Hansard

LEGISLATIVE COUNCIL

60th Parliament

Friday 14 November 2025

By authority of the Victorian Government Printer

Members of the Legislative Council

60th Parliament

President

Shaun Leane

Deputy President

Wendy Lovell

Leader of the Government in the Legislative Council

Jaclyn Symes

Deputy Leader of the Government in the Legislative Council

Lizzie Blandthorn

Leader of the Opposition in the Legislative Council

Bev McArthur (from 18 November 2025)
David Davis (from 27 December 2024)
Georgie Crozier (to 27 December 2024)

Deputy Leader of the Opposition in the Legislative Council

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

Member	Region	Party	Member	Region	Party
Bach, Matthew[1]	North-Eastern Metropolitan	Lib	Luu, Trung	Western Metropolitan	Lib
Batchelor, Ryan	Southern Metropolitan	ALP	Mansfield, Sarah	Western Victoria	Greens
Bath, Melina	Eastern Victoria	Nat	McArthur, Bev	Western Victoria	Lib
Berger, John	Southern Metropolitan	ALP	McCracken, Joe	Western Victoria	Lib
Blandthorn, Lizzie	Western Metropolitan	ALP	McGowan, Nick	North-Eastern Metropolitan	Lib
Bourman, Jeff	Eastern Victoria	SFFP	McIntosh, Tom	Eastern Victoria	ALP
Broad, Gaelle	Northern Victoria	Nat	Mulholland, Evan	Northern Metropolitan	Lib
Copsey, Katherine	Southern Metropolitan	Greens	Payne, Rachel	South-Eastern Metropolitan	LCV
Crozier, Georgie	Southern Metropolitan	Lib	Puglielli, Aiv	North-Eastern Metropolitan	Greens
Davis, David	Southern Metropolitan	Lib	Purcell, Georgie	Northern Victoria	AJP
Deeming, Moira[2]	Western Metropolitan	Lib	Ratnam, Samantha[5]	Northern Metropolitan	Greens
Erdogan, Enver	Northern Metropolitan	ALP	Shing, Harriet	Eastern Victoria	ALP
Ermacora, Jacinta	Western Victoria	ALP	Somyurek, Adem[6]	Northern Metropolitan	Ind
Ettershank, David	Western Metropolitan	LCV	Stitt, Ingrid	Western Metropolitan	ALP
Galea, Michael	South-Eastern Metropolitan	ALP	Symes, Jaclyn	Northern Victoria	ALP
Gray-Barberio, Anasina[3]	Northern Metropolitan	Greens	Tarlamis, Lee	South-Eastern Metropolitan	ALP
Heath, Renee	Eastern Victoria	Lib	Terpstra, Sonja	North-Eastern Metropolitan	ALP
Hermans, Ann-Marie	South-Eastern Metropolitan	Lib	Tierney, Gayle	Western Victoria	ALP
Leane, Shaun	North-Eastern Metropolitan	ALP	Tyrrell, Rikkie-Lee	Northern Victoria	PHON
Limbrick, David[4]	South-Eastern Metropolitan	LP	Watt, Sheena	Northern Metropolitan	ALP
Lovell, Wendy	Northern Victoria	Lib	Welch, Richard[7]	North-Eastern Metropolitan	Lib

[1] Resigned 7 December 2023
[2] IndLib from 28 March 2023 until 27 December 2024
[3] Appointed 14 November 2024
[4] LDP until 26 July 2023
[5] Resigned 8 November 2024
[6] DLP until 25 March 2024
[7] Appointed 7 February 2024

Party abbreviations

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

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Friday 14 November 2025

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

Papers

Magistrates' Court of Victoria

Report 2024–25

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (09:33): I present, by direction of the Governor, the Magistrates' Court of Victoria report 2024–25. I move:

That the report be tabled.

Motion agreed to.

Papers

Tabled by Clerk:

Administrator of the National Health Funding Pool – Report, 2024–25.

Court Services Victoria – Report, 2024–25.

Harness Racing Victoria – Report, 2024–25*.

Heritage Council of Victoria – Minister's report of receipt of the 2024–25 Report*.

Judicial College of Victoria – Report, 2024–25*.

Judicial Commission of Victoria – Report, 2024–25*

Office of the Public Advocate – Report, 2024–25* *(Ordered to be published)*.

Office of the Victorian Information Commissioner – Report, 2024–25*.

Racing Integrity Commissioner – Report, 2024–25.

Subordinate Legislation Act 1994 – Documents under section 15 in relation to Statutory Rule No. 115.

Victims of Crime Assistance Tribunal – Report, 2024–25.

Victorian Equal Opportunity and Human Rights Commission – Report, 2024–25* *(Ordered to be published)*.

** together with the Minister's reported date of receipt.*

Production of documents

Construction industry

The Clerk: I table a letter from the Attorney-General dated 12 November 2025 in response to a resolution of the Council on 15 October 2025 on the motion of Mr Davis relating to corruption in the construction industry. The letter states that the date for production of documents does not allow sufficient time to respond and that the government will endeavour to provide a final response to the order as soon as possible.

David Davis: On a point of order, President, when is 'as soon as possible'? There is no reason why the government cannot provide this.

The PRESIDENT: There is no point of order.

Business of the house

Notices

Notices of motion given.

Members statements

Virginia Simmons AO

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (09:46): Today I rise to acknowledge the passing of Virginia Simmons AO. Virginia was a visionary leader whose influence on vocational education continues to be felt right across Victoria, including throughout western Victoria. Virginia was a trailblazer as the first woman to lead a TAFE in Victoria and the longest serving female CEO in the sector. Virginia transformed Broadmeadows TAFE and Chisholm Institute in her time there. She championed recognition of prior learning, drove major policy reform and worked tirelessly to ensure TAFE was understood, valued and accessible, particularly for learners with disadvantaged backgrounds and for regional communities. The Caroline Chisholm Education Foundation, which she established, has supported thousands of students who have simply needed a fair chance to pursue their goals. Virginia's impact extended well beyond Victoria. She advised governments, led national reviews and contributed to international skills development. Her work has been recognised again and again. She was the first recipient of a Prime Minister's training award, appointed an Officer of the Order of Australia, listed on the Victorian Honour Roll of Women, and awarded the lifetime achievement award at last year's Victorian Training Awards. This acknowledges her decades of leadership and her profound commitment to equity, opportunity and the public TAFE system. To Virginia's family, colleagues and the broader vocational education and training community, we extend our deepest condolences. Her legacy will continue to benefit students, educators, and communities for generations to come.

Western Victoria Region mayors

Joe McCRACKEN (Western Victoria) (09:47): I would like to acknowledge some local mayors that have been re-elected recently: Cr Tracey Hargreaves from Ballarat, Cr Damian Ferrari of Pyrenees shire, Cr Steve Venditti-Taylor of the Moorabool shire, Cr Owen Sharkey from the Golden Plains shire, Cr Bob Sanders from Ararat shire, Cr Karen Hyslop from the Northern Grampians shire and Cr Lara Carli from the Melton shire. I know all these local mayors do an amazing job. They work so hard in the community, and I congratulate them on their new terms and wish them all the best for the next term and the year ahead.

Ballarat show

Joe McCRACKEN (Western Victoria) (09:48): Over the last weekend I had the pleasure of going to the Ballarat show for a couple of days, The weather was a bit wild and a bit windy, but we had a few thousand people come through. It was the first time that they had had the show at the new showgrounds, just north of Ballarat at Mount Rowan – a great facility. I congratulate the show society on putting on a wonderful event. It really was good to see the new facilities being used and the space activated, so I really do want to give my congratulations to the show society there.

Remembrance Day

Joe McCRACKEN (Western Victoria) (09:49): I was also honoured to attend some Remembrance Day services across my electorate of Western Victoria. The message of course is that those that have gone before us have done so so that we can live the great life we live in this state now. Lest we forget.

Tiny Forest Market

Rachel PAYNE (South-Eastern Metropolitan) (09:49): On the weekend before last I had the pleasure of hosting a stall at the Tiny Forest Market at Casey Central Park in Narre Warren South. It was a beautiful spring day, and I had good engagement with a lot of constituents and locals in the area. Some of the conversations I did have were particularly around people being disenfranchised with both the government and the opposition. Conversations ensued around the importance of having local independent voices in Parliament that are able to hold government to account. Waste management and the shift to waste to energy was also a topic of conversation, where residents were concerned about

the lack of transparency around what impacts this will have on the community, particularly if the proposed Hampton Park waste transfer station goes ahead. That will be seeing nine councils' worth of rubbish trucked up to Maryvale via Narre Warren, and people were pretty concerned about what that might ultimately mean for impact on amenity. I was able to tell the community about the inquiry and they are supportive of making appropriate checks and balances available to regulators to ensure that they have appropriate oversight. We also had some conversations about cannabis law reform, as you would expect, and the majority of the community were very supportive around the idea of police resources being appropriately used rather than criminalising people for cannabis use. We also discussed hemp as I was handing out my hemp tote bags. But the highlight for me was definitely the kids colouring-in competition. Some of the kids did some beautiful artwork, which was an image of me in Parliament. I really congratulate all the aspiring artists of the south-east, and congratulations to the winners of that colouring-in competition.

Yarra Primary School

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (09:51): Earlier this week I had the pleasure of joining the Deputy Premier and Minister for Education Ben Carroll, alongside the City of Yarra mayor Stephen Jolly and deputy mayor Sarah McKenzie, for the official opening of the newly refurbished facilities at Yarra Primary School in Richmond. We were welcomed by three brilliant young leaders Saskia, Yuki and Kate who gave us a guided tour through the upgraded classrooms, art spaces and multipurpose rooms. Their enthusiasm was infectious and their pride in this school was clear to see. These upgrades were made possible thanks to the $7.2 million invested by the Allan Labor government as part of our broader commitment to transform public education across our state. This school is a wonderful example of what transformation looks like: modern classrooms, dedicated learning spaces and a school community given every opportunity to thrive. Yarra Primary School now delivers high-quality education to over 250 students, and these improvements will ensure every child in every classroom gets the best chance to succeed. I want to thank principal Ross Davis for his leadership and the entire school community, including parents, teachers and support staff, for their dedication to the students of Richmond. Under the Allan Labor government Victoria is thriving as the Education State. That means upgrading our school facilities, investing in our teachers and ensuring all students, no matter their background or postcode, have access to an excellent education, and at Yarra Primary School, we are doing just that. I thank everyone for their warm welcome and congratulate the entire Richmond community for this amazing milestone.

Lebanese independence movement

Evan MULHOLLAND (Northern Metropolitan) (09:52): I had a wonderful evening at the independence movement Australia annual gala dinner at Our Lady of Lebanon Maron reception with the guest of honour Michel Moawad, member of the Lebanese Parliament. The presence of Mr Moawad in Victoria was a proud moment for our Lebanese Australian community, a community that has contributed so much to the cultural, social and economic fabric of our nation. His leadership in Lebanon is fighting for the principles of sovereignty, transparency and national unity – values that deeply resonate with all who believe in democracy and justice. I would like to thank the president of the independence movement Australia, Tony Mouawad, for the invitation.

Remembrance Day

Evan MULHOLLAND (Northern Metropolitan) (09:53): Of course it was a terrific service again and terrific to be back at the Epping RSL for our Remembrance Day service. I would like to thank all the veterans that were in attendance, all the Epping RSL committee that were in attendance and of course all the community that were in attendance as well. It was terrific to be there with my friends and local councillors Cr Nic Brooks and Cr David Lenberg from the City of Whittlesea. Lest we forget.

Gender identity

David LIMBRICK (South-Eastern Metropolitan) (09:54): I stand today in support of 11-year-old Emily and her family. Young Emily has shared her experience of being excluded from her rightful place in a regional sporting event by the Department of Education after her spot was taken by a male student. I have no doubt there are several girls who have felt helpless in the face of this kind of unfairness, and Emily is speaking up for them. All children should be free to participate in sport, but girls' sport does need to be protected. The Olympic movement reportedly agrees with this assessment and after extensive scientific review is set to announce that it will safeguard women's sport from athletes born as male. Victorian schools should do the same. Research shows girls participation in sport builds confidence and resilience and improves body image and psychological wellbeing, and this is absolutely worth protecting. I applaud Emily for taking a stand to benefit others, and I congratulate her parents for raising a daughter who is already a champion.

Sviatlana Tsikhanouskaya

Michael GALEA (South-Eastern Metropolitan) (09:55): Last week I had the enormous honour of welcoming Sviatlana Tsikhanouskaya to the Victorian Parliament along with the member for Greenvale Mr Walters, the Parliamentary Secretary for Multicultural Affairs. Sviatlana is the rightly democratically elected leader of Belarus. She was elected in 2020 and only ran for election for president once her husband, who was opposition leader, was denied and banned from running in that election. She ran on a ticket of democracy, pledging to reform the country's corrupt and broken dictatorship and resign within six months to, in her wake, leave free elections. It was very powerful to meet her and to talk with her about the struggles for freedom in Belarus and also how those struggles are intrinsically linked with the fight for freedom in Ukraine. We took her into this chamber, and it was wonderful to show her around. But the most special moment of the visit came when we were in the Legislative Assembly and by chance a bunch of primary school students from Docklands Primary School were also having a tour at that time. Sviatlana took the opportunity to talk to them to explain what her role is, what the state of democracy in her country is and why places like our Parliament are so special. It was an incredibly moving experience. I hope to continue to work with Victoria's Belarusian community in advance of their freedom.

State election

Gaelle BROAD (Northern Victoria) (09:56): After more than a decade of Labor, Victoria now has the highest taxes of any state, the highest debt of any state, the highest unemployment of any state, more than 65,000 people waiting for a home and over 58,000 people waiting for surgery. Crime in Victoria is out of control, and with a shortage of over 2000 police, nearly half of all recorded offences remain unsolved. One year from now polling booths will be open and people will get to choose who leads Victoria at the next state election. A Liberal and Nationals government will deliver a responsible budget, reduce wasteful spending and reduce taxes. We will prioritise community safety. We will invest in health, education, transport and our emergency services and we will make housing more affordable. We will keep your lights on while lowering emissions. We will rebuild business confidence and make it easier to invest in Victoria and create jobs, and we will govern for all Victorians, regardless of race or background.

Remembrance Day

Jeff BOURMAN (Eastern Victoria) (09:57): At 11 am on 11 November 1918 the guns fell silent, ending the First World War. Remembrance Day is to remember those that left our shores and paid the ultimate price, initially starting back in 1918, but quite unfortunately for many, many times since then. Because of that, on Tuesday 11 November this year I went to Noble Park RSL to celebrate Remembrance Day with my colleague Mr Tarlamis, and it was sobering and sombre to see the amount of the old blokes now that fought in Vietnam, and the mates they did not bring back. But regardless of that, I think as a token of respect we should just pass comment in this place about those who have

allowed us to continue being here. Our society is such that we can still vote without interference from people with guns and things like that. That is what these people fought for. Lest we forget.

Sewa Diwali

Lee TARLAMIS (South-Eastern Metropolitan) (09:59): I had the pleasure of visiting a food bank in Yarraville earlier this week to witness the generosity of the Hindu community through their Sewa Diwali food drive. Sewa Diwali is a grassroots initiative that centres on the practice of Sewa, or selfless giving. This is the second year that Victoria has been involved in this initiative, which sees goods being collected during Diwali celebrations and then donated. Last year 6500 kilograms, or 6.5 tonnes, of essential food was donated, which this year increased significantly to 9100 kilograms, or 9.1 tonnes. This year 37 partner organisations registered for this initiative, with a further 11 participating organisations involved, including four schools who participated in the food drive for the first time. There were more than 45 collection centres across Victoria, including in regional areas like Ballarat, Bendigo, Sale, Traralgon and Warragul. Inspired by the spirit of Diwali, this is a wonderful initiative that unites communities in a shared mission to bring light, hope and sustenance to those in need. It was amazing to witness car after car arriving, each filled to the brim with donations of food and essentials that will support families across Victoria.

It was a terrific afternoon and a powerful reminder of the strength of the kindness in our community. A special thanks goes to Foodbank Australia for supporting this wonderful initiative, and my heartfelt thanks go to everyone who contributed – the donors, the volunteers and all the temples and organisations. Together you have brought hope and light to many Victorians this Diwali. The Sewa Diwali drive is replicated across Australia and is a testament to the collective compassion, dedication and unity of all communities nationwide in the spirit of Diwali. I am increasingly proud of the impact the Hindu community made this year continuing their annual tradition, and I look forward to supporting the Sewa Diwali initiative as it continues to grow and assist even more people throughout Victoria and across the nation.

Stop Woodside Monash

Aiv PUGLIELLI (North-Eastern Metropolitan) (10:00): Monash University has ended its partnership with Woodside, this country's largest fossil fuel company. This massive polluter, which owns dozens of major fossil fuel projects around the world, are wreaking environmental havoc, actively prosecuting climate defenders and threatening significant First Nations cultural sites with their rotten projects. In the past six years Woodside paid Monash University at least $43 million for research and even got a building on campus named after them. So why is this once blossoming partnership now falling apart? It is because of the folks on the ground, specifically the pressure from student and staff activism. For years the Stop Woodside Monash collective has been protesting. They have been marching and they have been recruiting, flyering, writing, researching and posting about this insidious arrangement, and now this year the work has paid off. The partnership is ending, and the Woodside Building for Technology and Design will be renamed. Of course the fight continues, but to anyone who feels like they are fighting an uphill battle against powerful vested interests: remember, if we fight long enough, we will win.

Business of the house

Notices of motion

Lee TARLAMIS (South-Eastern Metropolitan) (10:02): I move:

> That the consideration of notices of motion, government business, 278 to 1146, be postponed until later this day.

Motion agreed to.

Bills

Voluntary Assisted Dying Amendment Bill 2025

Committee

Resumed.

Michael GALEA: I seek leave to circulate a replacement set of amendments to replace the amendments MGA01C that I circulated on Tuesday.

Leave granted.

Michael GALEA: I have identified technical wording in part of amendment 9 to clause 7 that may have unintended consequences. To clarify for the chamber, my intention is to only define who can initiate conversations about that and in what circumstances they may do so for the context of patient safety. The way my original amendment for new section 8B(3) was drafted had the potential to impact the usual discussions that should occur between patients and their care team when a person raises VAD themselves or is in the course of already accessing VAD. Importantly, this could have the potential to include the role of workers at the statewide care navigator service and statewide pharmacy service who are working with patients seeking to or already accessing VAD.

Clauses 2 and 3 agreed to.

