 2019 report:

> … a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fibre or energy from the forest, will generate the largest sustained mitigation benefit.

Well, there you have it. The IPCC says a sustainable forest industry harvesting timber for use by humans is actually going to be good for mitigation. I go on to again that statement from the Greens leader, who put in a quote that says, 'Victoria is the most cleared state in Australia'. Well, that again just shows the Greens do not understand this. Native forest harvesting in Victoria is not about clearing, it is forestry. It is regenerative; they plant it again and it grows back. Clearing is what has happened over recent centuries where, certainly, land has been cleared for agriculture and the like. Native forestry is not clearing. So the Greens stand condemned for not understanding this issue and for peddling a lot of mistruths on it. The government at last has actually done something to support our timber industry workers in Gippsland and elsewhere. They stand condemned, though, for their actions in shutting down this industry. I am very proud to support this piece of legislation.

Ms VALLENCE (Evelyn) (16:52): It is a pleasure to rise to speak on the Sustainable Forests Timber Amendment (Timber Harvesting Safety Zones) Bill 2022. It is a necessary step forward to help protect timber workers in their workplaces, so we will be supporting this bill on behalf of the very hardworking, dedicated timber workers that do a fantastic job and contribute significantly to the Victorian economy. Timber harvesting coupes are hazardous worksites that must be carefully managed by well-trained, expert timber workers to ensure the safety of those on site, to ensure the protection of the environment and to protect the public.

I feel that the introduction of this bill being debated before us and these new protections for timber workers is really indicative of a tired Andrews Labor government that has done everything so far to cut down timber workers and to denigrate timber workers. Now in an election year they realise that they do not want an angry timber industry and they do not want a forestry union offside, and they have been dragged to the table for these important and long-overdue reforms. As I have said before in this chamber, I want to again put on the record my support and the Liberals' and Nationals' support for the timber harvesting industry, a sustainable native timber harvesting industry, that produces products from locally grown timber; the jobs and the careers that this industry creates; and of course the communities that this industry sustains. The Liberals and Nationals coalition is the only party in this Parliament that genuinely and wholeheartedly supports the timber industry. The government often talks about protecting the environment and supporting workers. To date they have done nothing but cut down those timber workers, so this is an important overdue step to actually provide some workplace protections for these timber workers.

As my colleague just said, we refer to the Intergovernmental Panel on Climate Change report on climate change and emissions reduction, something that is very important in climate action to actually deliver this for our community. The Andrews Labor government wants to shut down the timber industry, but we know and even the IPCC report says that a sustainable native timber industry is a crucial aspect and a welcome aspect to help reduce carbon emissions for communities right across the globe. It is the ultimate renewable resource.

I went to a neighbouring forest coupe up in Toolangi just recently with members from VicForests and the timber industry, and you would not know that this part of the world is actually being logged. They are very careful. They are very caring of the environment. They have their coupes. It is very hard to see, for someone going into that area, that they are actually logging. There is no wholesale logging. Anyone that says that there is logging of old-growth forests or wholesale logging is lying, is wrong. They do it very sustainably, and it is important because of course we know—construction, infrastructure—everyone needs wood and timber. Why not have a sustainable timber industry that we support in Victoria and Australia rather than taking it from unsustainable forests in Borneo, where they do not care about the wildlife or the protection of the environment?

This bill really is about the timber worker. I thank the CEO of the Victorian Forest Products Association, Deb Kerr, for her comment, which I wholeheartedly agree with, that every person has the right to be safe at work, and this bill is that very important step forward to ensuring the safety of forestry workers but also, importantly, the safety of the public and any one member of the public who might seek to protest, which is a legitimate thing, but not when it damages a workplace or puts a worker at risk.

The Andrews Labor government has a very strong record of going easy on protesters to the detriment of timber workers, many of whom are public servants through VicForests. But this is a very important and necessary step, and really this bill aims to better protect forestry workers from any inappropriate and illegal protesting activities. The bill actually provides that any protesters who illegally enter harvesting coupes in Victoria and dangerously interfere with workers and their machinery will be subject to stronger penalties, including maximum fines of more than $21 000 or 12 months imprisonment. This does not mean to say that anyone cannot protest. It means that they should not enter and damage or make the workplace unsafe for these Victorians, who work hard to make a salary and put food on the table. These workers should be able to go to work, do their job and get home safely. It is a long overdue measure.

Again, I just take the opportunity to say that whilst the government have put forward this bill in recognition that they had been doing everything to damage, hurt and cut down timber workers, they are doing this now because they are worried about their prospects at the next election. They are doing this to appease the forestry division of the CFMEU. They are doing this because of the pressure of the Liberals and Nationals, who have said that these timber workers should be supported and that this industry must be supported. So I really feel that introducing this bill, from our perspective, is a bit of an 'I told you so' moment. We told them so. When we referred to a bill that came before the Parliament

earlier this year, the Conservation, Forests and Lands Amendment Bill 2022, we highlighted how the penalties for workers in the timber industry were only going to damage them and cause anxiety and strain. So this is just the Andrews Labor government playing catch-up. Timber workers have been treated disgracefully by the Andrews Labor government so far. We should be doing everything to support these workers, their livelihoods and the contribution that they make to Victoria.

The SPEAKER: Well timed. The time set down for consideration of items on the government business program has arrived, and I am required to interrupt business.

Motion agreed to.

Read second time.

Third reading

House divided on motion:

Ayes, 70

Addison, Ms	Halse, Mr	Rowswell, Mr
Allan, Ms	Hamer, Mr	Ryan, Ms
Battin, Mr	Hennessy, Ms	Scott, Mr
Blandthorn, Ms	Hodgett, Mr	Settle, Ms
Brayne, Mr	Horne, Ms	Sheed, Ms
Britnell, Ms	Hutchins, Ms	Smith, Mr R
Bull, Mr J	Kealy, Ms	Smith, Mr T
Bull, Mr T	Kennedy, Mr	Southwick, Mr
Carbines, Mr	Kilkenny, Ms	Spence, Ms
Carroll, Mr	Maas, Mr	Staikos, Mr
Cheeseman, Mr	McCurdy, Mr	Suleyman, Ms
Couzens, Ms	McGhie, Mr	Tak, Mr
Crugnale, Ms	McGuire, Mr	Taylor, Mr
Cupper, Ms	McLeish, Ms	Theophanous, Ms
D'Ambrosio, Ms	Neville, Ms	Thomas, Ms
Dimopoulos, Mr	Newbury, Mr	Tilley, Mr
Edbrooke, Mr	O'Brien, Mr D	Vallence, Ms
Edwards, Ms	O'Brien, Mr M	Wakeling, Mr
Eren, Mr	Pakula, Mr	Walsh, Mr
Foley, Mr	Pearson, Mr	Ward, Ms
Fregon, Mr	Richards, Ms	Wells, Mr
Green, Ms	Richardson, Mr	Williams, Ms
Halfpenny, Ms	Riordan, Mr	Wynne, Mr
Hall, Ms		

Noes, 2

Hibbins, Mr	Read, Dr

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

LOCAL GOVERNMENT LEGISLATION AMENDMENT (RATING AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed on motion of Ms D'AMBROSIO:

That this bill be now read a second time.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

CHILDREN AND HEALTH LEGISLATION AMENDMENT (STATEMENT OF RECOGNITION AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed on motion of Mr CARBINES:

That this bill be now read a second time.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

TREATY AUTHORITY AND OTHER TREATY ELEMENTS BILL 2022

Second reading

Debate resumed on motion of Ms WILLIAMS:

That this bill be now read a second time.

The SPEAKER: The question is:

That this bill be now read a second time and a third time.

All those in favour say aye.

Members: Aye.

The SPEAKER: All those against say no.

Mr T Smith: No.

The SPEAKER: I think the ayes have it.

Mr T Smith: The noes have it.

The SPEAKER: Is a division required?

Mr T Smith: Yes.

The SPEAKER: Ring the bells.

Bells rung.

House proceeded to divide on question.

The SPEAKER: As there is only one vote for the noes, the division cannot proceed, and I declare the question agreed to. Would the member for Kew like his dissent recorded in the *Votes and Proceedings*?

Mr T Smith: Yes, Speaker.

The SPEAKER: That will be done.

Question agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

EDUCATION LEGISLATION AMENDMENT (ADULT AND COMMUNITY EDUCATION AND OTHER MATTERS) BILL 2022

Second reading

Debate resumed on motion of Mr MERLINO:

That this bill be now read a second time.

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

The SPEAKER: The bill will now be sent to the Legislative Council and their agreement requested.