Clause 4 (10:05)

Sarah MANSFIELD: I move:

1. Clause 4, line 8, omit "medical".
2. Clause 4, line 13, omit "medical".
3. Clause 4, page 5, after line 6 insert –

   '(ca) in the definition of ***consulting assessment*** **omit** "medical";'.
4. Clause 4, page 5, after line 11 insert –

   '(da) for the definition of ***consulting medical practitioner*** **substitute** –

   "***consulting practitioner*** for a person means –

   (a) a registered medical practitioner who accepts a referral to conduct a consulting assessment of the person; or

   (b) a nurse practitioner who accepts a referral to conduct a consulting assessment of the person;";'.
5. Clause 4, page 5, after line 20 insert –

   '(fa) for the definition of ***co-ordinating medical practitioner*** **substitute** –

   "***co-ordinating practitioner*** for a person means –

   (a) a registered medical practitioner who accepts the person's first request; or

   (b) a nurse practitioner who accepts the person's first request; or

   (c) a consulting practitioner for the person who accepts a transfer of the role of co-ordinating practitioner under section 33;";'.
6. Clause 4, page 5, after line 23 insert –

   '(ga) in the definition of ***final request*** **omit** "medical";

   (gb) in the definition of ***final review*** **omit** "medical";'.
7. Clause 4, page 5, after line 28 insert –

   '(ha) in the definition of ***first assessment*** **omit** "medical";'.
8. Clause 4, page 5, after line 33 insert –

   '(ia) in the definition of ***first request***, after "practitioner" **insert** "or a nurse practitioner";'.
9. Clause 4, page 6, line 17, omit "medical".

This set of amendments, while it looks complicated, essentially would enable nurse practitioners to act as coordinating or consulting practitioners – they cannot undertake both roles for an individual, but they would be able to undertake one of those roles. The amendment reflects that access to voluntary assisted dying practitioners is currently very limited. It is a problem that has been highlighted not just in Victoria but in other jurisdictions, and I think it is something we have to be really mindful of. If we are wanting to create a scheme where people have equitable access to voluntary assisted dying, there needs to be the workforce who can provide it.

This is of particular concern in rural and regional Victoria. As I mentioned in my second-reading speech, rural and regional Victorians already face significant barriers to accessing health providers. They face even more significant barriers to accessing specialists, let alone specialists who are able to provide voluntary assisted dying and are willing to provide voluntary assisted dying. As everyone in here would know, you are unable to access voluntary assisted dying via telehealth under the federal laws. It is still illegal under federal law to have a telehealth appointment, which means rural and regional Victorians typically have to travel typically to either large regional centres or metro Melbourne, often at a time when they are very frail and very unwell.

Nurse practitioners currently play a significant role in voluntary assisted dying. There are many excellent nurse practitioners involved in the process. We think they are well placed to be able to take on more formal roles if they so wish, provided they have appropriate qualifications and training. We believe that, similarly to the provisions required for doctors to be able to provide voluntary assisted dying, they need to be at least one year post their final qualifications to be able to do that. That year of relevant experience post endorsement is something that is allowed in the ACT under their laws. I feel this is something that we could comfortably accommodate in Victoria. I will note that the government has expanded the role of nurse practitioners in the administration of voluntary assisted dying. I think this is really welcome and reflects this very issue that nurse practitioners are well placed. We need more people who are able to do that. They are often very involved in supporting people through the process already, so that is the essence of why we are putting forward this amendment today.

Ingrid STITT: Firstly, I thank Dr Mansfield for her amendments and for the conversations that have been held between her and the minister's office. We do not support this amendment. The proposed changes in the bill are ones where we can look at safety, effectiveness and implementation evidence from other Australian jurisdictions. The ACT will be allowing nurse practitioners to be assessing practitioners. However, as this role has not yet been implemented, we cannot really draw on any operational evidence, so we will not be supporting this amendment.

Georgie CROZIER: I also will not be supporting the Greens amendment on this point that Dr Mansfield has put through. I understand the intent, but I do agree with the minister. We do need to ensure that we have got those safeguards in place, and I am not convinced that this will provide that.

Evan MULHOLLAND: I thank Dr Mansfield for moving her amendment and for the contributions, but while nurse practitioners have many skills, they do not have the training or qualifications to do all of that. Two such qualified practitioners are required to be involved to attempt to provide a safeguard and check against errors and ignorance. Requiring one such practitioner to be involved removes that safeguard. The bill is already reducing standards by reducing the post-qualification experience of five years to one year, and this amendment would mean the risk of misdiagnosis, deficient prognosis, and inadequate advice about palliative care options and what palliative care could achieve would be increased even more by this amendment than they are already increased by the bill itself. These risks are bad enough as it is, and they should not be made any worse in my view. I will be opposing this amendment.

David LIMBRICK: I thank Dr Mansfield for moving this amendment. I understand the motivation behind it. However, I accept the minister's position on this and agree with the minister, and therefore the Libertarian Party will not be supporting this amendment.

Michael GALEA: I will keep my remarks short. I appreciate Dr Mansfield's intent in raising this matter, but I will not be supporting this either.

Ann-Marie HERMANS: I thank Dr Mansfield for putting forward these amendments. I will not be supporting them on the same grounds – that I do feel that we are taking away those checks and balances. I think we are putting undue pressure on our nursing staff, and I feel that we are removing too many checks and balances as it is with this amendment bill.

Council divided on amendments:

Ayes (7): Katherine Copsey, David Ettershank, Anasina Gray-Barberio, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell

Noes (31): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendments negatived.

The DEPUTY PRESIDENT: We now move to identical amendments from Mr Galea and Mrs Broad.

Michael GALEA: I move:

1. Clause 4, page 4, lines 4 to 6, omit all words and expressions on these lines.

Deputy President, as you have indicated, both Mrs Broad and I are moving the same amendment here. However, I do note that they are consequential tests for different sets of amendments that we are differing on. From my perspective, whilst this particular amendment is relatively straightforward and functional – this is obviously the definitions clause of the bill – the effect of this particular amendment is to remove the definition of 'health service provider'. And that is because, consequentially, in clause 6 I will be moving my amendments 4 and 5. They go to the conscientious objection of registered health practitioners. Specifically, that is clarifying that the provisions of this bill as they stand will apply not to health practitioners but to medical and nurse practitioners. I am moving my amendments here in the definitions phase, in the hope that they will be supported and I can move my amendments 4 and 5 shortly.

Gaelle BROAD: Just to speak briefly to my amendments, I am supportive of that move to define it a little bit more, because I guess my position has been to retain the existing act because the review found that it was working well. I think that we need to be asking ourselves today: do we want to expand everything? Because these are fairly significant changes that are being put to the chamber today. I know that there is a bit of a flow-on effect of these things, but I am supportive of that defining. I had it defined more to medical practitioners, defined to doctors and specialists, to take away the sort of bigger conversation as well.

Georgie CROZIER: Thank you, Mr Galea, for your discussions and providing the information you have to me regarding your amendments that you intend to move. I just ask in relation to your amendments around the health practitioners: the Australian Health Practitioner Regulation Agency (AHPRA) has a number that are listed on their site. They are Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental practice, medical practice, doctors, medical radiation practice, nursing, midwifery, occupational therapy, optometry, osteopathy, paramedicine, pharmacy, physiotherapy, podiatry and psychology. You have only listed health practitioners, medical practitioners, registered nurses, registered psychologists or registered Aboriginal and Torres Strait Islander health practitioners? Why are they not all listed?

Michael GALEA: I believe you are referring to my amendments 2 and 3, which are slightly later in this clause, but I am happy to come to this now. Yes, you have correctly read, as far as I am aware, from the same list that I have of AHPRA practitioners. It was my view coming into this debate that whilst I do support the lifting of the gag clause, particularly for those to whom it is most relevant – and my initial view came to be that medical and nurse practitioners should be able to initiate conversations. I understand from the AHPRA list that there is a wide range within that list, and I know you have identified psychologists as well, in particular, in your second-reading speech. I share those sympathies. My intent of moving just the first two initially was based on equivalent legislation in other states and trying to make that as straightforward as possible. However, I am of the view that psychologists, registered nurses and Aboriginal and Torres Strait Islander health practitioners should be able to initiate these conversations. I appreciate the work I have had with the minister's office and with colleagues across the chamber in reformulating the amendments that led to the amendments I put forward for the chamber on Tuesday. That is why I have settled on these five roles within that AHPRA list.

Sarah MANSFIELD: I thank Mr Galea for putting forward these amendments, and I understand the context of them. I do actually have a clarifying question. This relates to the provision of information by these health practitioners. By narrowing the scope of who is required to provide it, what are all of the other registered health practitioners that Ms Crozier referred to supposed to do if they have a conscientious objection? I am trying to understand what rules apply to them.

Michael GALEA: As this pertains to clause 6, the intent of this is that it would be the same as in the current act.

Ingrid STITT: I just want to indicate, as I did in my summing-up contribution on Tuesday, that we are supporting the amendments proposed by Mr Galea. I understand that Mr Galea has slightly altered them, as tabled this morning. We are supportive of the changed amendment.

Evan MULHOLLAND: I would like to put on record my thanks to Mr Galea for the way he has gone about negotiating diligently and courteously with all members across the chamber on this particular amendment. I would also like to recognise my colleague the member for Kew Jess Wilson and Daniela De Martino in the lower house, who I understand had a lot to do with this amendment in the lower house. There was obvious disagreement in the lower house, but when colleagues across the political aisle can come together and work through an amendment that has such serious consequences, I think that is a very, very good thing. Throughout this debate on all sides we have seen the best of the parliamentary process. I would like to put on record my thanks to those colleagues for getting an outcome on this amendment.

David LIMBRICK: I would like to indicate that I also will be supporting this amendment. I would like to thank Mr Galea for his engagement on the amendments that he is putting forward. I am glad to see that the government has agreed, or that the minister has agreed, to this amendment, and I will be supportive of it as well.

Sarah MANSFIELD: I too want to thank all the members who were involved in discussions around this. I understand that there are a number of concerns about this particular clause, and this is a pathway through. In that spirit we will be supporting it. But I want to register that I do have concerns about this amendment. I think effectively what it does is it retains the gag clause for the whole range of registered health practitioners that Ms Crozier outlined, apart from the ones that have been provided here. They will not have the obligation to provide information in the same way, from my understanding of the explanation. I suspect down the track we will be revisiting this provision. But I appreciate that this is the path forward, and it is an improvement on the existing act that we have.

Ann-Marie HERMANS: I would like to put on record that I want to thank Mr Galea and a number of others from different sides of the chamber who have been willing to have discussions and negotiate. Whilst I still share concerns for all people in situations where they may have to go against their conscience, I feel very strongly about not making a number of health practitioners for whom this is

completely outside their scope of experience have to talk about voluntary assisted dying. To me this is at least a balance, and it allows some clarification of who can and who cannot have those discussions based on their medical experience and understanding. I want to thank Mr Galea for his collaborative approach in being able to work on these amendments.

Lizzie BLANDTHORN: I, in a somewhat untimely way, have very limited voice today, but I just want to indicate that I will, given what I outlined in my second-reading speech, be supporting Mr Galea's amendment and thank him, as others have, for the collegiate way in which he has engaged across the chamber in relation to his amendment. As I outlined in my speech, I do not support the extension to health practitioners more broadly. I think end-of-life care should be reserved for those who are specially trained in it, and the extension as it stands in the bill does not provide for that. But I do think that Mr Galea's amendment is an improvement on the bill as it currently stands, and I will be supporting that amendment.

Amendment agreed to.

The DEPUTY PRESIDENT: That means that Mrs Broad's amendment will not be moved because they are identical. Mrs Hermans, I invite you to move your amendment 1, which tests your amendments 12, 13, 17, 19, 22 and 23 on sheet AH01C.

Ann-Marie HERMANS: I move:

1. Clause 4, page 4, lines 11 to 14, omit all words and expressions on these lines.

I am trying to return to some of the original bill that had the checks and balances and provided the opportunity for people to be protected. I feel that many of the amendments in this bill are removing so many safeguards that they actually prevent people from having that opportunity to be protected, which is why I have put forward 'to omit all words and expressions on these lines'. I have a substitute here, which is very similar. We are looking at clause 6 as well, lines 15 to 33 – is that accurate?

The DEPUTY PRESIDENT: We are dealing with clause 4 at the moment.

Ann-Marie HERMANS: All right. That is why I put it forward. We are just going to do clause 4. That is simply what this is about: me attempting to bring us back to the original bill, which provided those checks and balances that this does not provide.

Ingrid STITT: I do not support this amendment to narrow the range of health practitioners who can be administering practitioners to exclude registered nurses and nurse practitioners. Including registered nurses and nurse practitioners acknowledges that the skills required for administering the VAD substance fall within their normal scope of practice. The administering practitioner role will support patient choice of administration method and the choice of some coordinating and consulting medical practitioners not to deliver this as part of the service. Additionally, this will enable the administration function to be transferred to another practitioner, including an experienced nurse practitioner or registered nurse, where the coordinating or consulting practitioner is unavailable. For those reasons I do not support Mrs Hermans's amendment.

Georgie CROZIER: I also will not be supporting Mrs Hermans's amendment. This legislation has been in place for a number of years now. Nurse practitioners have been assisting in this process. As I said in my second-reading speech, no-one has come to me in my role as Shadow Minister for Health with any complaints, so I will not be supporting this amendment.

Sarah MANSFIELD: We will not be supporting this amendment either. I think following on from our previous amendment, where we tried to expand the role of nurse practitioners, we are really supportive of nurse practitioners being involved in voluntary assisted dying, and the addition is really welcome – them being able to be administration practitioners. As we have said, people already face a lot of hurdles in trying to find health providers who have the capacity and are willing and able to participate in VAD. This is particularly the case in rural and regional Victoria but right across the

board. I think nurse practitioners are already very involved in providing a range of end-of-life care and in voluntary assisted dying. I think they are really well placed to do so. There are excellent safeguards around their role in terms of administration. So we are very supportive of these changes.

Michael GALEA: I acknowledge Mrs Hermans for bringing these amendments to the chamber. In line with the comments of the minister and Dr Mansfield, I will not be supporting these amendments. I think nurse practitioners play a very important role, and I support the amendments in this bill as they stand.

Ann-Marie HERMANS: The way these amendments are coming forward – and we have not yet got to the point where we are looking at the conscientious objection, which is part of the difficulty and why I was not expecting to get to this quite so soon. I guess I have a question of the minister, because the way this is worded, not only are we putting doctors in this position where they have to engage against their conscience, but what concerns me is that nurses may be put into a situation which goes against their conscience of having to participate in this. Yes, they already administer morphine. Yes, there are already ways that people end up, through medication, where eventually these drugs take their lives. But I think it is a very different thing when it is voluntary assisted dying because it is very purposeful, very intentional, very timely, in the sense that there is less of a time span from the time that the person receives the poison or the drug to the time that their life is taken, or at least we would hope to think that would be the case. But in the case of nurses being put into a situation where they too could have to leave a hospital or leave a workplace, there will be nowhere left for many nurses to be able to engage and work. If they are working in this field, I guess my concern is that they will be forced to do things against their conscience by us passing this particular section in the bill and that this has not been really considered because we have not yet thrashed it out when we get to those other amendments. The question I have for the minister is: what safeguards do we have for nursing practitioners? Should they not want to be intentionally and deliberately and wilfully taking the life of a patient, what safeguards are in place if this goes ahead?

Ingrid STITT: That would never happen under the existing legislation. With the bill before the house today, no-one would ever be forced to administer against their will. Practitioners must agree to be an administration practitioner. I hope that clarifies it.

Evan MULHOLLAND: I thank Mrs Hermans for putting through this amendment. I see this as an improvement to the bill so it is something I would support, but I understand this is something that the chamber does not support, so I will seek to voice my opposition but not divide.

The DEPUTY PRESIDENT: Just before we vote on this amendment I might explain a couple of things about this committee stage. Where people have identical amendments – and we did deal with Mrs Broad's and Mr Galea's before, but there are some more to come – it will just be the first person who stands, because there is no seniority for parties when we have a free vote on a bill.

Council divided on amendment:

Ayes (12): Lizzie Blandthorn, Gaelle Broad, Moira Deeming, Enver Erdogan, Renee Heath, Ann-Marie Hermans, Trung Luu, Bev McArthur, Joe McCracken, Evan Mulholland, Adem Somyurek, Richard Welch

Noes (26): Ryan Batchelor, Melina Bath, John Berger, Katherine Copsey, Georgie Crozier, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Shaun Leane, David Limbrick, Wendy Lovell, Sarah Mansfield, Nick McGowan, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt

Amendment negatived.

The DEPUTY PRESIDENT: Mr Galea, I advise you to move your amendments 2 and 3, which test your amendments 6 to 12 on sheet MGA01C.

Michael GALEA: I move:

2. Clause 4, page 4, after line 19 insert –

> "***registered Aboriginal and Torres Strait Islander health practitioner*** means a person registered under the Health Practitioner Regulation National Law to practise in the Aboriginal and Torres Strait Islander health practice profession (other than as a student);".

3. Clause 4, page 4, after line 27 insert –

> "***registered psychologist*** means a person who is registered under the Health Practitioner Regulation National Law to practice in the psychology profession (other than as a student);".

This has been touched on briefly already, but I will for the benefit of the chamber outline what these amendments will seek to do. In lifting the gag clause for a number of health practitioners, which is something that I do support, I am mindful of where we draw the line between what health practitioners may and may not initiate voluntary assisted dying. I note that this has been a topic of conversation from a number of members in the chamber that have also raised this in their contributions. Because I am looking at Dr Heath, I know that she acknowledged that she is not comfortable with chiropractors, noting that she is one. I have attempted to strike the right balance here between which health practitioners may actually initiate those conversations. As indicated in my earlier answer to Ms Crozier, the five health practitioner groups that I would seek to be included as being able to initiate VAD discussions are medical practitioners, nurse practitioners, registered nurses, psychologists and Aboriginal and Torres Strait Islander health practitioners.

I do just want to note that I will raise this when it comes up in the appropriate clause, but there are a few clauses which refer to four definitions of medical practitioners, registered nurses, Aboriginal or Torres Strait Islander health practitioners and psychologists. In those clauses the advice I have received – very clearly, as is logically the case – is that 'registered nurses' also incorporates nurse practitioners in those definitions. In specific relation to the inclusion of Aboriginal and Torres Strait Islander health practitioners, I know this has been the source of some discussion, and I am happy to provide some added context. The registered Aboriginal and Torres Strait Islander health practitioners are registered under the Health Practitioner National Regulation Law in the same way that medical practitioners, nurse practitioners and all other health practitioners who are registered are. The Aboriginal and Torres Strait Islander Health Practice Board of Australia provides regulatory standards, codes, guidelines and other resources for Aboriginal and Torres Strait Islander health practitioners. These practitioners are trained and experienced health professionals providing culturally safe care to Victoria's Aboriginal community.

I do note that as part of the five-year review there was a specifically independent evaluation conducted by a First Nations consultant, which highlighted that more culturally respectful and inclusive approaches to end-of-life care generally and VAD specifically were needed, and I draw members attention to the 'Long-term Actions (3 to 5 years)' component and specifically recommendation 1 of that review. That review also advocated for an Aboriginal-led VAD process to ensure appropriate practices and to build trust. Permitting Aboriginal and Torres Strait Islander health practitioners to raise VAD contributes to supporting self-determination and autonomy in end-of-life decisions. Victoria has 49 practising Aboriginal and Torres Strait Islander health practitioners, and this bill will require them, if raising VAD as part of an end-of-life discussion, to tell their patient that a medical practitioner is the most appropriate person to talk to about VAD, palliative care and treatment. I understand from the minister's office that the Victorian Aboriginal Community Controlled Health Organisation, during consultation, were supportive of providing these health practitioners with these rights to initiate conversations as well.

Ann-Marie HERMANS: I thank Mr Galea for the spirit in which he has put this together. However, whether Aboriginal or not Aboriginal, we are all human beings. At the end of the day, I do not believe in dividing people up and having one standard for Aboriginal people and a different

standard for everybody else. I think that if we are saying that doctors and nurse practitioners are the ones who are going to be doing VAD, that they are going to be the specialists that are going to be working with patients, I think that Aboriginal people deserve the same care as every other Australian and Victorian. I 100 per cent support interpretation for Aboriginal people. I 100 per cent support people being able to be there, but I do not support having different standards for Aboriginal people, and I feel very strongly about that. Whilst I am sure the intention is to try to be inclusive, to me this is exclusive, and it actually divides our state and our nation by saying, 'We are going to divide you up by race and give different standards and different health care to Aboriginal people,' which is exactly what this amendment does. So I will not be supporting it.

Evan MULHOLLAND: I would like to thank Mr Galea again for his amendment and the way in which he has gone about communicating it to the chamber. I would like to say that I will be supporting the amendment very strongly.

Georgie CROZIER: I also will be supporting Mr Galea's amendment. Thank you for providing the information and for the discussions that we have had. I had some concerns in relation to some of these aspects that we have discussed in the chamber and outside the chamber, and I thank you for bringing and putting this amendment forward.

David LIMBRICK: I also would like to thank Mr Galea again for his engagement on this amendment. I note that it has changed significantly since he had discussions with the Minister for Health, I believe. The scope that has been landed on is narrower than the scope of the original bill, and I think that it is an appropriate safeguard. Therefore I will be supporting this amendment.

Sarah MANSFIELD: I too would like to thank Mr Galea for his engagement on this issue. I think my comments in relation to the previous amendment are probably more applicable to this amendment, but the sentiment is the same in that I understand the importance of this amendment in gaining broader support in order to ensure that this bill and these particular provisions in some form have a pathway to passage through the chamber. In that sense we will be supporting the amendment.

But I do have concerns about what this in effect does for a range of registered health practitioners. They are registered with AHPRA. There are a whole range of professional codes of conduct that apply to those health professionals. The conversations were only ever intended to be initiated around VAD in the context of end-of-life discussions. In the bill proposed by the government I think there are sufficient parameters to ensure that those discussions are appropriate. I can see instances where registered health practitioners who do not fit into this prescribed list may be in a position where it would be appropriate to initiate a discussion around voluntary assisted dying, but they will be unable to. The irony is that any layperson down the street could initiate a discussion around voluntary assisted dying – you know, you go down to your newsagency or the baker could start the conversation with you or your neighbour could start a conversation with you. But there are a group of registered health practitioners who, under this amendment, will not be able to initiate that conversation with you. In effect it is retaining the gag clause for a certain group of registered health practitioners.

I am also concerned about the confusion this could create. I think it was simpler in the government's proposal. But I accept that this is an improvement on the existing act. It is very welcome. This has been a huge barrier for people. I think the gag clause has caused significant problems for people and confusion within the medical profession, because I think there is uncertainty about what even constitutes a patient raising the subject and how specific they have to be in order for a health practitioner to then be able to engage in that discussion. This is an improvement, so we will be supporting it.

I think Mr Galea made a very good point about registered Aboriginal and Torres Strait Islander health practitioners. They play an extraordinarily important role. Particularly if you are talking about a conversation like VAD, that trust and the relationships that those health practitioners can develop with First Nations people are critical. These are very difficult discussions for people, very difficult subjects,

so I think they are very well placed to have those discussions. I thank him for including that category of health practitioner.

In essence we will support this. I do not particularly like it. I think we will find we will be revisiting some of this again in five years. It will be really important that we monitor how this plays out in practice through the various reviews that will take place. We will see where we are at in five years time.

Lizzie BLANDTHORN: Further to my earlier comments, I wish to indicate that I support this amendment because it does further narrow this extension to health practitioners. In response to some of Dr Mansfield's points just now, I want to particularly draw out, as I did in my second-reading speech, that despite the fact that any person in the street could raise the opportunity to access the voluntary assisted dying scheme with somebody, those who are on an approved list would hold a particular standing with their patient, with their customer or with their client. When those provisions are then extended to professions that are not trained in end-of-life care, to professions such as podiatry, chiropractors, indeed Chinese medicine and dentists – there are a range of professions on the AHPRA list that the bill, in its initial form, proposed to extend the provisions to who are not trained in end-of-life care but who do have a particular standing with their patient, with their customer or with their client. That builds a level of trust that would put more weight on that information than perhaps if it were raised with them by an ordinary person in the street. I do think this is an important area in which we need to maintain safeguard provisions. I think Mr Galea's amendment is a good amendment that improves the bill.

Melina BATH: Just briefly, I will be supporting these amendments as well in ensuring that it is not only the medical practitioners and the nurse practitioners in discussions but also that limitation on psychologists and including Aboriginal health practitioners. I think there is very much an important element about people feeling comfortable, and that is certainly one element that would benefit from that in that sector, so I appreciate these amendments.

Ingrid STITT: As indicated earlier, I will be supporting Mr Galea's amendment. Just on the issue of registered Aboriginal and Torres Strait Islander health practitioners, this is about the health workers who will be supporting Aboriginal people at the end of life, often in the community, and I welcome their inclusion.

Michael GALEA: I want to briefly acknowledge and thank all members for their contributions on this. I just want to pick up on a couple of minor points. Firstly, Minister Blandthorn addressed the point I was going to raise in relation to Dr Mansfield's issue with regard to health practitioners beyond the scope of my amendment. I am of the view that these are people in many cases who members of the public may have that different level of respect for as a figure of authority in the community, and that is why I think that this balance is appropriate.

I do also wish to acknowledge Dr Mansfield's contribution in relation to Aboriginal and Torres Strait Islander health practitioners. I am certainly not an expert in this space, but it is fair to say that from what I understand there are significant cultural barriers and significant trust barriers there, particularly with the Indigenous community. In speaking with the Dandenong and Districts Aborigines Co-operative Limited in my electorate, I have heard similar things from them about that, and that is why I believe that there is a need for that.

I do just wish to clarify that though I did focus a large part of the discussion on that particular part in my opening remarks before, the effect of this amendment, just for clarity, or the amendments that this amendment will test, is that medical practitioners, nurse practitioners, registered nurses, psychologists and Aboriginal and Torres Strait Islander health practitioners will be able to initiate VAD conversations, but other health practitioners will not be able to, as was originally proposed in this bill.

Ann-Marie Hermans: On a point of order, Deputy President, in terms of the way this is going to impact clause 6 and onwards – and I guess this is to the minister, if I could just ask a point of

clarification – will this only increase that definition to make that exception for the Aboriginal people, or is that ruling out –

The DEPUTY PRESIDENT: Sorry. That is not a point of order. You are asking a question about the clause. The point of clarification is that this is just dealing with Mr Galea's amendments 2 and 3, which insert two new definitions into the definitions clause and do not make any change to the bill other than to insert a definition of what a registered Aboriginal and Torres Strait Islander health practitioner means and what a registered psychologist means. The bits that would actually make a change to the legislation will come later.

Council divided on amendments:

Ayes (39): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Katherine Copsey, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Renee Heath, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Sarah Mansfield, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Adem Somyurek, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Noes (1): Ann-Marie Hermans

Amendments agreed to.

Amended clause agreed to; clause 5 agreed to.

Clause 6 (11:12)

Michael GALEA: I move:

4. Clause 6, line 19, omit "registered health practitioner" and insert "registered medical practitioner or nurse practitioner".
5. Clause 6, lines 27 and 28, omit "registered health practitioner or a health service provider" and insert "registered medical practitioner or nurse practitioner".

This was canvassed in earlier debate today, but amendments 4 and 5 will vary clause 6 in relation to conscientious objectors by providing that definition as outlined.

Jeff BOURMAN: I will be supporting this. I will also be opposing the clause because the one thing that is really strange about a bill that is entirely about the choice of the person is removing someone else's choice.

Ingrid STITT: I would like to indicate that I will be supporting the amendment.

Enver ERDOGAN: I think I will be supporting this amendment. Obviously I have my own amendments that I feel are a lot stronger, because I think the point that Mr Bourman made, and it is really my principal concern with this bill, is about what I would describe as a move away from compassion to compulsion, particularly in terms of people's choices, especially because we do have a world-class health system that does rely on people from different traditions, different backgrounds, from all over the world that are so crucial to providing that service.

In many of our legislative instruments put before this Parliament, in fact even in this session of Parliament, we have moved to make sure people are protected, such as with our anti-vilification legislation, which has the focus of protecting people from being discriminated against based on their beliefs. But that is not a belief that should be a protection afforded just to people of faith. It is one for everyone, for even people that are Ephesus, a secular Ephesus and, in the context of global conflict, people that have a conscience not to bear arms. That is an important human right that is recognised in many United Nations charters. I feel like moving away from those broader principles in this legislation is very unfair to those health practitioners that have those concerns, to have to choose between their

conscience and their profession. That is why I have circulated two amendments that I believe are a lot firmer and a lot stronger in protecting people in those situations. I will support Mr Galea's amendments, but I still intend to move my amendments.

David LIMBRICK: I also will be supporting Mr Galea's amendments here. However, I concur with Mr Erdogan that this is also my biggest problem with this bill. Therefore I will also be supporting Mr Erdogan's amendments, which I agree place a far stronger emphasis on this. However, I will support Mr Galea's amendments regardless.

Georgie CROZIER: I too will be supporting Mr Galea's amendments.

Sarah MANSFIELD: Just building on comments I made earlier about this, I will be supporting this. I know that this was a way of finding some broad agreement and giving some comfort to people who had a lot of concerns about this clause. I appreciate the concerns about this clause and the tensions that exist within it. In my second-reading contribution I acknowledged that people do have a right to hold conscientious objections and not participate in the provision of health care that goes against their conscience. I think that protection has been retained in this bill in that health practitioners who do not want to administer VAD and do not want to actually be part of the active process do not have to be. There is also a very real situation for patients who are trying to find information out about VAD. They are incredibly vulnerable. It takes a lot of courage a lot of the time to bring up a conversation like this. There is a huge power imbalance and information asymmetry. The health provider holds all the information. For people to raise that subject and then be told no and for them to have to then go and find someone else that they can talk to about it but not know where to start is a very real experience. I think that was something that a number of members in this chamber shared was their experience. You are not talking about people who maybe lack some health literacy or ability to navigate a difficult system. I have talked to countless families where that has been the case, where they have just been told no and that is the end of the story. It is very difficult if, say, your local GP is not willing to provide you any information and your specialist will not. Where do you go to get a referral to a new specialist? How do you know where they stand?

This is a very basic information requirement to provide some basic information. 'Here's a phone number you can call to find out a little bit more' I think is completely reasonable. I understand there still exists a tension for people who hold very strong conscientious objection to this – I certainly appreciate that. But I think we have to recognise it is legal to access voluntary assisted dying, and health practitioners, I think, at a bare minimum have an obligation to provide some basic information to people about things that they are asking for. It does not mean they are participating any further in the voluntary assisted dying process. They do not have to speak any further about it. Providing an information sheet is literally all that that would be doing.

Touching on Mr Galea's amendments, similar to being able to initiate a discussion, I just think limiting the range of health practitioners who this applies to has the potential to create some confusion. I think it is unlikely that people are going to raise this with certain types of health practitioners. I think that it is just a very unlikely thing that that situation would come up. But there are types of health practitioners who fall outside this prescribed list who you could conceivably see someone has developed a trusting relationship with and that they do initiate that discussion. For example, I think Ms Crozier talked about a situation in her second-reading contribution about a physio who was working closely with someone. They have developed a really trusting relationship. Someone asks them, 'I want to know a bit more about VAD.' They have no obligation to provide any further information. For that person that might be the last time they feel that they are confident to raise the subject again. They might just feel so shut down by that.

We have got to recognise the power structures that exist in health care. It is very confusing for people. I think one of the things that really stands out for me is so many people felt like they were doing the wrong thing. They were made to feel like they were doing the wrong thing when they brought up the subject of VAD because of the way that they were responded to. They felt like they were trying to do

something illegal, which is absolutely not the case. This is legal; it is 100 per cent legal. It has been that way in Victoria for a long time.

Anything we can do to just make sure that they can access that information that they should be entitled to from the people who they are naturally going to be seeking that information from and who are well placed to give them reliable information I think is a very basic requirement, and I am very comfortable with the amendment that the government has put forward. I think restricting the number of health practitioners to which that applies is unnecessary. I do not think it adds any meaningful safeguards. I think it has the potential to add confusion and create some further barriers for people. But as I said, if it means that this provision remains within the bill, I am willing to support Mr Galea's amendment if that gives some comfort to other members of this place.

Evan MULHOLLAND: I want to thank Mr Galea for this amendment. I think it is quite important, and it represents an improvement to the bill. Again, I put on the record the work of our colleagues in the lower house as well. Yes, this bill is about choice, but we are also, in a sense, removing choice by medical practitioners. As Dr Stephen Parnis said last week in a lecture, doctors are not a vending machine. We are removing their conscientious objections. While I am supporting this amendment, I want to say I will be supporting Mr Erdogan's amendment.

I want to just quickly use this opportunity to go through and say that you probably would not hear this from me normally in the course of upper house events, but I really want to credit the work of the member for Broadmeadows, the member for Greenvale and the member for Preston, because if you go to those communities in the north – and particularly to those Labor colleagues and others who I overheard in the parliamentary bar that were threatening the careers of their colleagues because of the way they acted –

Harriet Shing: A point of order, Deputy President, Mr Mulholland, that is a very serious accusation that you have just levelled. I would suggest that if you wish to make that accusation you move it by way of substantive motion.

Ingrid Stitt: Deputy President, just further to the point of order, I think that the debate so far has been conducted in a respectful manner. We have got a lot of work ahead of us to conclude the committee stage, and I would ask Mr Mulholland to think about the way that he conducts himself and not detract from what has been a good debate and a respectful conversation so far.

The DEPUTY PRESIDENT: The comments made were not technically unparliamentary, but they were bordering on it. Mr Mulholland, I ask you to keep your comments to the contents of the bill.

Evan MULHOLLAND: If I could get to my substantive point, I invite people that might have a different view on conscientious objection – and I am happy to take them – to come out to medical centres and GP clinics in Roxburgh Park, in Broadmeadows or in Mickleham, like Aitken Grove, which I officially opened a few weekends ago. You will not find a single medical practitioner who does not have a conscientious objection, because that is just the make-up of those communities in the north, where 80 per cent of those electorates profess a faith, which is double the statewide average of any other electorate. What you are doing to my community is making it very difficult by removing not just the choice of a few but the choice of all. I again reiterate that particularly for communities like those in the outer northern suburbs this is a very, very difficult issue. But I would also say, at least based on the suburbs in the petition that I tabled, there is very strong opposition to removing conscientious objection in the outer northern suburbs. By doing what other colleagues did in the lower house in representing those communities I want to say that they were representing their electorates. They were not representing a deep ideological view. They were doing what their community would expect them to do and what my community expects me to do as well.

Lizzie BLANDTHORN: My fundamental proposition in relation to this bill is not that it is a question of whether or not someone does or does not support the system of voluntary assisted dying. At the end of the day what we are being asked to consider here is the diminution of safeguards, and I

am fundamentally opposed to any restriction on conscientious objection. I think that it is a fundamental human right. Indeed the Victorian charter of human rights provides that every person has the right to freedom of thought, conscience, religion and belief, including the freedom to demonstrate his or her religion or belief in observance, practice and teaching, either individually or as part of a community, in public or in private.

This bill does restrict that right. This bill does compel practitioners to provide information via an information sheet, a website or otherwise. It compels practitioners to provide information about how to access the scheme against their own free will. I 100 per cent agree with Mr Bourman, who makes the point that if this bill is, as many in this place argue, about providing individual freedom and individual choice, in the very same bill we are denying that individual freedom and that individual choice to the practitioners themselves. In restricting conscientious objection the bill would compel practitioners who conscientiously object to act contrary to the right of their own freedom of thought, their own conscience and their own beliefs, which, as I said, are outlined in the Victorian charter and which are consistent with core principles of a democracy.

On that basis I do not support the clause, but I will support Mr Galea's amendment and I will support Mr Erdogan's amendment that seeks to improve that situation.

Ann-Marie HERMANS: I applaud Minister Blandthorn for what she has just shared and share her sentiments exactly. I would have read out the charter of human rights as well. I feel very strongly that we are moving in such an extreme way with this amendment bill to take away the freedom of doctors and of practitioners in the medical field to have that conscientious objection, and it concerns me deeply. This is the particular clause that is most distressing for most of us – to see medical professional people being put into a situation where they will have to discuss, potentially at length because of the lack of restrictions within the amendments, the information.

It has not yet been consigned and restricted. We have not yet got to what the secretary will be making a doctor provide. For instance, a referral is one thing. I take the point that has been raised by Dr Mansfield, but the issue is that right now if somebody asks for voluntary assisted dying and their doctor does not feel comfortable speaking about it, there are others that will be. It simply has to be initiated by the patient. The bill allows for the patient to initiate the conversation, not the doctor, but this amendment mandates the doctor to have to initiate that conversation, to provide someone to be able to do that and provide information. One of my amendments, depending on how things go, is very clear. Depending on how we end up defining what the secretary forces the doctor to provide, my amendment is simply to provide an 'and/or', which if everything else fails will at least provide some level of choice for a doctor. The way this is prescribed, it takes away all choice from a medical professional. We do not, for instance, ask a doctor to have to go into the depths and lengths and breadths of describing or explaining what an abortion looks like and how that will take place. But in voluntary assisted dying, we have not yet defined what it is that the secretary will be preparing and giving to the doctor. That is just open slather at the moment. It is not defined and we are clearly putting medical professional people in a situation where they will have to go against their conscience, not simply to talk about or provide the referral, but also to have to provide the information. That clearly takes away from that conscientious objection. I feel very strongly that we need to protect the rights of individuals – not just the rights of patients, but also the right of the medical profession to have their own conscience and to be able to work in that space where they can maintain their own personal integrity according to their own beliefs.