Clerk's amendments

The SPEAKER (17:11): Under standing order 81, I have received a report from the Clerk that she has made the following correction to the Education Legislation Amendment (Adult and Community Education and Other Matters) Bill 2022:

In clause 33, line 9, she has deleted '(1)' so that it now correctly refers to section 3.3.28 of the Education and Training Reform Act 2006.

Business interrupted under sessional orders.

Adjournment

The SPEAKER: The question is:

That the house now adjourns.

PANTON HILL PRE SCHOOL

Ms McLEISH (Eildon) (17:12): (6446) My matter is for the Minister for Early Childhood, and the action I seek is for the minister to provide support in every way possible to ensure the doors of the Panton Hill kindergarten stay open. The council has been unable to secure a provider to date since the withdrawal of Sparkways at the end of this year. The community and the council are fearful that this kindergarten in the small town of Panton Hill in the rural part of Nillumbik shire will be lost. Not only will this impact families in the area with young children, but it is also likely to impact the numbers at the Panton Hill Primary School in coming years. This cannot be allowed to happen. If the services are offered locally, people stay local. With the situation for the next year uncertain, enrolments for 2023 are currently low. Families and the council are in a pickle. The kindergarten is facing a number of issues and barriers. The community and the council are attempting to overcome these, but time is passing very quickly and no provider, solution or funding has been found and decisions really need to

be made by the end of this month. The council are trying to support the community. They are attempting to find a new provider and have reached out to a number of different organisations, but they are finding that quite difficult.

The providers in that space are often looking for larger kindergartens with more students and more rooms. With the big providers, the early years managers want high numbers of rooms and children, and this is to the disadvantage of smaller communities. As you would think, a smaller community kinder is therefore less attractive. The kindergarten does offer a combined three- and four-year-old program. It is in a great bush setting. It is in Nillumbik's green wedge. It has got wonderful open bush access. It includes nature exploration, camp fires and native wildlife. So there are a lot of pros for sending your children to this kindergarten, and it would be terrible to see its doors having to close. The future viability, as I said, is quite tricky.

There was a time when the provision of after-kinder care through the Panton Hill Primary School out-of-school-hours program actually directly impacted on the preschool's enrolments. So when the program no longer had suitably qualified staff and the school had to stop that, registrations at the preschool declined. They have not been able to find an out-of-school-hours provider either, and they have been trying to recruit since December 2021. So small communities do find it a lot harder. I urge the minister to give this matter full consideration and really do everything that she can to support the community of Panton Hill, the kindergarten and indirectly the primary school.

TUCKER ROAD–SOUTH ROAD, BENTLEIGH

Mr STAIKOS (Bentleigh) (17:15): (6447) My adjournment matter this evening is for the attention of the Minister for Transport Infrastructure, who is in the chamber tonight. My adjournment request is that the minister investigate the possibility of modifying the Tucker and South roads intersection to allow right turns onto South Road. Of course the minister is very, very familiar with the Bentleigh electorate because she did remove three level crossings in the Bentleigh electorate. That was some years ago. Currently in the Bentleigh electorate we are undertaking the South Road upgrade, which is an upgrade of five key intersections along South Road. South Road these days carries around 40 000 vehicles each and every day, and one of the intersections that we have been looking at is the Tucker and South roads intersection. Under the current plan there are pedestrian lights set to go in at Tucker and South roads, because of course with that much traffic on South Road we need to make sure that that main arterial road works better for both motorists and pedestrians. But the action I am seeking from the minister tonight is that we investigate the possibility of, in addition to having pedestrian lights at the Tucker Road–South Road intersection, also ensuring that we allow for right-hand turns from Tucker Road onto South Road. So I urge the minister to seriously consider that request because I know that it would make life a lot easier for local residents.

WANGARATTA DIGITAL HUB

Mr McCURDY (Ovens Valley) (17:17): (6448) My adjournment is to the Minister for Innovation, Medical Research and the Digital Economy in the other place, and the action that I seek is that she immediately reinstate the funding for Wangaratta Digital Hub. Women's Health Goulburn North East has written to me requesting the funding be reinstated after the end of this financial year. Women's Health Goulburn North East is a proud organisation, and during the pandemic they supported men and women to better survive in a digital world. Whether it be helping with a toy library or assisting a 92-year-old woman wanting to sync and pair her electronic devices, the uptake of technology and the need for the hub was incredibly important. But now as we move into another financial year the Wangaratta Digital Hub has been cast aside as the Big Build goes on in Melbourne. I ask the minister to stand up for her portfolio and assist the people who really need this support. We do not want to see further evidence of digital poverty in our regional areas, but these cuts will do just that. Again, the action I seek is that the minister restore the funding by 1 July so that Women's Health Goulburn North East can continue their great work.

BREAST SCREEN VICTORIA

Mr MAAS (Narre Warren South) (17:18): (6449) The adjournment matter I wish to raise is for the attention of the very hardworking Minister for Health and concerns Breast Screen Victoria services. The action I seek is that the minister provide further information on how the government is supporting women's health through this service in my electorate of Narre Warren South. I was so pleased to see the announcement of an additional eight permanent Breast Screen Victoria services statewide, including in the City of Casey, as part of a $20 million boost in the state budget. Breast cancer of course has touched so many in our community, including my family. Along with many others in the community, I can understand the pain, the trauma, the stress and the anxiety that the disease causes for the patient and for their family, friends and loved ones. Breast cancer is a challenge that our health system is meeting head-on but has not yet defeated. Mortality rates are falling, but we must continue working towards lowering the number of women dying from breast cancer each year. In 2020, 4575 Victorian women were diagnosed with breast cancer and 766 died from the disease. I pass on of course my sincere condolences to all families and loved ones of those who have passed. To those currently fighting their battle, I pass on my best wishes and support for a strong and speedy recovery. The key to reducing mortality rates is early detection through screening, and I am very grateful that the Andrews Labor government is investing in women's health in such a strong way. I would greatly appreciate it if the minister could provide any further information on the planned Breast Screen Victoria services and how this will benefit women in my electorate.

GEMBROOK ELECTORATE BUILDING INDUSTRY

Mr BATTIN (Gembrook) (17:19): (6450) My adjournment is for the Minister for Planning. I invite the Minister for Planning to come out to my electorate to meet with some of my local builders and talk about the impacts of costs and the difficulties in building homes, particularly in the growth corridors. We have already had challenges for our builders and tradies in the last couple of years, like everyone in our community. I acknowledge that today the minister at the table, the Minister for Transport Infrastructure, spoke about people working on major projects for the government, and that is fantastic. It was great to see that people were still out working during COVID, and I think it was really important, not just for those projects but actually for the individuals who were doing it. We did not have those same benefits for a lot of our tradies through the areas where they could work. Many of them could not go into homes because they were not allowed to with restrictions, unless it was an emergency. Other opportunities were not available for them. When the ring of steel came in, it made it nearly impossible for these growth corridors on the border, from Pakenham going down to Warragul, where tradies lived on one side and could not get to the other side for work reasons due to those restrictions.

We have seen the cost impact, with increasing costs for tradies, particularly around some of the new taxes and administration fees that have been going on to them. We are asking the minister to come out and sit down with the tradies and the builders out there who have been approaching us to find ways that we can work together to ensure we can keep costs down, not just in the interests of the tradies but in the interests of people who want to build homes, because I know as a father of two my daughters will have a dream of owning their own homes, and I think that is something we should all aspire to. We cannot afford to continue on the path we are on where it is becoming unaffordable for the next generation. I look forward to the minister coming out and meeting those builders.

RINGWOOD ELECTORATE SOCIAL HOUSING

Mr HALSE (Ringwood) (17:21): (6451) My adjournment matter is for the Minister for Housing. Those who know me know that I have been passionate about that basic human right of a secure place to call home, so it was a highlight of last year when we announced an investment of more than $80 million across the local government areas of Maroondah and Whitehorse through the Big Housing Build to deliver 233 social housing dwellings. This will include $20 million to be directed towards 62 dwellings in the suburb that I live in, the suburb of Mitcham. These projects will bring hundreds of jobs into the area, stimulate our local economy and, most importantly, bring stability and security for

those who need it most. The action I seek from the minister is an update on these vital projects being delivered in the district of Ringwood.

MELBOURNE AIRPORT DEVELOPMENT

Dr READ (Brunswick) (17:22): (6452) My adjournment matter is directed to the Minister for Planning, and the action I seek is for the minister to oppose Melbourne Airport's plan to build a third runway in his comments on the draft major development plan, which is required to be submitted to the federal minister for infrastructure. My primary reason for urging the minister to do this is that aircraft emissions are a significant contributor to climate change and we must do all we can to reduce them rather than sitting back and simply allowing them to increase. Jet planes burn many tonnes of fuel every time they fly, and the warming effect of their emissions at high altitude is much greater than if the same amount of fuel were burned on the ground. Aviation was estimated to account for more than 5 per cent of global greenhouse emissions in 2018, and international aviation is often excluded from state and national emissions totals because no government wants to take responsibility. Prepandemic, aviation emissions were rising by 6 per cent annually.