I will be supporting Mr Galea's amendments. I will also be supporting Mr Erdogan's amendments in the interest of trying to improve this amendment bill, but I do feel very strongly that we are taking away from Victorian doctors the opportunity to have their conscience. I think we will lose doctors if we mandate that they have to speak about things that go against what they actually believe in and why they got into the profession in the first place.

The last thing I want to say is that we have to remember that doctors take the Hippocratic oath. It is about health and healing, and many doctors take that very seriously. The way they have interpreted that is not about actually bringing end of life to people intentionally. That is why it goes against their conscience, and to even have to entertain the thought of providing that is very difficult for many doctors.

Ingrid STITT: I just want to add a couple of comments, given some of the contributions. I think that, with respect, Mrs Hermans, you have not understood some aspects of the bill, so I just want to make my position clear on this matter. The freedom to hold a belief, such as a conscientious objection to VAD, is absolute. However, the freedom to act on that belief may be subject to reasonable limitations. In other words, the requirement that is imposed on practitioners who conscientiously object to provide minimum information is a reasonable limitation on their freedom to manifest their objection to VAD. Patients also have a right to freedom of thought, conscience, religion and belief, as well as the right to personal autonomy, dignity and protection from inhumane treatment. In relation to your reference to other laws where conscience is exercised, I do want to point out that the Voluntary Assisted Dying Amendment Bill does not go as far as some other legislation in the state.

Melina BATH: Consistent with my second-reading speech, I am quite comfortable with these amendments.

Amendments agreed to.

Gaelle BROAD: I move:

2. Clause 6, lines 15 to 33, omit all words and expressions on these lines and insert –

'At the end of section 7 of the Principal Act **insert** –

"(2) A registered health practitioner who has a conscientious objection to voluntary assisted dying has the right to communicate that conscientious objection in the course of practising the registered health practitioner's profession.

Example

A registered health practitioner may communicate their conscientious objection by displaying a notice at the practitioner's health practice or by publishing the conscientious objection on the health practice's Internet site.".'.

This speaks to the conscientious objection. I support any move to give doctors the ability to have that conscience, because we are getting a conscience vote today. I think it is not basic information, as Dr Mansfield talked about earlier; this is significant information. I think our GPs and doctors and specialists have a variety of views on a variety of issues – you know, some agree with HRT, some do not. It is to require all to provide information. I would rather see that minimum information go back to the initial act. I would like to see it excluded. I have got the further amendments specifying the information required, if need be. I think that the ability of the conscience to be able to communicate views to patients is really important. That speaks to my amendments that I am putting forward.

Ann-Marie HERMANS: I will be supporting Mrs Broad's amendments. I agree with her entirely, and I feel that we need to do whatever we can to protect the ability for everybody to be able to act according to their conscience.

Michael GALEA: I would like to take the opportunity to thank and acknowledge Mrs Broad for the way in which she has engaged on these and other amendments. I understand that if this amendment is successful, it will prohibit Mr Batchelor from moving an amendment very shortly. On that basis, I will not be supporting this amendment.

Ingrid STITT: Just for the record, I will not be supporting Mrs Broad's amendment.

Georgie CROZIER: I understand Mrs Broad's intent and concerns, but I will not be supporting her amendments on this occasion.

Enver ERDOGAN: I am just going to thank Mrs Broad for bringing this amendment. It is very consistent with mine, so I will be supporting it. But obviously if it is not successful, I still intend on moving mine. I particularly want to focus on my second amendment after this one. I will be supporting this amendment.

David LIMBRICK: I thank Mrs Broad for bringing this amendment. I am sympathetic to the intent behind it. However, I have decided to support the alternative mechanism proposed by Mr Erdogan, so I will not be supporting this amendment but rather supporting Mr Erdogan's amendment.

Melina BATH: This is democracy at its best, when we can all delve into our innermost thoughts and concepts around this and drill down, and I appreciate Mrs Broad's amendment very much. At this point I prefer to support a further amendment on this topic.

Sarah MANSFIELD: Again, I appreciate the reasons that this amendment has been brought forward, but I do not support this amendment, largely based on many of the comments I have already made around conscientious objection. I think there is a further risk if you are displaying that information at the outset. People should be able to come to their health practitioners to discuss the range of issues that they wish to, and to be saying that there are certain things you are not allowed to come and talk to a health practitioner about, or to indicate that or to communicate that, I think puts patients in a very difficult position. I think they should have the right to be able to ask a health practitioner about the things that they want to, and as I said, receive some very basic information.

Just to provide some further context, I know that there will be further amendments that will be moved to provide greater clarity on the information the secretary is to provide, but the explanatory memorandum and the minister's second-reading speech do actually provide significant context about what that information is. It is very basic information about the care navigator service. It could be as simple as a pamphlet, a phone number or a website. We are not talking about having to have in-depth discussions with people about the ins and outs of voluntary assisted dying. I think this provision protects against that. It means that there is just some very basic information. It is not a referral. I would actually support I think a referral, because it is very hard to find practitioners. But this basic requirement I think is a minimal one. People should have the right to ask about it. They should have the right to receive just some basic information so that they can go on their way and find a provider who is then able to assist them further. I think it is well within the obligations of healthcare professionals and the code of ethics and standards that we sign up to that they should be required to provide basic information for people about things. We have that, as Minister Stitt indicated, in other areas of law. I just think it is completely reasonable when you take into account where patients are going to get their information from and that relationship that they have and the expectation that they have of healthcare practitioners.

Evan MULHOLLAND: I support Mrs Broad on this. As I have mentioned before – I have gone into it – I will also be supporting Mr Erdogan's amendment. The conflict I have here is that this would knock my amendment out, which is now Mr Batchelor's amendment. I am very, very keen to support that one, but I understand that on a division it might not succeed, so I just want to express my support for Mrs Broad's amendment and thank Mrs Broad for the way in which she has conducted herself.

Amendment negatived.

The DEPUTY PRESIDENT: We will move to Mr Mulholland's amendment 1 on sheet EM39C.

Evan MULHOLLAND: I had circulated this amendment, and I want to thank all the colleagues that I have spoken to from all sides of the chamber about this particular amendment. I want to flag that I will be withdrawing this amendment but also speaking to it. This is quite important. Almost every stakeholder I spoke to and every doctor and healthcare professional that I spoke to flagged this as an issue, and it is an important one, because the way the bill was drafted it limited information as approved by the secretary. 'Information' could mean absolutely anything. What 'information' is, we now

understand from the explanatory memorandum, is a website and a VAD navigator service. But there was nothing in this bill stopping the Department of Health secretary from coming back in 12 months without coming back to the Parliament and forcing that information to be a physical copy of a very glossy, positive brochure about voluntary assisted dying and nothing about palliative care, for example, and not giving people a full picture. This is something that was raised with me particularly by people that would normally conscientiously object in my electorate that were really concerned about what this might mean into the future.

I want to thank members opposite. I want to thank members on my side of the chamber. I want to thank Ms Crozier in particular, who might speak to this as well, because it is something that a lot of stakeholders did raise. I want to thank Mr Batchelor. I want to thank also Minister Stitt, recognising that she is endorsing Mr Batchelor's amendment. I want to thank the health minister, who I have had a handshake with about this amendment in agreement that I will withdraw my amendment to endorse Mr Batchelor's amendment, which he will move after this.

Harriet Shing: Yes. There have been lots of handshakes and trust.

Evan MULHOLLAND: Yes. And again, if I can repeat what I said before, that is the best of this Parliament – when we can come together and work out a middle ground. This is something where it is in the explanatory memorandum and let us just put in the bill, and that is what has been agreed to. I want to thank everyone involved with this and withdraw my amendment.

Ryan BATCHELOR: I move:

1. Clause 6, lines 32 and 33, omit all words and expressions on these lines and insert –

'(b) give the person the following information –

(i) contact details for the prescribed voluntary assisted dying care navigator service;

(ii) the address of an Internet site of the Department of Health that provides information about voluntary assisted dying.".'.

The amendment is pretty straightforward. It seeks to put into the bill those matters identified in the explanatory memorandum that were intended for the secretary to approve for the provision of information to those who seek information about voluntary assisted dying. It was clear during the course of the second-reading debate that members are seeking greater clarity about the scope of this provision. Personally, as someone who wants this clause to pass, I was very pleased to be able to find an amendment, working with the minister and others, that would allay the concerns that some people have. That is what this amendment is designed to do – to allay those concerns and be very, very clear about the minimum amount of information that will be provided to people who seek to access voluntary assisted dying by the health practitioner, the registered medical practitioner or the doctor that they are talking to about the fact that they are dying.

I just want to reflect a little bit on some of the debate that has just occurred about this clause. My second-reading debate speech I think pretty comprehensively and carefully stepped through why this matters to me so much. Two years and six months ago I sat in a room with a dying woman who asked a doctor for information about voluntary assisted dying and was given nothing. If this amendment to this bill prevents that occurring for others in the future, I think it is really important.

I want to address this issue about choice. When you are bundled into an ambulance and taken to an emergency department because you are sick, you get taken through emergency and you get released from emergency into the care of a specialist. For many patients that is how they encounter discussions about the fact that they are going to die. There is no choice for a lot of people about who they see and who the medical specialist is, the practitioner, that passes that information onto them – no choice at all – because that is the way our health system often works.

People who choose to do medicine take a lot of time and a lot of care in learning how to best treat their patients. All we are trying to do with this piece of legislation is ensure that for procedures that are

lawful in the state of Victoria we allow those patients to be at least informed about where they can get more information about lawful medical procedures and lawful courses of action that they can choose to take. If this amendment, for people who have been given the most confronting information they are likely to receive, makes that process a little easier and a little better and does not leave them bewildered, confused or uncertain, I think it is really the least we can do. I commend the amendment and the clause.

Georgie CROZIER: I will be supporting Mr Batchelor's amendments, and I thank him for bringing them to the house. I also want to thank Mr Mulholland for the discussion on the issues that I have been raising both with Mr Mulholland and also the government. The government are very aware of my concerns around this issue. I made that clear in my second-reading speech. I made it clear through the very productive discussions that I have had with the minister's office and the minister around this issue. I do want to thank all involved for getting to this point so that it is clear. I think it does allay some of that anxiety in relation to potentially what this would have meant. It has made it very clear now. I do want to thank Mr Batchelor again for making this amendment that provides that assurity and again, to Mr Mulholland for his ability to see the benefit of this too, and how he has worked constructively on this.

Lizzie BLANDTHORN: I too want to thank Mr Mulholland for his efforts in relation to this clause in particular. I do want to thank the government through Mr Batchelor who has provided an amendment. I do this with the greatest of respect, but I do want to put a counterargument to that which Mr Batchelor just put.

I think across this debate, both in 2017 and now again in 2025, many people have taken the opportunity to share individual experiences about their own family, their own friends, their loved ones, people they know who have either faced or are facing end-of-life decisions, discussions and choices. I did not do this in my second-reading contribution in 2025, but in the 2017 debate I spoke about my grandfather. My grandfather when he was in his early 30s was a father of then five children, with a sixth on the way. He was a very active man. He played football for Williamstown. He was a rower with Xavier. He was someone who loved to be out and about, but he dived into the Middle Park baths and broke his neck and became a quadriplegic for the rest of his life. It was an accident at the time that people told him he would not live with, that he would not recover from. My grandmother, who was a nurse at St Vincent's, gave up her work as a paid nurse at the time, because her view was that she had the skills and the wherewithal to be able to care for my grandfather at home. My grandfather's movement was extremely limited. He could not move from basically the neck down. He could do nothing other than take a phone call. He could not move his hands. He could not move his arms, his legs – nothing. At one stage my grandfather was told that he should not proceed with bladder surgery because he was going to die anyway. My grandfather said that he wanted to have the bladder surgery, because if it gave him one more day with his wife, with his children, then he wanted that opportunity. My grandfather lived for 14 years as a quadriplegic. He saw all but the last of his children – who died in a tragic accident in a pram – grow to become young adults. Despite not being able to move from the neck down, he had a particularly productive life raising funds for Mother Teresa. Indeed when Pope Paul came to Australia, he was wheeled in to see him at the racecourse.

My point being, end-of-life care goes both ways, and end-of-life care should be provided for in a way that recognises, without abandonment, the inherent worth and dignity of every life from its beginning until its end-of-life position. I think that in providing information or compelling people to provide information, we need to do that in a very careful way. I thank Mr Mulholland and I thank Mr Batchelor, because I think despite the fact that these arguments can be put from a very respectful place – and indeed in many senses from the same philosophical place but leading to an absolutely different conclusion – what we have is a meeting of a sensible approach to how this amendment should go forward that recognises not either side of the debate but both sides of the debate, and I thank both Mr Mulholland and Mr Batchelor for that.

Ann-Marie HERMANS: I will be supporting Mr Batchelor's amendments. They are in actual fact very similar to Mrs Broad's amendments in terms of providing and specifying contact details as part

of the referral process and address what we are looking at. I will be voting against the clause anyway because I prefer the original bill, but I will be voting for this amendment because I feel that it does strengthen and clarify what will be expected of those in the medical profession. It takes away that ambiguity and some of the pressure, which I feel is a good thing. As I said, it is very similar to the work that Mrs Broad has done, but perhaps it has gone a little bit further in clarification. I thank all those involved for the congenial way in which this has come about so that we can have greater clarity and protection of people in the workplace, particularly those who take that Hippocratic oath and feel strongly that they are there to value life and protect life, not take it away.

Evan MULHOLLAND: Again I want to put on record my thanks to all those in the chamber who have worked through a pragmatic solution to this issue. To basically run you through a practical example: many of our Catholic hospitals and aged care facilities – all of which we would know and have had some sort of interaction with across our time – already do what Mr Batchelor's amendment now specifies, which is to provide details for the VAD navigator service. It really sets the objection at an institutional level rather than an individual level, which is where I was trying to get to. I know that the Catholic services, after 2017, had extensive discussions with the Department of Health and formed part of their 2018 and 2019 care guidance agreements to do this particular process. I think there are sometimes a lot of bogeymen created in terms of some of the services that we have here in Victoria and some of the healthcare services that we have in Victoria. But in reality we see services working cooperatively with government, and this amendment really sets in stone what is already the case. I am very pleased that we have been able to see this amendment become a reality. I want to thank particularly all the stakeholders that got in touch regarding this amendment. This is a very, very good outcome.

Ingrid STITT: As I indicated yesterday, I do support this amendment. I do want to acknowledge that there have been concerns raised regarding the specifics of the minimum information to be provided. This amendment certainly does clarify those concerns. It strikes the right balance and therefore is supported.

Michael GALEA: I also wish to indicate my support for this amendment, and I would like to thank Mr Batchelor for bringing it to the chamber today. I would also like to acknowledge Mr Mulholland for his efforts on this clause and the similar amendment, which he has now withdrawn. In indicating that I will be supporting this amendment I would also like to acknowledge the contributions made by both Mr Batchelor and Minister Blandthorn.

Melina BATH: Very briefly, this is about getting balance, and this house is achieving that on the floor after some detailed work. We thank everybody, including all the contributors, certainly, here today. It is about the very sickest of patients having their own autonomy, having that access to information, but also respecting the medical profession that is so vital in our lives and in our deaths and respecting that conscientious objection. I think this has got the balance right.

Sarah MANSFIELD: We will be supporting this amendment. While it perhaps was not necessary, I did have some concerns about what could happen with a future government that perhaps watered down what was required to be provided by the secretary, so in this sense it provides at least a minimum standard and it legislates that. It protects that minimum standard of information being provided. In that sense I think this is quite a positive thing. We have seen it in other areas of health where governments have required some questionable information to be provided about access to certain health services and in effect restricted information. I think in leaving that to regulation there was that risk.

I also just want to highlight again the importance of having this clause. All it is about is that basic information provision for people who seek it, and I think that is a really important point. There were a number of stories shared that indicated that someone else might force that information upon someone who is perhaps not seeking VAD. This is for people who ask about VAD, who want to know more about it, where the provider does not feel they are in a position to speak about it because they have got a conscientious objection or otherwise. This is a basic amount of information that they are obliged to

provide to that person who is seeking that information. It is not forcing anyone to receive information they have not asked for. This is provision of information that they are asking for. I think that is a very reasonable thing to expect.

Business interrupted pursuant to resolution of Council of 29 October.

Questions without notice and ministers statements

Victorian Multicultural Commission

Evan MULHOLLAND (Northern Metropolitan) (12:02): (1125) My question is to the Minister for Multicultural Affairs. Minister, the Victorian Multicultural Commission's annual report 2024–25 included a map of India which omitted or misrepresented key Indian regions such as Punjab, Jammu, Kashmir, Ladakh, Sikkim, Nagaland and Arunachal Pradesh. As you would be aware, this has caused great concern and offence within our Indian diaspora in Victoria. Minister, did you proof this report before it was published? And will the minister apologise to Victoria's significant and vibrant Indian community for this offensive oversight?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:02): I thank Mr Mulholland for his question. It is good to change into portfolio responsibilities. I am obviously aware of the concerns of our proud Indian community, and I understand that people have been quite distressed by this issue. I know that the VMC takes it very seriously. They have taken immediate steps to rectify this issue by removing the graphics and reaffirming their commitment to accurate and respectful representations of all communities. This was a genuine error. I have spoken with the chair of the VMC. She issued an apology very promptly upon becoming aware of the error, which was absolutely the right course of action.

Evan MULHOLLAND (Northern Metropolitan) (12:03): The question was if the minister proofed it, but I did not get an answer. I will go to a supplementary, though. Minister, as you know, the VMC sits within the Department of Premier and Cabinet, a decision of this Labor government that it is now trying to unpick. Given that, the annual report surely would have had to have some oversight from the minister or the Premier's office or department. Many in my community are calling for a formal apology by the Premier. Will the government – you, Minister, or the Premier – issue a joint apology to our Indian community for this offensive error?

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:04): I think that it is disappointing really that you are seeking to kind of conflate issues here, because it is a genuine error which the VMC chair has issued a written statement and apologised to the community for. Of course I have read the annual report, which I have signed off and tabled. I did not personally pick up the error in the graphics myself. But I have had a good conversation with the VMC chair, who was very appreciative of the opportunity to clarify their position in relation to these matters. In terms of the annual report, I am seeking some advice from my department about whether we can rectify the version that was tabled. Hopefully, they will give me some advice promptly about whether or not we can re-table the annual report with those graphics removed.

Integrity agencies

David DAVIS (Southern Metropolitan) (12:05): (1126) My question is to the Treasurer. Treasurer, I refer to the comments in the Ombudsman's annual report where Victoria's Ombudsman Marlo Baragwanath said:

> … I am increasingly concerned that core integrity agencies are receiving a diminishing proportion of resources relative to the growth of the public sector they are charged with overseeing.

Treasurer, I therefore ask: why are you starving the Ombudsman and integrity agencies of proper funding?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:06): Mr Davis, I reject the premise of your question. The budgets for integrity agencies have increased year in, year out under our government. In relation to next year's budget, it will be considered in the normal way, with the integrity agencies putting in their requests for government's consideration.

David DAVIS (Southern Metropolitan) (12:06): Treasurer, the Ombudsman's role, along with the other core integrity agencies, is important to ensure the efficient and effective use of public sector resources. Treasurer, I say to you: is it not a fact that the decision to squeeze the integrity agencies is not only nasty but false economy and that the government's decision to constrain the Ombudsman and other agencies is driven by Labor's fear of scrutiny?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:07): Mr Davis, these are independent agencies. There are processes in relation to budget considerations that will continue in the normal way. You have made reference to the fact that all government agencies should be efficient and effective, and I concur with that. But I can also point to the fact that there was a deliberate decision to exclude integrity agencies from the Silver review, because I viewed, similar to the comments that you have made, that it would not be appropriate for them to be subject to the process that I asked Ms Silver to undertake. But I can again confirm, which you seem to have not agreed with in your substantive question, that the budgets of our integrity agencies have increased every year.

Ministers statements: child protection

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:08): I rise to update the house regarding child safety reforms. When the allegations in relation to the accused in July came to light, I wanted to understand their background and their work history. I was advised by my department that this individual had qualifications that allowed him to work across other high-risk settings, including in disability settings. This was clear at the time when the reports came to light, as the accused worked at D.O.T.S Occupational Therapy for Children, as was well reported. This fact is frequently omitted by many in the discussions around child safety. The rapid review spoke to this when it recommended the establishment of common foundations across the social services and disability sector. Across this chamber there has been reference to the *Four Corners* program and to act to ensure that the matters canvassed in their reporting are addressed. I refer members to the statements of Dr Michael Bourke, a global authority on child sex offenders, who stated on their program:

> The predators are going to look for any prey-rich environment, any environment in which there's children, and then there's a decreased chance of being detected, right? And they also trade information online with each other.

So once they find somewhere where the rules are not enforced, that information immediately goes out, and it is shared with like-minded individuals, and they start gravitating to these places.

Everyone in this chamber, I know, wants to improve safeguards for all children, but if this Parliament does not deliver improved safeguards for children with disability, as is proposed in the bills introduced that acquit recommendation 8.1 of the rapid review, they will be delivering a system where there is a decreased chance of being able to detect these predators. As the comment of Dr Michael Bourke shows, predators will exploit the lack of sufficient safeguards. I again remind the house that the accused held those qualifications that allowed him to work across other high-risk settings, including in disability settings. The quality assessment and regulation division, the current regulatory authority, also advised me that the most common other sectors for early childhood education and care workers under investigation are disability and aged care. We need to provide a comprehensive set of child safety improvements with no child left behind.

Melbourne protests

Jeff BOURMAN (Eastern Victoria) (12:10): (1127) My question is for the Leader of the Government. Melbourne is the protest capital of Australia. Protests routinely shut down our city. It is not only deeply disruptive to visitors to the CBD, it impacts businesses and their workers as revenue from potential customers is lost by shutting down or reducing hours on protest days. Some businesses who have tried to remain open report a revenue drop of over 50 per cent on protest days. The taxpayer has also paid out $25 million in overtime for wages for police in the last two years. Businesses in the CBD are having their customers scared away, workers are having their safety and shift security impacted and taxpayers have to pay for overtime wages. Costs for small businesses do not stop while the protests occur, and businesses cannot predict the protests and plan accordingly. Given the government is not going to do anything to regulate disruptive protests, what help will you give to businesses routinely forced to shut down whilst the protests occur?

The PRESIDENT: The question was to the Leader of Government. The Leader of the Government is not something that is referred to in the general orders, I believe. I suppose it would be directed to the Treasurer. I will call the Treasurer, and she might correct me.

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:11): Thank you, President, for some direction there. Mr Bourman, you have raised a matter that crosses over a number of portfolios and probably none of mine, because business support would be a matter for small business, operational matters for police are a matter for police, and in relation to laws, particularly those that have been announced this week in relation to masks at protests and any of the move-on powers, they are a matter for the Attorney-General. What I can say is that obviously we live in a community where we are very proud of the freedom of speech. We are very proud of the right to protest. The issues that you raise are certainly genuine issues that are well known to everyone. They are conversations that are happening within government, including with the City of Melbourne and retailers and the people that are impacted in relation to solutions, suggestions and ways to make sure that everyone's rights can be protected and promoted. That is probably the extent of the answer I can give you. If you are interested in particular business support, then the minister for small business would be best placed to respond to that.

Suburban Rail Loop

Richard WELCH (North-Eastern Metropolitan) (12:13): (1128) My question is to the Minister for the Suburban Rail Loop. Minister, over what timeframe does the government forecast it will recoup the $11 billion that will supposedly be captured through value capture?

Harriet SHING (Eastern Victoria – Minister for the Suburban Rail Loop, Minister for Housing and Building, Minister for Development Victoria and Precincts) (12:13): Thank you, Mr Welch, for that question and the continuation of your interest in these matters. I am not sure if you saw recent commentary from the federal infrastructure minister Catherine King.

David Davis interjected.

Harriet SHING: You did see it, Mr Davis? It is good to know that you are across the detail as well.

David Davis interjected.

Harriet SHING: You are definitely across it. One of the things that I did actually want to point out to you is that just yesterday the federal infrastructure minister Catherine King said that this is a project that is –

David Davis: On a point of order, President, this is a very narrow question. As I heard the question, it seemed to relate just to the value capture portion. There was a simple question as to how long the payment time will be.

The PRESIDENT: The minister has only been going for a short time, and I would not want to pre-empt where she was going.

Harriet SHING: Good grief, Mr Davis, you seem not to be interested in the way in which we are going to be delivering Australia's largest housing and transport infrastructure project. When Minister King said, 'This is a project that is happening,' as you have indicated that you read, and then went on to say, 'It actually means you can connect across and around the city in a different way' and it will 'make new hubs for housing, for commercial, industry, as well as really changing the way people live in the city', she was in fact referring to a project of between $30 billion and $34.5 billion, which is on time and on budget. Mr Welch, it is really good. I went and had a look yesterday, after the question that you asked, at the business and investment case of 2021. I have tabled that a couple of times and given you many copies of it, and it appears, Mr Welch, that you almost made it to page 360. Just for the avoidance of any doubt, feel free to look at the copies that I have tabled. There is section 17.2, 'Financing strategy', and 'Addressing timing mismatch' at 17.2.1, which says – and this has already been tabled for the benefit of everybody playing along at home:

> The value generated by SRL and the funding associated with value capture mechanisms will be realised over many years. While some forms of value capture can contribute a portion of direct funding towards capital costs, this is likely to represent a relatively small proportion of overall funding requirements.
>
> In that context, one of the key challenges of using value capture mechanisms as a capital project funding source is the timing mismatch between when funding is required (construction costs) and when funding sources will be received (likely over a much longer term).
>
> Financing upfront capital costs by borrowing can help to address this mismatch and create a source of upfront funding, which requires a financing strategy.
>
> Engagement with various parties including government stakeholders and private investors has been undertaken as part of developing the –

funding and finance –

> Strategy. Feedback from this process has informed the identification of potential value capture funding mechanisms and an appropriate financing strategy.

It then goes on to refer to typical sources of financing.

Mr Welch, I would definitely commend this part of the business and investment case to you. You are somebody with a background as a finance bro. It should be something that interests you in terms of understanding a little more detail on, including increasing costs of financial and risk requirements between the state, the Australian government and the private sector. I am really looking forward to continuing to engage with you on this project, as I hope you will back it in, as everybody else seems to.

Richard WELCH (North-Eastern Metropolitan) (12:16): I thank the minister for that answer. Noting the lengthy time that will be required to capture $11 billion in value capture, as you have just said, and the interest that will gather on top of that money once borrowed while we are waiting for that value capture, I am curious to know: is the government's financial modelling for this project based purely on capturing and repaying the $11 billion, or does it also cover the interest that will accrue on top of that $11 billion?

Harriet SHING (Eastern Victoria – Minister for the Suburban Rail Loop, Minister for Housing and Building, Minister for Development Victoria and Precincts) (12:17): Thank you very much, Mr Welch. It would then appear that you did not go on to read any further parts of the business and investment case, because it does go on to talk about how similar models have been developed and delivered that actually do make sure that productive infrastructure, when it is delivered over a period of its duration, is actually able to fully offset the cost associated with funding proportions of that particular productive infrastructure. Mr Welch, again, given your background in finance, I find it really surprising that, notwithstanding your concerns about the duration of the project, you are unable to see what the long-term benefit will be. Again, Mr Welch, I would commend to you the business and investment case. It sets out what this means by way of intergenerational change: the way in which

value will crystallise over time, the way in which this will return a significant business case ratio of between $1.1 and $1.7 for every dollar invested. Mr Welch, get on board, because everybody else is.

Ministers statements: Greater Western Water

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (12:18): I rise to update the chamber on the Greater Western Water billing matter. As Minister for Water I have a simple priority: customers are treated fairly. Victorians should feel confident their rights are protected and that the system is working for them. Greater Western Water has faced serious issues with its billing system. Recognising this, the independent regulator, the Essential Services Commission, accepted Greater Western Water's $130 million customer remediation package earlier this week. This is the largest undertaking the commission has ever accepted across water and energy. This is a major step, and it shows that the water corporation must make things right.

Today media reports have highlighted that the Essential Services Commission and the energy and water ombudsman have arrived at some different interpretations of law in this matter. The regulator and ombudsman are both independent of government. They both work to protect customers. They both have important oversight roles. We cannot let this matter of interpretation of water sector rules remain unresolved. GWW customers rightly expect clear answers. They want to know the agencies set up to help them are working together. Today I am calling on the ESC and the Ombudsman to sit down and reach a speedy resolution. The department is ready to support this and help bring everyone to the table. Where there is ambiguity in the rules, we will work with the sector to fix them. But right now the priority is cooperation. Customers should not be caught in the middle of a legal debate. They deserve certainty and quick action. We expect all parties to continue to work in good faith and to put customers first.

Energy policy

David DAVIS (Southern Metropolitan) (12:20): (1129) My question is to the Treasurer. I refer to the fact that the previous state Treasurer was consulted with and agreed to new charges and new ministerial orders under the National Electricity (Victoria) Act 2005 – I have the brief – in relation to the VNI West and Western Renewables Link transmission projects. Among other aspects, the brief signed by the former Treasurer laid out additional costs to be passed on to Victorian electricity consumers. Minister, I therefore ask: how much will the full delivery cost of VNI West and Western Renewables Link be when constructed, and will the bill increase for consumers exceed $1000 per year for an average household?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:21): I thank Mr Davis for his question and again his ability to try and link questions that are probably more appropriate to the energy minister to the Treasurer. But, Mr Davis, you have asked about energy prices. As you know, in Victoria we have the lowest wholesale prices in the whole country. We are a government that is focused on driving down energy bills for Victorian families. It is why we have called on the essential services commissioner to put households first and energy company profits second by the Victorian default offer, and we are investing in renewable energies, which is the cheapest way to deliver power for Victorian families. The last time that the Liberals were in government, power prices rose by 34 per cent and disconnections doubled. We are a government that is focused on ensuring that the lights stay on, and that consumers pay the least amount for their bills, and our policies support that. In relation to any of the specific information that you require, I will confer with the minister for energy to see if there are any further details I can provide you.

David DAVIS (Southern Metropolitan) (12:23): I notice the minister did not want to answer the specific question of how much the VNI West and the Western Renewables Link would –

Jaclyn Symes: I am not responsible for their delivery.

David DAVIS: I am looking at the Pallas brief here. He signed off on these, and I have no doubt that you were asked to sign off on similar briefs.

A member interjected.

David DAVIS: Yes, that is exactly right. Let me just change my question here in response to you. They talk about the precise costs. 'Expected costs of the order' is listed in the brief to Pallas. So let me thereby ask –

Tom McIntosh: He has forgotten what he was going to ask.

David DAVIS: No, I am responding to her question here. With reference to the renewables link, I ask: how much will be added in a direct pass-through to households and businesses?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:24): Again, I always try to be helpful to Mr Davis when he asks questions, even when they are not specifically directed to me. I am not the minister responsible for the delivery of this project. I have answered Mr Davis's question in relation to customers' bills and the commitment and overall policy of the government. I am more than happy to direct his questions, whether within the standing orders or without, and get some more information from the minister for energy if he would like, because he keeps trying to use me as the vessel to get answers from the minister for energy. I am more than happy to facilitate answers from the minister for energy for the member.

The PRESIDENT: I take that as outside the standing orders, as you will endeavour to get some –

David Davis interjected.

The PRESIDENT: You asked a question of the minister, and she answered to be helpful. She did say it would be better directed to the minister for energy, and she has offered to get some information if she can outside the standing orders.

David Davis: On a point of order, President, this is a brief to the Treasurer – the Treasurer of the land Mr Pallas – and it lays out energy costs and the costs of the Western Renewables Link. You cannot say that she is not responsible. She can say, 'Oh, I'm not responsible,' but actually, if she has got briefs coming to her, she has to answer about them.

The PRESIDENT: I say that she has answered to the best of her ability and as far as her responsibility goes. She has indicated it would be much better directed to a minister with responsibility for energy, but then she has been kind enough to say that she will try to get some information from that minister. And further to your point of order, she is not the Treasurer Tim Pallas. You held that up and you said, 'This is Tim Pallas.' The last time I looked she is not Tim Pallas; she is someone else. As I have said a number of times, members have every right to ask any minister a question – any question they would like to ask them. Ministers have the right to say that that does not fall inside their responsibilities under the standing orders and they can indicate that it is another minister's responsibility. I think this chamber works quite well as ministers most of the time offer to refer questions to other ministers and be helpful.

Election commitments

David LIMBRICK (South-Eastern Metropolitan) (12:27): (1130) My question is for the Treasurer. On 28 October a media release was published on the Premier's media centre website referencing analysis of Liberal Party election commitments. On the following day the *Age* published an article referencing this material, citing the source as 'Victorian government modelling'. Since then there have been many government MPs in the Legislative Assembly and in this house referencing this modelling, including the Treasurer herself last night during the petition debate. The Premier's media release stated it referenced 'new analysis released today', but I have been unable to find any publication of this modelling. My question for the Treasurer is: who did the modelling and why has it not been published?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:28): Thank you, Mr Limbrick, for your question. Yes, there has been an analysis done of all of the Liberal Party and National Party announcements. A lot of those announcements were from former Shadow Treasurer Mr Newbury, but when they made those announcements they very rarely disclosed the amounts that they would cost. I think it is important to make sure that that is in the public realm. It is not appropriate for me to – and nor did I – ask the department to cost opposition policies. That would not be something I would ever do. However, there are very good people in my office and in the Premier's office that were able to do some of this work. But to be honest, it is all drawn from public media releases and comments that have been made by those opposite. I am more than happy to share with you all of the references that we used to ensure that we could be confident in explaining to the Victorian community that the reckless promises that have been made by those opposite amount to $11.1 billion. That is because they have promised to reduce revenue of $11.1 billion. We know that if you start with that type of black hole, the only way to get back on track is to cut, and that includes cutting frontline services.

David Davis: On a point of order, President, the minister well knows that question time is not an opportunity to attack the opposition.

The PRESIDENT: The Treasurer was being responsive to the question that was asked. It is very hard to hear her anyway because there is a lot of yelling. Mr Limbrick is trying to hear.

Jaclyn SYMES: Mr Limbrick, I refer you to the *Age* article. It did go through and reference the evidence that backs up the amount of reckless promises that those opposite have made, including removing $11.1 billion from Victoria's ability to provide services that Victorians rely on.

David LIMBRICK (South-Eastern Metropolitan) (12:30): I thank the Treasurer for her answer, even though I had to lip-read most of it. Could I ask, then: would the Treasurer be willing to release this modelling that was done, as was promised on the Premier's website?

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (12:30): Mr Limbrick, as with any opportunity to ensure that the public are aware of the reckless promises that the opposition have made, I am more than happy to back that up.

Ministers statements: aged care

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (12:31): The Allan Labor government deeply values Victoria's public aged care services, because older Victorians deserve access to high-quality care close to home. Last week I had the privilege of attending the 2025 public sector residential aged care services forum, Rights, Respect, Reform: Aged Care in a New Era, alongside more than 200 staff from Victoria's public sector residential aged care services. Victoria remains unique in Australia for the strength and scale of its public aged care system. Our 156 services provide more than 5400 public beds across the state, with more than 90 per cent of those located in regional communities. At the forum I spoke about the critical role these services play in helping older Victorians remain connected to their families and communities and about the high-quality, nurse-led care they deliver every day. We are delivering significant capital investment in PSRACS across the state, creating modern, dementia-friendly environments with single ensuite rooms, open green spaces and welcoming communal areas that promote independence, dignity and connection. While these are critical investments, the heart of our aged care system lies in people – our residents and the workforce who care for them. Their skill and professionalism set the benchmark for care in Victoria – ensuring, for example, that more than 3500 residents received an RSV vaccination this winter – and they continue to deliver exceptional care as national reforms roll out. I am pleased to announce a new $5 million PSRACS quality improvement grant program to support providers to prepare for the new Aged Care Act 2024 and strengthened national standards. Victoria is well placed to lead aged care into a new era of rights, respect and reform, and our government will always back the sector as these important changes are implemented.

Youth strategy

Nick McGOWAN (North-Eastern Metropolitan) (12:33): (1131) My question is for Minister Blandthorn. In 2022 thousands of awesome young people contributed to the development of Victoria's youth strategy, and I am sure you are very familiar with the strategy. In addition to that, the Youth Affairs Council Victoria are calling for some action, so can you advise the house what has happened since the beginning of that strategy being announced in 2022?

Lizzie BLANDTHORN (Western Metropolitan – Minister for Children, Minister for Disability) (12:33): The question that Mr McGowan raises actually falls within the youth portfolio and is a matter for the Minister for Youth.

Youth justice system

Anasina GRAY-BARBERIO (Northern Metropolitan) (12:34): (1132) My question is to the Minister for Youth Justice. Last night the Victorian Ombudsman sent an extraordinary letter to members of Parliament warning of dire consequences from the government's announcement they would sentence children as if they were adults. The Ombudsman painted a horrific picture of a chaotic and unprofessional Victorian prison system that is already unable to humanely manage prisoners. Minister, do you accept the Victorian Ombudsman's assessment that your announcement this week will lead to the less humane treatment of prisoners, less effective rehabilitation and less community safety in the long run?