So how should we reduce them? Airlines are experimenting with low-emission fuels and electric flight, but there is no genuine possibility of really low emission flight within the next decade at least. The best way to cut emissions is to reduce flying. Before we get too depressed, let us start by just cutting unnecessary flying. Business and conference travel can often easily be replaced by online conferencing, as we have learned over the last couple of years. You can spend just as much time overseas by flying half as frequently and staying twice as long. You can still visit the relatives in Italy, but a little less often, and stay longer when you do. You can take the bus, train or ferry to many parts of Australia. I am not suggesting we all bicycle to Broome, but where choices can be made they would be encouraged by a government that was genuinely enthusiastic about cutting emissions. It should be possible to halve the number of flights we take without causing undue suffering and with enormous benefit to the planet. Even the economic impacts could be managed by a government that had climate change as a priority. Building a third runway is not what we should be doing, and the minister's comments, which are required in the airport's submission, should reflect this.

WATTLE GLEN TRAIN STATION CAR PARK

Ms WARD (Eltham) (17:24): (6453) My adjournment matter is for the Minister for Public Transport, and the action I seek is for the minister to provide advice to me regarding plantings that will be instigated as part of the Wattle Glen station car park upgrade. Wattle Glen are a small, tight-knit community, and while their station and access is important to them, so is the local amenity and landscape. Naturally, as a community surrounded by the green wedge, locals are always conscious of any vegetation removal. While many are supportive of the increased commuter car spaces, they want to see their community retain the natural environment as much as possible. I ask the minister to provide me with advice on how many trees and plants will be planted to offset those that are removed due to car park works, what types of plants the community can expect to see and what community involvement can ensue.

BENAMBRA ELECTORATE FLOOD MITIGATION

Mr TILLEY (Benambra) (17:25): (6454) I wish to raise a matter for the attention of the Minister for Water, and the action I seek is for the minister to provide details of flood preparations and mitigation for properties downstream of the Dartmouth and Hume water storages. The water in Lake Hume is already on the rise, and you can see that at a stump near the Kangaroo General Store at Bonegilla—when that is covered, the dam is full. That is the local method we look at at that particular storage area. But anyway, those closer to Dartmouth are also fearful. The dam above the Mitta River is just under 95 per cent full. At the same time last year she was at 65 per cent. The immediate forecast is for more rain, and the catchment is soaked, so the sponge is full, and that will immediately mean rain will drain straight into the storages. Furthermore, the long-range outlook is also wet. Those with

far more experience than me say the dams will spill. They say that there is not enough air space in Dartmouth for the winter inflows and Hume will spill as part of the flow-on effect from that.

This week the Murray-Darling Basin Authority told stakeholders the potential for flooding will exist through winter, spring and beyond. Now, that admission is incredible given the authority's forecasting relies on serially correlated flows. This is based on 125 years of records, and history shows that this modelling has been exceeded in 124 of those 125 years. Farmers say to me, 'If they don't know how much is coming into the dams, how can they forecast how much is going downstream?'. These property owners have water pumps and other infrastructure in harm's way with flooding. We have farmers with stock that will need to be moved, and, for example, in Albury, on just the other side of the river from us, the River Deck Café, and other parts of the town, will again be held to account for its name as it is likely to be cut off by the Murray River.

Caravan parks will need also to relocate vans and for permanent accommodation remove furniture, beds and other valuables. There is critical infrastructure that comes under threat. People are nervous because past experience has suggested that warnings come a little bit too late. Once you could rely on the gauge readings at Heywood Bridge at the base of Lake Hume, and the Kiewa River gauges provided a guide to how much water was coming downstream. Heywood has been giving dodgy readings for years, and the stakeholders were told yesterday that weeds were to blame. This leaves the riverfront landholders in the dark, watching the rising dam levels, fearing the worst.

The most recent experience in 2016 saw the opening of the Hume Dam spillway with no forewarning and no consideration for what was to occur downstream. Local businesses and farms were inundated, a quarry was flooded and the main gas line to Albury and surrounding areas was at significant risk of rupturing as a result of the water pressures, while the New South Wales–Victoria power interconnector was also under threat. Albury Wodonga Health had to truck in gas supplies in case of the worst. It is a case of forecasting, it is a case of communication, it is a case of pre-planning, and it should never get to a hair trigger and a last-minute disregard for those downstream.