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (12:34): In short, no. But what I will say is I want to thank the Ombudsman for sharing their view. It is important that we do state that the Ombudsman is one of many oversight bodies in our state that manage our corrections and youth justice system. We have the Auditor-General, we have IBAC, we have WorkSafe and we have the independent prison visitor scheme. There are many, many bodies that do that important work, and the Ombudsman's coverage is only one part of that picture. But I do want to thank her for her interest and her concern. I did just see that letter before I entered the chamber today. I will draft a letter and respond to her concerns in due course, and I thank her for sharing that.

Anasina GRAY-BARBERIO (Northern Metropolitan) (12:35): Minister, the Ombudsman's assessment is in line with state Labor's own *Youth Justice Strategic Plan 2020–2030*, which is based entirely on the principle that community safety and youth justice are best achieved through age-appropriate responses. If you reject the Ombudsman's assessment and now also reject the key principle of your own evidence-based youth justice strategy, is it true that state Labor's youth justice policy is no longer based on experts and evidence of what works but is now being led by election polling, focus groups and the beliefs of two imaginary Victorians called Mary and Joe?

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (12:36): I thank Ms Gray-Barberio for her supplementary question. What I will say is that we prioritise community safety first. That has always been the case with every single piece of legislation that we have brought to this chamber. We will continue to do that, and we do that with no apologies. Our policies and our proposals, which we will be debating in this place shortly, are focused and targeted on that high-level harm that has been caused in the community, and again, I make no apologies for that.

Ministers statements: housing

Harriet SHING (Eastern Victoria – Minister for the Suburban Rail Loop, Minister for Housing and Building, Minister for Development Victoria and Precincts) (12:36): The Allan Labor government are really proud of our strong and ongoing partnership with the Albanese Labor government to build more homes for Victorians. Under round 1 of the Housing Australia Future Fund 4135 homes were funded for Victoria. That is 30 per cent of the Australian total. In early July this year I joined federal housing minister Clare O'Neil to announce Victoria's first completed project under HAFF round 1 in

partnership with Evolve Housing and Pace Development. This project has delivered 85 new homes, comprising 35 social and 50 affordable housing units, offering a range of one-, two- and three-bedroom units.

HAFF round 2, announced in July, will help build and operate 1275 social housing dwellings across Victoria backed by a $991 million fund from the federal government and $360 million from the Victorian government. At Bronte Court in Williamstown, where community consultation has just wrapped up, this funding will deliver 96 new social homes, a move that I know is very much welcomed by the Labor member for Williamstown Melissa Horne in the other place. At Dunlop Avenue in Ascot Vale we are replacing 11 ageing homes with 101 brand new homes that are modern, well designed and energy efficient, with improved communal spaces, and I know that the Labor member for Essendon in the other place is really thrilled to see this project going ahead. We are also building five new low-rise projects at Plunkett Street in Bellfield, Burnewang Street in Albion, Melon Street in Braybrook, Electra Avenue in Ashwood and Hilda Street in Glenroy, delivering more than 100 homes. HAFF round 2 includes the redevelopment of 30 low-rise ageing homes at Noone Street and Rutland Street in Clifton Hill. That project will see these apartments replaced with 114 brand new social housing homes. That is a 280 per cent uplift to social housing at this site.

I certainly hope to see more vocal support for these incredible projects from the Greens member for Richmond in the other place, but I will not be holding my breath. After all, it does involve the delivery of more homes in the inner city, and that is something that Greens can get behind. But while they block and while you block, we build.

Constituency questions

Eastern Victoria Region

Tom McINTOSH (Eastern Victoria) (12:39): (1970) My question is for the Minister for Education in the other place. I recently had the pleasure to announce to families at Peninsula Specialist College that they will have access to high-intensity outside-of-school-hours care. Minister, how is this expected to assist families with children with disabilities attending Peninsula Specialist College? Talking to parents at the school, they noted the challenges in finding the specialised care they need for their kids, which makes juggling work and other responsibilities difficult, especially during school holidays. Thank you to principal Trevor Hodson and school captains Rori and Emily for their welcoming tour of the school and to the many parents who joined us for the announcement. I would also like to mention Anna and her son Freddie. We had a great chat about his love for Fish Creek footy club, and from talking to the club since I can assure Anna and particularly Freddie that the feeling is reciprocal and he is much loved by the club and the players also.

Northern Victoria Region

Wendy LOVELL (Northern Victoria) (12:40): (1971) My question is for the Minister for Transport Infrastructure. Will the minister commit to funding the Beveridge train station in the 2026–27 state budget? This week Infrastructure Victoria tabled their 30-year strategy in Parliament, and recommendation 12 repeated my call to build a new train station in Beveridge as a matter of urgency. In October last year Labor announced that land around Beveridge will be one of the three priority greenfield sites where land will be released for new housing. The population of Beveridge is expected to explode, reaching 75,000 by 2041, but the town still does not have a train station, which places enormous pressure on Donnybrook station, where there is already a severe lack of parking. The Allan Labor government has completely neglected the northern growth suburbs, where Labor's planning failures have turned the Australian dream into a traffic nightmare. The minister must respect the independent advice from Infrastructure Victoria and fund the Beveridge train station in the 2026–27 state budget.

Southern Metropolitan Region

Katherine COPSEY (Southern Metropolitan) (12:41): (1972) My question is to the Minister for Roads and Road Safety. A constituent has written to me about a construction site occupying the cycling lane at 95 St Kilda Road, near Alma Road. This construction site is occupying the lane and forcing cyclists to dismount or to merge into fast traffic at the crest of a hill. Large trucks regularly frequent the site and are parked around it, and the road surface is degraded, which is compounding the risk to cyclists. Minister, St Kilda Road is a declared arterial, and my constituent has been told that the traffic approvals are a state transport issue. Has the Department of Transport and Planning approved a traffic management plan and a memorandum of authorisation for this site? And will you release it to my constituent, as he has been unable to get a copy?

Southern Metropolitan Region

Ryan BATCHELOR (Southern Metropolitan) (12:42): (1973) My question is to the Minister for the Suburban Rail Loop. How will the SRL deliver better connections and more opportunities to the constituents in the Southern Metropolitan Region? Recently I joined the minister to do a visit to the Suburban Rail Loop site at Burwood, to announce the start of major construction at the Burwood station site and announce the packages for that and other stations. Preparations are well advanced for tunnelling, kicking off next year. We had a tour. We saw the very significant hole – I suppose that is the only way to describe it – which will be the launch site for the tunnel-boring machines and our future SRL station connecting to Deakin and beyond. The SRL is a huge and very exciting project across the Southern Metropolitan region.

Eastern Victoria Region

Melina BATH (Eastern Victoria) (12:43): (1974) My question is to the Minister for Health. I have been contacted by an early childhood teacher who works directly with young children and families in my electorate, who raises serious concerns about the lack of access to essential speech therapy and occupational therapy in the Latrobe region. Families are facing wait times of more than 12 months for publicly funded support through the Latrobe Community Health Service, and that organisation had to close its waitlist halfway through the year due to capacity constraints, leaving many without a timely pathway for intervention and support. Private providers are unaffordable for many families. Noting that community health services are jointly funded through both state and federal government – also noting that early intervention is absolutely crucial for children's development, social development readiness and learning and wellbeing – Minister, my question is: what are the immediate and long-term measures that this state government will implement to expand access to these services, including increasing public allied health capacity, improving recruitment and retention of therapists and providing interim support pathways while children remain on waitlists?

Northern Victoria Region

Rikkie-Lee TYRRELL (Northern Victoria) (12:44): (1975) My constituency question today is for the Minister for Roads and Road Safety in the other place, and my constituents ask when urgent repairs on Echuca Road between Undera and Mooroopna will be undertaken. Echuca Road between Undera and Mooroopna is the main thoroughfare between Shepparton and Echuca. Hundreds of cars, trucks and buses travel up and down this busy road every single day. The current condition of this road is nothing short of appalling. Yet again we find a road littered with large potholes, deep rutting and crumbling surfaces, putting drivers and their vehicles at risk. My constituents are fed up with this being the new normal in northern Victoria. They are tired of constantly risking damage and injury driving on roads that are not up to scratch. My constituents are sick of every road being a rough ride. So Minister, my constituents ask when urgent repairs on Echuca Road between Undera and Mooroopna will be undertaken.

Southern Metropolitan Region

Georgie CROZIER (Southern Metropolitan) (12:45): (1976) My constituency question is for the attention of the Minister for Community Sport. I have been contacted by a local allied health practice in Camberwell about a state government promotion for the Get Active Victoria program. The New Skill November campaign includes a photo of two people riding a tandem bike. Neither of them is wearing a helmet, and one of them has both hands raised in the air. The psychology and counselling practice who contacted me are appalled by this and said:

> We work with people suffering traumatic brain injuries, TBIs, including those with TBI post bicycle crashes, and see the life-changing results. Other government departments such as Victoria Police are advocating for bicycle safety, and the Transport Accident Commission are spending millions of dollars on rehabilitation of catastrophic injuries, including injuries from bicycle incidents.

It beggars belief how this ad has occurred, wasting taxpayers money. Minister, will you remove the reckless image from all promotional material immediately, including the Get Active Victoria website and social media?

Northern Victoria Region

Georgie PURCELL (Northern Victoria) (12:46): (1977) My question is for the Minister for Energy and Resources. In my electorate wildlife rescuers from Bendigo, Echuca and Whittlesea have sounded the alarm on unacceptable delays from some power companies, specifically Ausnet and United Energy, in responding to incidents of grey-headed flying foxes having been electrocuted by powerlines. In some of these cases mothers have died with their live pups clinging to powerlines, and rescuers have reported waiting up to 6 hours for crews to arrive, during which time the pups have suffered and ultimately died. By contrast, Powercor has in most cases responded promptly and understood the urgency required in these situations for this vital keystone species. What action is the minister taking to ensure all electricity distribution companies implement consistent, timely response protocols for wildlife rescuers across northern Victoria?

Northern Metropolitan Region

Evan MULHOLLAND (Northern Metropolitan) (12:47): (1978) My constituency question is to the Minister for Multicultural Affairs, and it concerns the Lebanese immigrant monument in Preston, in my electorate. Hopefully the minister is aware that this much-loved piece of cultural heritage for our local Lebanese community was stolen, a shocking occurrence for our vibrant and strong Lebanese community here in Victoria. It was very sad last year for the community. To quote the World Lebanese Cultural Union, the statue:

> … stands as a testament to the contributions of Lebanese emigrants who have supported their nation in challenging times.

Minister, it is vital that this statue be replaced. I understand there has been back and forth with the government, government members and the council about pathways to do this. I ask you to urgently work with your department to support this fantastic Lebanese community and help find a pathway forward for this to be replaced.

Western Victoria Region

Sarah MANSFIELD (Western Victoria) (12:48): (1979) My constituency question is for the Minister for Environment. Community members have raised concerns regarding kangaroo shooting on unfarmed land close to residences in Dunkeld, in my electorate. They have shared with me reports of feeling unsafe, intimidated and harassed, including having kangaroo body parts left mere metres from private properties. I understand that some residents have left the town due to the distress, others have required psychological support and others have had their businesses impacted. But the recurring trauma continues as these events seemingly go unchecked, despite being reported to authorities since 2017. Minister, what is being done to protect the safety and wellbeing of residents in relation to kangaroo harvesting in Dunkeld?

South-Eastern Metropolitan Region

Ann-Marie HERMANS (South-Eastern Metropolitan) (12:49): (1980) My question is to the Minister for Health. Minister, I have been made aware of urgent concerns about Dandenong Hospital's maternity and newborn services. Reports suggesting plans to downgrade maternity from level 4 to level 3 and the special care nursery from level 3 to level 2 are concerning. Will the minister confirm if this is true, and if so, indicate what steps will be taken to protect clinical safety, retain skilled neonatal staff and ensure culturally safe care for our diverse, low-income community? And will the government guarantee that no service reductions will occur until an independent equity and impact assessment is completed and full community consultation happens? Families in Dandenong deserve certainty, not local situations where they are depleted of their services. Local maternity care must remain safe, accessible and fully supported.

Western Metropolitan Region

Trung LUU (Western Metropolitan) (12:50): (1981) My question is for the Minister for Public and Active Transport, concerning the bus route 192, which operates between Werribee station and Wyndham Vale station via Black Forest Road. Commuters are promised a service every 20 minutes, yet the 192 route currently runs only every 45 minutes between 8 am and 9 am and 3 pm and 4 pm, and it regularly fails to align with the train timetables. One of my constituents, Donna, who suffers from epilepsy, relies on this service in the afternoon to catch the train at 3:59 pm. Unfortunately, the bus is often 10 minutes late, causing her significant stress when she misses the train and regularly makes her late for work. So I ask the minister: can she please update my constituents on what is being done to provide a more reliable and frequent bus service for commuters using the route 192 in Werribee.

Western Victoria Region

Bev McARTHUR (Western Victoria) (12:51): (1982) My question is for the Minister for Roads and Road Safety. Minister, will you join me in nominating the intersection of Eurambeen-Streatham and Mount William roads for funding under the Commonwealth black spot program? This week the Pyrenees shire was hit with heartbreaking news: the loss of three members of a family and the hospitalisation of another at this very intersection. Council applied for funding to fix this intersection back in September, but the outcome will only be known in early 2026. While their preferred treatment would cost $3 million, councillors opted to apply for the more affordable, staggered T-intersection and a reduction in the speed limit from 100 kilometres an hour to 80 kilometres an hour. Like too many federal and state grants, the application process is costly, the reporting requirements are burdensome and the funding conditions are prohibitive. Minister, will you intervene to lobby the Commonwealth to deliver these much-needed funds?

Southern Metropolitan Region

David DAVIS (Southern Metropolitan) (12:52): (1983) My matter for constituency questions today is for the Minister for Planning. I am in receipt of communication from local councils, including Stonnington and others, but I am going to focus on the Whitehorse council correspondence today. I ask the minister to respond directly to the council but to make those responses public. Whitehorse writes, in a letter dated 11 November:

> In summary we do not support:
>
> - The expansion of deemed-to-comply (code assess) provisions to buildings of 4–6 storeys in height and subsequent degradation of neighbourhood character without strategic justification;
> - The draft standards being applied to all residential zones …
> - Removal of third party appeal rights for this building typology where the standards are met;
> - Lack of community and local government engagement on the draft standards;
> - Dilution of current and future strategic work …

Again, this is part of the government's grab for power, its authoritarian approach, which is overwhelming local communities and councils. I ask the minister to desist and to respond to the council in detail and make that public.

Sitting suspended 12:53 pm until 2:02 pm.

Bills

Voluntary Assisted Dying Amendment Bill 2025

Committee

Resumed.

Clause 6 further considered (14:02)

Gaelle BROAD: Just briefly, I am very supportive of this being very specific about the information and then having it in the act so that it is under the Parliament.

David LIMBRICK: The Libertarians will also be supporting this amendment. Although I accept the intent as outlined in the explanatory memorandum by the minister that this minimum amount of information was all that was intended, I have spoken to many people who have expressed concerns about the expansion of this. I appreciate the amendment by Mr Batchelor that limits that expansion.

Amendment agreed to.

Enver ERDOGAN: I move:

1. Clause 6, lines 15 to 33, omit all words and expressions on these lines and insert –

'(1) For section 7(a) of the Principal Act **substitute** –

"(a) to participate in any part of the provision of voluntary assisted dying, including the provision of information or referral;".

(2) At the end of section 7 of the Principal Act **insert** –

"(2) A registered health practitioner who has a conscientious objection to voluntary assisted dying must not be required by any person, body, employer or professional standard, to –

(a) advise a person that another registered health practitioner or a health service provider may be able to assist the person in relation to information about or access to voluntary assisted dying, or any other medical or health service to which the practitioner has a conscientious objection; or

(b) give the person the information approved by the Secretary.

(3) A registered health practitioner who has a conscientious objection to voluntary assisted dying –

(a) does not contravene any professional duty, standard or code of conduct; or

(b) is not subject to any civil, criminal, administrative, or disciplinary liability, or any detriment in employment or professional standing, for acting in accordance with subsection (2).

(4) Nothing in this section prevents a registered health practitioner who does not have a conscientious objection from providing such advice or information if they so choose.

(5) This section has effect despite anything to the contrary in any other Act or law.".'.

This is the first one, which is I guess on the same point about conscientious objection. I will not speak at length on this because I have already spoken earlier. I do want to obviously commend the house as well, as we have made significant improvements. Many of my concerns have been alleviated, but not all of them, through the amendment which we supported, Mr Batchelor's amendment, which we just voted on. Thank you, Mr Batchelor, for that amendment. However, I do still have some concerns about the conscientious objection and that human right being contested and removed in effect through this section of the act. In particular I know Dr Mansfield made it sound like it is just a procedural courtesy, a simple handover. As I view it, in substance, it turns the right of withdrawal into a compulsion for

facilitation. That is still my fundamental concern, and it is what I heard from medical practitioners in this field, including Dr Parnis and others, that I did speak to during this debate on this issue in the lead-up to today.

I have already outlined my other concerns about how I feel like this is asking some health professionals to surrender a very important freedom of conscience in these matters, which does not sit comfortably with me. This section has been my principal concern all along with this bill, and that is why I feel like my amendment is stronger than what has already been accepted by the house, and I urge all members to support it.

David LIMBRICK: I thank Mr Erdogan for bringing forward this amendment. Although Mr Erdogan and I landed at slightly different places in our weighing up of the expansion of the rights of patients versus the limitation of the rights of doctors, I share his concern – and this is my main concern about the bill – in having this limitation of the rights of doctors and other health professionals, and therefore I strongly support this amendment.

Gaelle BROAD: I just appreciate you putting forward this amendment – through you, Deputy President – because I think it is so important that we maintain people's freedom, and to have that specifically put into the act I think is a positive move.

Georgie CROZIER: Mr Erdogan, I appreciate that you have brought this amendment to the house. I think your concerns are very genuine, although we have not had an opportunity or you did not reach out to speak to me about your amendments, so I have not had that conversation with you. I do appreciate and understand the intent, but I will not be supporting your amendments.

Ann-Marie HERMANS: Mr Erdogan, I appreciate, value and respect your fight for doctors and for the need for people to have their conscientious objection. We did have an opportunity to have a short chat in this chamber, and I am very happy to support your amendment.

Ingrid STITT: I do not support this amendment to remove the requirement for health practitioners with conscientious objection to VAD to provide minimum information. The AMA position on conscientious objection states that medical practitioners:

> … have an ethical obligation to minimise disruption to patient care and must never use a conscientious objection to intentionally impede patients' access to care.

I note that we have talked at some length today in committee about the minimal nature of the information.

Evan MULHOLLAND: I will be supporting this amendment for the reasons that I explained before. I see this as an improvement to the bill. I hear the arguments about the need to have a sensible balance between the rights of the patient and the rights of the medical professional. We should actually view laws in this place that we make as a shield, not a sword. What I see this amendment doing is creating that shield for conscientious objectors. In the electorate that Mr Erdogan and I represent there are very deep concerns about impinging on very, very deeply held beliefs and viewpoints. This is certainly an amendment that comes from a good place and comes from a huge amount of correspondence, as I am sure Mr Erdogan is getting as well, and feedback from medical professionals in our community who are very concerned about their rights, about protecting their conscience and about the need for them to be protected, so I will be supporting this amendment.

Sarah MANSFIELD: As I have indicated previously, we think clause 6 of the bill is really important and will be supportive of it. While I appreciate where Mr Erdogan is coming from with this – and other members of the chamber – as I have said before, I think patients also have a right of access to information and to health care. I think just to touch on some comments that were made earlier about things like the Hippocratic oath, we do not typically use the Hippocratic oath anymore; it is the World Medical Association Declaration of Geneva. There are some really important principles in that

for medical practitioners, which are that you solemnly pledge to dedicate your life to the service of humanity:

> THE HEALTH AND WELL-BEING OF MY PATIENT will be my first consideration …

is something in that, and –

> I WILL RESPECT the autonomy and dignity of my patient …

They are really critical principles that medical practitioners sign up for, and I think that is reflected in this amendment, ensuring that they have access to that basic bit of information.

As I have said, I think the practitioner's right to conscientiously object is a really important one. They do not have to assist in the provision of voluntary assisted dying. They do not have to be a consulting or coordinating practitioner. They do not have to be involved in administration. But if a patient comes to them and asks for some information about a legally available healthcare option, they should be able to access that information. Health practitioners are looked to for that sort of information, and they should be able to obtain it.

Lizzie BLANDTHORN: I have already spoken at length on these matters and indicated that I wish to support Mr Erdogan's important amendment. I guess, to continue my earlier comments, our approach to this should not be about individuals and individual decision-making but how as a Parliament of a civil society we have a responsibility to act in the best interests of the whole of society. As a democratic society there can be nothing more important, in my view, than upholding the fundamental democratic principles on which our society is built, and I think the Victorian charter of human rights is a particularly profound reflection of this. As I indicated earlier, it says:

> Every person has the right to freedom of thought, conscience, religion and belief, including –
>
> …
>
> the freedom to demonstrate –

his or her –

> … belief in … observance, practice and teaching, either individually or as part of a community, in public or in private.

I think to not support Mr Erdogan's amendment is to not support the Victorian charter of human rights, and it is also contrary to, I guess, the fundamental principles of our democratic society.

Ann-Marie HERMANS: I do want to just read something based on what Dr Mansfield said. While it is acknowledged that the declaration of Geneva is often the process which Australian doctors now go through, Victorian doctors' commitment to the profession is expressed in both the declaration of Geneva and the Hippocratic oath. On the Australian Federation of Medical Women website, the voice of Australian medical women, you will find the Hippocratic oath, where it talks about the importance of practising a profession with conscience and dignity, and also:

> I will maintain the utmost respect for human life;
>
> I will not use my medical knowledge to violate human rights and civil liberties, even under threat;
>
> I make these promises solemnly, freely and upon my honour.

That, for many people in the medical profession, means that they do not feel that they can be participating or even expressing anything to do with voluntary assisted dying. It really goes against their conscience and their beliefs. So again, acknowledging what was shared by Minister Blandthorn about human rights, I do feel that this is a really important proposition and amendment that has been put forward by Minister Erdogan, and I just thank him for the work he has done on this and his acknowledgement of talking to the doctors.

Council divided on amendment:

Ayes (16): Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Renee Heath, Ann-Marie Hermans, David Limbrick, Trung Luu, Bev McArthur, Joe McCracken, Evan Mulholland, Adem Somyurek, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, Melina Bath, John Berger, Katherine Copsey, Georgie Crozier, Jacinta Ermacora, David Ettershank, Anasina Gray-Barberio, Shaun Leane, Wendy Lovell, Sarah Mansfield, Nick McGowan, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Amendment negatived.

Ann-Marie HERMANS: I move:

2. Clause 6, lines 15 to 33, omit all words and expressions on these lines and insert –

'(1) For section 7(a) of the Principal Act **substitute** –

"(a) to participate in any part of the provision of voluntary assisted dying, including the provision of information or referral;".

(2) At the end of section 7 of the Principal Act **insert** –

"(2) A registered health practitioner who has a conscientious objection to voluntary assisted dying must not be required by any person, body, employer or professional standard, to advise a person that another registered health practitioner or a health service provider may be able to assist the person in relation to information about or access to voluntary assisted dying, or any other medical or health service to which the practitioner has a conscientious objection.

(3) A registered health practitioner who has a conscientious objection to voluntary assisted dying –

(a) does not contravene any professional duty, standard or code of conduct; or

(b) is not subject to any civil, criminal, administrative, or disciplinary liability, or any detriment in employment or professional standing, for acting in accordance with subsection (2).

(4) Nothing in this section prevents a registered health practitioner who does not have a conscientious objection from providing such advice or information if they so choose.

(5) This section has effect despite anything to the contrary in any other Act or law.".'.

In this I have sought to do exactly as many of my colleagues have also been doing. This amendment is simply to allow people to have a conscientious objection. It is another attempt to go through the opportunity to have that conscientious objection. I am aware that with some of the changes we have made we have defined some of these practitioners who will be involved and who will not, so there are perhaps some areas where this could have been changed in retrospect. But again, I am such a strong proponent of people who work in the medical profession having the right to have a conscientious objection. Given that we have already attempted to vote on that, I suspect we are not going to get anywhere again by putting it forward a second time. I am considering whether I should withdraw this on that basis.

A member interjected.

Ann-Marie HERMANS: Yes. I am happy to vote to support it and not divide on it. Again, I feel very strongly about this, living in a world where I rub shoulders with doctors, nurses and professionals all the time. Those in the south-east have expressed concerns to me that they feel constantly bombarded by the current government now and in its previous term and unable to work and live freely in this state according to their conscience without repercussions. That was the reason that I put this forward, based on the concerns that people have.

The DEPUTY PRESIDENT: I would just like to clarify, because you said you were withdrawing the amendment and then you said you were moving it. Which one are you doing?

Ann-Marie HERMANS: I am just listening to my colleague here. I am going to call it, but I am happy to take it on the voices.

Georgie CROZIER: I will not be supporting Mrs Hermans's amendment.

Ingrid STITT: I will not be supporting the amendment.

Evan MULHOLLAND: I will be supporting this amendment for the same reasons I outlined that I am supporting Mr Erdogan's amendment, but I am seeking not to divide.

Sarah MANSFIELD: I will not be supporting this amendment on the same basis as previous comments about similar amendments.

Enver ERDOGAN: I wish to express my support for this amendment, as it is quite consistent with the principles I outlined, and I want to thank everyone for their work in bringing these really important amendments to the chamber. But I will not be calling for a division.

Renee HEATH: I will also be supporting this amendment for the reasons I outlined in my speech.

Lizzie BLANDTHORN: I also indicate that I support the amendment.

Moira DEEMING: I also would like to indicate that I will be wholeheartedly supporting this amendment.

Gaelle BROAD: I wish to voice my support for this amendment, because I do believe that it is important to give people freedom of choice and freedom of conscience.

Amendment negatived.

Ann-Marie HERMANS: I move:

1. Clause 6, line 31, omit "and" and insert "or".

This is one that I feel very strongly about as well, given that we have clarified – and I do feel very grateful that we have clarified – what the secretary will be providing. We have also clarified how a doctor will be able to do the referral, given that we have taken away the ability for a doctor to have that freedom of choice. I feel that by changing the 'and' to an 'or', it provides an option for doctors who feel that they need to work according to their conscience. By prescribing an 'and' it actually puts them in a situation which they still may not feel entirely comfortable, but by changing the 'and' to an 'or', it at least gives the medical profession a little bit of autonomy to decide which way they will provide that information on voluntary assisted dying. It is a very innocuous change, but it gives just the smallest element of choice to a doctor without taking away the opportunity to provide voluntary assisted dying to any patient that is in the situation where they are at end of life. So it would still allow that patient to have access to voluntary assisted dying, but it gives the doctor a choice as to how they provide that information according to their own conscience. I would strongly urge the house to please support this, because it is a very, very minor change to the bill, but just provides the tiniest bit of autonomy for doctors to have that choice. Instead of doing two things, they have the choice of one or the other, and the patient still has access to voluntary assisted dying.

Ingrid STITT: I will not be supporting Mrs Hermans's amendment. This would have the effect of undoing the amendments that we have had broad support for, from both Mr Galea and Mr Batchelor, which were the subject of a lot of discussion across the chamber. So no, we will not be supporting this amendment.

Sarah MANSFIELD: I will not be supporting this amendment. While it might be one small word change, it actually has quite a significant effect on the application of this clause. It would mean that a conscientious objector could, for instance, if someone asked about voluntary assisted dying, say, 'You

can see someone else to provide that.' There is no obligation to actually do the referral or indicate who that person might be. It would then mean that that doctor does not have to follow through with the information requirement, which I think is one of the key things in this amendment. It is barely an improvement on what we have now, to insert an 'or'. The 'and' is actually critical. So it is important that someone knows there are other people out there who can provide this service. That is useful information to have, but it needs to be backed up by some basic information which will, following Mr Batchelor's amendments, quite clearly be information about the care navigator service and the website. That set of information altogether is what is really critical here.

Georgie CROZIER: Given my comments in relation to Mr Galea's and Mr Batchelor's amendments, and being consistent with that, I agree with what the minister has said and therefore will not be supporting this amendment.

Ann-Marie HERMANS: I have a point of clarification. I fail to understand, and maybe that is from still being relatively new in the chamber, how changing the 'and' to an 'or' completely takes away from the amendments that have been passed by Mr Galea and Mr Batchelor. When there are two requirements at the moment and we have now simply specified what those two requirements are, it does not actually take away from Mr Galea's or Mr Batchelor's amendments at all, as I understand it. I would like to seek the counsel of the house, because as I understand it we are simply giving doctors a choice of one or the other. It is not taking away from whether the person has access to voluntary assisted dying. It does not mean that they simply do not have to say or do anything; they do have to do something. They have to make a choice, and they have to make sure that the person has access to voluntary assisted dying and that they have access to the information. It does not negate that; it simply gives them a choice as to how they receive that information and to what extent the doctor is involved in prescribing that information. Could I have some clarity, please, from the house, as to how this negates Mr Batchelor's and Mr Galea's amendments?

The DEPUTY PRESIDENT: That is not a point of order or a point of clarification; it is actually a question. I believe it was the minister that said that.

Ingrid STITT: Essentially replacing 'and' with 'or' has a fundamental impact on any clause. We have just gone through amendments that deal with both the requirement for a health practitioner with conscientious objection to VAD to provide information. All the house has adopted Mr Batchelor's amendment, which I understand was very, very similar, almost identical, to Mr Mulholland's amendment, to give clarity on what information would need to be provided. To only say 'Someone else can help you' without anything more does change the intent of the clause. I think we just need to agree to disagree on this question.

Ann-Marie HERMANS: My understanding is that whilst we may agree to disagree, it does not actually delete Mr Batchelor's or Mr Galea's amendments; it provides the choice. And it does not delete the option for the person to have voluntary assisted dying, because the doctor, should they choose to pick referral as the option, is having to refer to a place that is going to actually provide all the details and the information and the opportunity for voluntary assisted dying. Would that be accurate, Minister?

Ingrid STITT: This is your amendment, Mrs Hermans, so presumably you are clear on what the implication of your own amendment would be. I am not sure exactly what else there is for me to say other than what I have already put on the record about why I will not be supporting your amendment.

Ann-Marie HERMANS: I respect that, but the issue is that the impression that was just given in the response was that it is going to mean that the person will not have access to voluntary assisted dying. That seems to be the objection to it, but that is actually not the case. As you and I both understand, they will have the access to it; they just will have the doctor only having to prescribe one option for themselves and having the most minute amount of autonomy in the decision-making process. Is that accurate?

Ingrid STITT: No. Mrs Hermans, I just do not accept your explanation of these matters. The point about Mr Batchelor's and Mr Galea's amendments is about how the scheme operates for those medical practitioners with conscientious objection to VAD. I am sorry, but I think you are misunderstanding the operation of your own amendment.

Evan MULHOLLAND: I will be supporting this amendment, but I do appreciate holistically the connections in the clauses with Mr Galea's amendment and my amendment, which is now Mr Batchelor's amendment, and operationally how this may make things different in different parts. But overall, I think it is an improvement to the bill, so I will be supporting it. Having read the room, I will be calling it and seeking not to divide, but that is for the chamber.

David LIMBRICK: I will be opposing this amendment. My understanding of the effect of this amendment is that it will have a sort of weird consequence in that a medical professional would be able to tell someone that they need to go somewhere else and then tell them nothing else, which I think is actually worse than what has been agreed on already. I will not be supporting it.

Amendment negatived.

Evan MULHOLLAND: I have some questions on clause 6, and I can go to others after this group of questions. I assume there will not be a division for a little while, if anyone wants to go back to their offices. There was, Minister, a 2024 paper for the *Australian Health Journal* that basically found that whether you provide VAD or not, it is an added resourcing pressure. Some of our bigger public hospitals here in Victoria – St Vincent's, for example – hire specialised legally trained VAD officers to navigate the VAD laws here in this state. They currently receive no additional funding for this. How is the government managing or supporting the resources of those services that interact with VAD, given the well publicised financial pressures on our health services?

Ingrid STITT: Mr Mulholland, the 2021 budget committed $23 million over four years and $5.8 million ongoing for delivery of VAD in Victoria. That includes the statewide pharmacy service; the care navigator service, which includes support packages; the Voluntary Assisted Dying Review Board; the voluntary assisted dying portal, development and improvement, which is used by the VAD board for applications; and departmental staffing. Separate to that funding, it is also part of the overall funding that each health service would receive based on their budget deliberations with the department each year and their activity.

Evan MULHOLLAND: I am just seeking to understand the last part of your answer in regard to the overall budget – and I am happy for you to take this on notice; these are genuine questions that I can come back to – whether there is a specific amount, a specific line item, that hospitals would receive. The bigger hospitals do absorb this cost. It is a cost that is absorbed. I would be keen to know, particularly towards the end of your contribution, ballpark figures. What services are provided? What is the funding provided specifically to our hospitals to navigate the VAD laws? From my understanding many hospitals absorb that cost and it is not a cost that is offset. I am seeking greater clarification, and I am very happy for you to take that on notice.

Ingrid STITT: What I can say broadly, Mr Mulholland, is that our health services, including obviously major tertiary hospitals, negotiate their model budgets with the department each year, and presumably if they have need in this area they would seek for their model budgets to include this work. Each health service signs off on that process. But in terms of specific figures, I am not in a position to have them to hand right now. I can see if we can take it on notice, but we may not be able to get precise figures because of the nature of how model budgets are reached.

Evan MULHOLLAND: How is the government ensuring adequate staffing and training involving compliance with the VAD legislation?

Ingrid STITT: As well as accepting in principle the recommendations of the five-year review, Mr Mulholland, this does include greater support for medical practitioner engagement through

expanding statewide availability. Obviously we are debating these issues around expanding the statewide availability of medical practitioners and supporting their psychological safety and wellbeing and enhanced training. To address the issue now, the statewide care navigator service runs a number of medical practitioner training days each year, which is where most medical practitioners who provide VAD complete the required training. There is also a community of practice providing peer support, debriefing and consultation to medical practitioners who provide VAD services to support ongoing engagement. But there will be, as I indicated, further work as a result of accepting recommendations from the five-year review.

Evan MULHOLLAND: I thank the minister for answering those questions. Again, they were all genuine answers. I am looking forward to receiving the information on that on notice, and I thank the minister for that. The minister kind of indicated in the lower house that there is no new offence created in relation to a breach of this clause. However, does the government acknowledge that compliance with civil law is a normal requirement for insurance, registration and employment contracts for health practitioners, so the penalty for conscientiously objecting to VAD is that your job and ability to earn a living could be put at risk?

Ingrid STITT: Mr Mulholland, health practitioners' registration and conduct are regulated by the Health Practitioner Regulation National Law, which is administered by the Australian Health Practitioner Regulation Agency. Another health practitioner, employer or member of the public can choose to notify AHPRA if they consider a health practitioner is not acting in accordance with their profession's code of conduct or relevant registration, and AHPRA and the relevant health practitioner national board assess and deal with notifications. So the types of regulatory action a board takes in response to notifications change as risk changes.

Evan MULHOLLAND: I guess that is the whole reason I particularly asked this question. It seems to me like the government, in a roundabout way, does acknowledge that any breach of civil law could – and likely would if someone complained about it to AHPRA and others – result in a loss of insurance and possibly a loss of registration, and their ability to earn a living within their field would be put at risk. That is not a particular question, but it is something that I have great fear about occurring in my community. I know many medical professionals who consider this as a matter of serious conscience that they do not think that they can abide by. Yes, it is something that we are all here putting into new legislation, but for people out in my community, it is very serious. They are very, very worried about the consequences and their future in the profession as a result of this legislation. I will leave it there.

Ingrid STITT: I will comment further. Just to clarify, Mr Mulholland, that no offences or penalties have been included in relation to this part of the bill, and the Department of Health will take an educative approach to support health practitioners to meet their patients' needs in a way that minimises what is required of them, and they will be providing guidance as well on these matters. It is important in the context of your concerns to note that there are no penalties or offences in the bill.

Ann-Marie HERMANS: There may not be some consequences put into the bill, but the reality is that the way the bill is and the way it is being passed, doctors that choose not to refer, facilitate or have that conversation are going to be in a situation where they will be in breach of legislation and will therefore have the impact of the full consequences of the law. We know quite well that in the past, when doctors have tried to express their conscientious objections and when nurses have tried to express their conscientious objections in other fields – be it COVID vaccination, be it abortion and working in the abortion wards – there have been consequences for those people in the medical profession.

I do want to also express – and I have this from somebody who has sent this in – that many doctors' practices are small businesses. Putting the requirement on these small businesses, who do not provide VAD, do not wish to have the conversations, to have to find, establish and maintain the administrative records of other professionals who do, is creating that administrative red tape. I know some of that has been dealt with in some of the amendments but not really fully. People should be reminded that doctors are often in small businesses, and it would be perhaps a better outcome if the government had

considered that there be specific health professionals who provide a helpline service. I know that we have passed some of Mr Batchelor's amendments to have an internet site, but it would have been helpful if there were certain people that were set aside with an info helpline number to have that extra red tape taken out of the hands of doctors, so that those that do not feel comfortable would have had an option.