BROADMEADOWS HEALTH SERVICES

Mr McGUIRE (Broadmeadows) (17:28): (6455) My adjournment request is to the Minister for Health. The action I seek is a report on how the government is helping healthcare workers in the electorate of Broadmeadows. With Victoria's healthcare workers continuing to do exceptional work to protect the community, the Andrews government is providing more support for the sector as it prepares for one of our busiest winters. The landmark healthcare worker winter retention and surge payments, alongside other practical help, including free meals, will soon flow to Victoria's healthcare workers in much-needed areas and will help to attract new workers and retain those critically important staff. This $350 million package will offer payments of $3000 to all staff working in public hospitals and ambulance services, including nurses, midwives, doctors, allied health professionals, paramedics, ward clerks and patient service assistants, and I know from personal experience, when I had to take a loved one to an emergency department, the nurses came up and said this was outstanding. They are delighted and relieved.

More than 440 international healthcare workers have joined public hospitals since August last year, while up to 7000 healthcare workers will be trained and hired under the $12 billion pandemic repair plan. In addition, the government is taking pressure off the system through measures such as free vaccines against influenza for Victorians throughout June, an expansion of the virtual ED initiative and more funding for treatment at home through the Better at Home program.

The Victorian budget is investing more than $12 billion to make patients priority one after the global pandemic placed health systems under unprecedented pressure. The pandemic repair plan will deliver them more staff, better hospitals and first-class care, and I am delighted the Broadmeadows Hospital will become of one of the eight rapid-access hubs across the state, streamlining equipment and staff and increasing the number of surgeries that can be performed each day. This is vital and important. The Andrews government will deliver $60 million for the new Broadmeadows Health Service and the

centre of excellence, and this is the first stage of revitalising Kangan Institute's landmark campus in Broadmeadows and training local people for local jobs.

As the last MP standing and continuing to fight for the people who need it most, I would like to acknowledge and thank the Minister for Health for all he has done and all it has taken during the time of pandemic from him and his family, and all the other ministers, the parliamentary secretaries, the MPs across the chamber, the Speaker, the staff, all our advisers and everybody who makes a contribution to making the Parliament work. I just want to make sure that people come back safe and well after the break. Let us make sure we see each other returning when the hurly-burly is done and the battles are lost and won. Good luck.

RESPONSES

Ms ALLAN (Bendigo East—Leader of the House, Minister for Transport Infrastructure, Minister for the Suburban Rail Loop) (17:31): The member for Bentleigh—the hardworking, energetic, focused member for Bentleigh—raised a matter on behalf of his local community regarding the South Road upgrade. The South Road upgrade is another example of another project in the electorate of Bentleigh that the member for Bentleigh has been successful in pushing through the Andrews Labor government.

I was pleased to be in the Bentleigh electorate not that long ago, where we talked about the 40 000 vehicles that travel along this part of South Road and the challenges of getting to the shops, Moorabbin station, the local council and the list goes on. There is already substantial upgrade work going on at the moment right now along South Road, with three of the five intersections already upgraded, but when I was with the member for Bentleigh a few weeks ago at South Road he did mention this issue at Tucker Road and how there can be a further improvement, a further addition to the project, that could look at addressing this issue of a new right turn from Tucker Road into South Road that would help improve that access for the local businesses and also the local community.

I can advise the member for Bentleigh that I will ask, following his advocacy and representation tonight, Major Road Projects Victoria, who are responsible for delivering this project, to investigate the opportunity to include this right turn from Tucker Road into South Road, and I will report back dutifully to the member for Bentleigh following receipt of the advice from Major Road Projects Victoria. I thank the member for Bentleigh again for the work that he does on behalf of his local community.

Another nine members raised matters for various ministers, and they will be referred to those ministers for their action and response.

The SPEAKER: Thank you. Just before the house does adjourn, I want to place on record my appreciation of the clerks and parliamentary officials who are isolating and working from home to make sure that the Parliament runs smoothly and also those that have been here holding the fort and doing a stellar job. Thank you very much for what you have done this week, on behalf of everybody.

The house is now adjourned.

House adjourned 5.33 pm until Tuesday, 2 August.