I think the situation is that in no other industry, other than what we are now prescribing here, has any legislation required a small business to refer people to competitors if they cannot provide the goods or services. In this case, with people having to be forced to have these conversations, we are not only putting these doctors with these small businesses at risk but also expecting people to have conversations which they may not feel comfortable with. This particular new section is all about having people who can actually initiate these conversations, who perhaps may not even know the full details, too, of patients. To me, it is negligent of the government to be pushing this into legislation, and the effects that this can have on people's lives are troubling for me.

Ingrid STITT: Mrs Hermans, I am finding it challenging to respond to some of the issues that you are raising because they are based on a false premise or understanding of what the bill before us is seeking to do. No-one is being forced to have conversations; that is the first important point to clarify. You are also making a number of assertions about what you are saying has not been provided to medical practitioners which are also based on perhaps not having the full picture. The care navigator service provides the supports that you described in your most recent contribution. Providing VAD services is still a choice, and that is the fundamental point here.

It is probably timely for me to just remind the chamber that this provision in the bill that we have been discussing for a while aligns Victoria with Queensland and the ACT, where the system has been operating safely and effectively.

Ann-Marie HERMANS: Sorry if I am a bit slow on the uptake here, Minister, but I would just like to clarify: are you saying that there will be an info helpline that will be available through the navigator services? Could you please clarify that? I obviously am not in the know if that is the case and have not been given that information.

Ingrid STITT: Those medical practitioners and specialists that provide VAD services already have access to that type of support now through the care navigator system.

Council divided on amended clause:

Ayes (24): Ryan Batchelor, Melina Bath, John Berger, Katherine Copsey, Georgie Crozier, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Shaun Leane, Wendy Lovell, Sarah Mansfield, Nick McGowan, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

Noes (14): Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Renee Heath, Ann-Marie Hermans, David Limbrick, Trung Luu, Bev McArthur, Evan Mulholland, Adem Somyurek, Richard Welch

Amended clause agreed to.

New clause 6A (15:05)

Enver ERDOGAN: I move:

1. Insert the following New Clause to follow clause 6 –

'6A New section 7A inserted

After section 7 of the Principal Act **insert** –

"**7A Application of human rights and equal opportunity legislation to conscientious objection**

A conscientious objection to voluntary assisted dying –

(a) is an aspect of the right to freedom of thought, conscience, religion and belief under section 14 of the **Charter of Human Rights and Responsibilities Act 2006**; and

(b) is taken to be an attribute for the purposes of the **Equal Opportunity Act 2010** as if it were listed in section 6 of that Act; and

(c) is taken to be a protected attribute for the purposes of Part 6A of the **Equal Opportunity Act 2010** as if it were listed in section 102B of that Act.".'.

I appreciate the opportunity to speak to my new clause to follow clause 6, clause 6A, which seeks to insert a new section 7(a) into the act. The purpose of this is similar to the principles we have just discussed, about conscience being a living principle that allows people to exist with difference but without fear. I think that is the key, that principle in the Charter of Human Rights and Responsibilities about freedom of thought, conscience, religion and belief. This will ensure that where people exercise that fundamental human right they are not persecuted. I think that is appropriate and consistent with some of the other legislation we have in our state, such as the Equal Opportunity Act 2010, the human rights charter and our very own anti-vilification legislation that this session of Parliament passed. In light of that, I move this new clause, because for many people that work in the profession compassion and conscience are not competing instincts – they are one and the same. I do not believe they should be compelled to act against their conscience, and they should not face adverse action as a result of holding those instincts and acting on them or choosing not to act in relation to them.

Evan MULHOLLAND: I would like to really thank Mr Erdogan for moving this new clause. I think this is a really interesting way of looking at things. It is certainly something I would not have thought to put in there, but I quite like how this new clause is put together and how it relates to the different acts of Parliament that have been passed in this place that do provide those significant protections for people of different beliefs. I know many in this chamber who might be inclined to support this bill or oppose this amendment have spoken of the specific need – I think everyone has – to protect religious communities from vilification and from discrimination. Highlighting that in this new clause is really important. It is something that my community would appreciate. I think this is an amendment worth supporting. The intent of it is very good and it will hopefully go a long way to making clear the intent of a whole bunch of pieces of legislation in this place and not cast them to one side like they do not matter because of this. This is where we talk about conflicting rights. As I said before, legislation should be a shield, not a sword. This certainly goes a long way to doing that, so I thank Mr Erdogan for bringing this forward, and I will be supporting it.

Ann-Marie HERMANS: I absolutely want to thank Minister Erdogan for his contribution, particularly for the work that he has put into this new clause to place into the amendment bill information on aspects of freedom of thought, conscience, religion, the Charter of Human Rights and Responsibilities Act 2006, the Equal Opportunity Act, and the purposes that are underlined. I do think this new clause will protect our medical profession in Victoria and sustain our medical professionals so that they feel that they are also protected by the law. It will give some comfort to those who have felt in the past persecuted by this government through legislation, that they have not been protected, that they have not had the opportunity to be protected by the charter of human rights or that there has been conflict in legislation that has been passed in Victoria in the past. They need to know that there is some comfort and some protection and that there will not be a loss of practice, loss of their small business or loss of their services, so that we do not have a mass exodus from this state. We already have a shortage of teachers and a shortage of police; the last thing we need is a continual spiral of a shortage of doctors, medical practitioners and nurses. We need to protect our professions. We need to show respect to every individual in this state, and we need to govern for all people, not just some. On that basis I wholeheartedly support this amendment, and I thank the minister for his work on it.

Lizzie BLANDTHORN: I also thank Mr Erdogan for this amendment. Again, as a unionist, I find this a particularly important amendment. I think it is one, as Mr Mulholland and others have spoken to, that speaks to consistency across our legislation in terms of how people are treated before the law

and how their rights and responsibilities are upheld and also that people not be penalised for exercising their fundamental freedoms of thought, conscience, religion and belief, which as I outlined in my earlier contributions, is a fundamental human right. It is absolutely true that following the 2017 debate there are particularly doctors but others in this state as well who have experienced adverse impositions on them as a result of the positions that they have taken in relation to the application of the voluntary assisted dying scheme. I think coming from the perspective that Mr Erdogan does as a former workplace lawyer, this is a particularly important amendment that is grounded in deep experience and understanding of the law. I thank Mr Erdogan for his contribution, which I think was particularly eloquent, in relation to this matter and for his persistence with this amendment, because I think for anybody who wishes to uphold not just fundamental freedoms but also workplace rights this amendment is worthy of support, and I certainly support it to that end.

Moira DEEMING: I would just like to put on the record that I appreciate this amendment, and I will be supporting it.

Michael GALEA: I wish to indicate that I will be supporting this amendment, and I thank Minister Erdogan for bringing it to the chamber. I agree that this is a fundamental principle of human rights and indeed workplace rights as well, as Minister Blandthorn has outlined. I believe that it would fit well and in accordance with this act that these rights that are enshrined in this act are further protected in the way that Minister Erdogan has outlined.

David LIMBRICK: I also thank Mr Erdogan for bringing forward this amendment. It is a very interesting, probably the most interesting, amendment to the entire bill. I have undergone a bit of a change in my views on the human rights charter, though. When I first came here I think you could call me a true believer in the human rights charter. I have gone from that to now I would happily repeal the charter and abolish the human rights commission without the slightest hesitation. I am also deeply sceptical of the anti-vilification laws. Regardless of that, I do think that it is a good idea to have this in there, and therefore I will support it.

Sarah MANSFIELD: I will not be supporting this amendment. This is quite a significant amendment in that it makes conscientious objection to voluntary assisted dying a protected attribute in and of itself. Religious belief and activity are protected under these charters, and that will remain so – and under all of the relevant acts. I think that is appropriate. I think there are adequate protections for conscientious objection in all of these pieces of legislation and in the voluntary assisted dying bill that is before us. I think to make a conscientious objection to voluntary assisted dying a specific and explicit protected attribute is a considerable change to these acts. In the interests of the potential consequences of this, with all respect, Mr Erdogan had not canvassed these amendments with me and has not explained the implications of them. I have not had the opportunity to think about what the implications of this might be into the long term. This is quite a significant change. I am not comfortable with supporting such a considerable change to the interpretation of some of these other acts.

Georgie CROZIER: I wanted to listen to the debate on this amendment, and I am glad I have been sitting here, because I think it has been actually quite interesting. On the face of it, it actually is understandable why Mr Erdogan would move this to enable doctors to be able to exercise their conscientious objection. However, I do have somewhat of an issue with it, given that this is not going against those people that do have the conscientious objection, it is just allowing patients that want the information to have it provided. For those reasons, I cannot support it, but I have been quite interested in this one. As Mr Mulholland just said in my ear, it has been quite creative. However, on this occasion I will not be supporting it, but I do thank you for bringing it forward and adding this interesting element to the debate.

Renee HEATH: Minister, I want to thank you for bringing forward this amendment. I think that it is very difficult to say on one hand that we support a free and pluralistic society, and on the other hand not allow people to live according to their individual conscience if that does not come under what the state thinks you should say. I think it is fantastic and I will wholeheartedly be supporting this.

Ingrid STITT: I am indicating that I do not support this amendment of my colleague. I have already made some comments in relation to a different amendment about how the freedom to hold a belief, such as conscientious objection to VAD, is absolute, but that has to be balanced and subject to reasonable limitations so that patients can also exercise their freedom. The right to conscientious objection is already protected under human rights and equal opportunity legislation, and indeed, the bill before us and the VAD act, so on that basis we will not be supporting the amendment.

Gaelle BROAD: I just want to thank the minister for putting forward the amendment because I guess this has been a big issue in the bill for me, so I see it certainly as an improvement. I do feel that there has been a shift in this debate that will widen, and the safeguards that were put in place when this was first debated back in 2017 are now being seen as barriers that are being removed. I feel that this would go some way to addressing the concern I have with that expansion, so I will certainly be supportive of this.

Council divided on new clause:

Ayes (16): Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Michael Galea, Renee Heath, Ann-Marie Hermans, David Limbrick, Trung Luu, Bev McArthur, Evan Mulholland, Adem Somyurek, Rikkie-Lee Tyrrell, Richard Welch

Noes (23): Ryan Batchelor, Melina Bath, John Berger, Katherine Copsey, Georgie Crozier, Jacinta Ermacora, David Ettershank, Anasina Gray-Barberio, Shaun Leane, Wendy Lovell, Sarah Mansfield, Nick McGowan, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Sheena Watt

New clause negatived.

Clause 7 (15:25)

Michael GALEA: I move:

6. Clause 7, page 9, lines 2 to 4, omit "**a registered health practitioner who is not a registered medical practitioner or nurse practitioner**" and insert "**certain registered health practitioners**".
7. Clause 7, page 9, lines 7 to 12, omit all words and expressions on these lines and insert –

"(1) This section applies to the following registered health practitioners who provide health services or professional care services to a person –

(a) a registered nurse (other than a nurse practitioner);

(b) a registered psychologist;

(c) a registered Aboriginal and Torres Strait Islander health practitioner.".

8. Clause 7, page 9, line 34, omit 'Law.".' and insert "Law.".
9. Clause 7, page 9, after line 34 insert –

'**8B Discussion about voluntary assisted dying must not be initiated by other classes of registered health practitioners**

(1) This section applies to a registered health practitioner who –

(a) provides health services or professional care services to a person; and

(b) is not a registered medical practitioner, registered nurse, registered psychologist or registered Aboriginal and Torres Strait Islander health practitioner.

(2) A registered health practitioner to whom this section applies must not, in the course of providing health services or professional care services to a person –

(a) initiate discussion with the person that is in substance about voluntary assisted dying; or

(b) in substance, suggest voluntary assisted dying to that person.

(3) Nothing in subsection (2) prevents a registered health practitioner to whom this section applies providing information about voluntary assisted dying to a person at that person's request.

(4) A contravention of subsection (2) is to be regarded as unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law.”.’.

These make amendments to clause 7 of this bill, which in turn make amendments to clause 8 of the act – specifically, amendments to the new section 8A, as well as I am proposing a new section 8B. This has been canvassed already in the chamber earlier this morning, but I will confirm that the amendments that I am moving here will provide that a discussion about VAD may be initiated by a medical practitioner, a nurse practitioner, a registered nurse, a psychologist and an Aboriginal and Torres Strait Islander health practitioner. It specifically defines those five health practitioners as being able to initiate VAD discussions. In keeping with the existing provisions of the bill, this will require it to be done in the context of broader end-of-life conversations. It will also provide that health practitioners not in those five categories will still be able to discuss VAD with the patient if that patient is the one to initiate the conversation.

Georgie CROZIER: As consistent with my previous comments and questioning to Mr Galea around the broader aspects of his amendments, I will be supporting these amendments.

Ingrid STITT: As I indicated earlier, I will be supporting Mr Galea’s amendment.

Gaelle BROAD: Earlier we had similar ones, but mine was perhaps more restrictive to limit that conversation to doctors. I think a restriction is better than no restriction in the bill, but I do see this being an extension of the ability to bring up the topic with people, certainly an extension on the safeguards that were put in place in 2017. I prefer that it not be in there but am otherwise supportive.

Ann-Marie HERMANS: I agree with Mrs Broad, and I thank Mr Galea for bringing this to the house. As I have stated earlier, I feel very strongly that Aboriginal and Torres Strait Islanders should be having the same medical attention and care and opportunities as everybody else, and I am concerned that with the addition of this, this is going to potentially take away from that. However, because I think it is an improvement on what is currently in there – which is extending out to all sorts of medical practitioners – and it is providing some sort of scope that is bringing it back to only certain professional people, on that basis, in spite of the fact that I still feel that I would like to offer Aboriginal and Torres Strait Islanders the same options, rather than the additional option where they may not get the same level of care and understanding, I will be supporting this amendment.

Evan MULHOLLAND: I will be supporting this amendment. I will have some questions to flag later, just more broadly on clause 7. I thank Mr Galea for the way in which he has gone about these amendments and for the pragmatism he and others have shown. His amendment, but also the amendment by Jess Wilson and Daniela De Martino, obviously attracted quite a bit of support. I think it really touched on a big issue where the government, the minister or advocates from that side of this bill had slightly overreached. To get this outcome is a really, really good thing. I will be supporting it.

Lizzie BLANDTHORN: I also want to acknowledge the work of Mr Galea but also Mr Mulholland and Daniela De Martino and Jess Wilson in the other place. This is an important concession in relation to this bill. As Mr Mulholland has just said, there remains in a number of places significant overreach and significant diminution of safeguarding, but this is an important protection, and I thank those whose collaboration has led to this concession.

Sarah MANSFIELD: I have spoken to the previous amendments that are linked to this, but we are supporting this amendment in the interests of ensuring that this part of the bill can get through if there is support across the chamber. However, I indicate that my preference would have been for this not to be in the bill. As I have indicated before, I think it just creates potential for confusion. I do not think it was necessary. I think there are enough other provisions and protections within the bill, within the existing act and in other forms, including professional codes of conduct, that would have managed some of the concerns that people have. However, in the interests of making sure that we get some improvements to the existing act, I will be supporting this one.

Amendments agreed to.

Evan MULHOLLAND: Just a couple of questions to get on the record. What is to stop a doctor who does not know enough about palliative care giving incorrect advice to a patient about their palliative care options?

Ingrid STITT: Mr Mulholland, the bill says that if the health practitioners raise VAD they must take reasonable steps to ensure the person also knows about treatment and palliative care options, and those reasonable steps mean the doctor or nurse practitioner may discuss that and other options over multiple conversations. They may need to gather more information, talk to colleagues and make sure the person has fulsome information about their options. I would say that, similar to the way in which Minister Thomas in the other place answered similar questions in their consideration of the bill in the Assembly, palliative care is a very common and normal part of what our health professionals guide their patients and carers about very regularly.

Evan MULHOLLAND: How does the minister propose to address what I think is a massive power imbalance that exists between a patient and their doctor, particularly if the patient is ill, reeling from a recent terminal diagnosis or has some other vulnerability?

Ingrid STITT: The way in which the voluntary assisted dying framework operates is it is entirely patient-led and there are, as you know, a range of safeguards built into the legislation to protect against any form of coercion.

Evan MULHOLLAND: What are the reasonable steps a practitioner must undertake to ensure a patient knows about the treatment and palliative care options available to them and the likely outcome?

Ingrid STITT: I think I covered that, but I can go over it again if you wish. Reasonable steps means that a doctor or nurse practitioner may discuss VAD and other options over multiple consultations, and they may need to gather more information or talk to their colleagues to make sure the person has fulsome information about their options. They may need to refer the person to access information about treatment and palliative care from another health practitioner specialising in the relevant area, and they may also start the conversation and continue it later when the person feels ready to fully consider their options or has time for a longer conversation. Again, I would just indicate that this is within the scope of practice of medical professionals to have these sorts of conversations with patients very often about what their end-of-life choices might be.

Evan MULHOLLAND: Finally, the Minister for Health, in response to several questions in the lower house, said:

> … that there should be no wrong door for patients who are receiving end-of-life care.

Is the endorsement now of this amendment acknowledging that there perhaps are some wrong doors for discussing options for end-of-life care?

Ingrid STITT: Are you talking about the amendment which we just dealt with or are you talking about the amendments to clauses 6 and 7 around –

Evan MULHOLLAND: The amendment we just dealt with.

Ingrid STITT: I think that our chamber has reached an accommodation or registered an agreed amendment to have clear definitions about which medical professionals are able to initiate these conversations, and then in turn in respect to some other related amendments what information needs to be provided. I think it, if anything, gives more clarity. I know that palliative care is something that the Minister for Health is very committed to continuing to strengthen. There has been a palliative care chief medical officer appointed in the department. There has been a commitment by the government to develop a palliative care framework and to improve and strengthen that, as well as additional funding in respect to palliative care. I hope that answers your question.

Evan MULHOLLAND: It does. I do not have any further questions on this clause. I just would like to acknowledge that there was a significant view and, as Minister Blandthorn said, now significant

concessions – quite significant. I am glad we have been able to come to that accommodation and have the chamber acknowledge that there are some wrong doors for that discussion to take place.

Ann-Marie HERMANS: On the situation of clause 7, I do have concerns given that there are different levels of expertise for doctors, and that has always been the case – different levels of understanding and knowledge. Those things that they prefer to specialise in, they tend to be well versed in and well read in. Every doctor cannot be across absolutely everything. It is a concern that there may be situations with discussions where some of the effects of certain drugs may not be fully understood. My question I have for the minister on this is: to what degree are the facts about drugs based on empirical and external evidence, given that we do not get to see that information? It is not, as you said on Wednesday, publicly available. It is not provided.

To what extent will that information on side effects, complications et cetera be expected to be provided by the person who is going to be having those conversations? To what extent do they need to have that knowledge and understanding? Because quite clearly there are going to be diverse references and points of understanding of what can be used, what will be used, what can be expected and how this will take place. I am not a person that is intending to ever use voluntary assisted dying, but as I understand it, there are different methodologies and different drugs in different situations. And so for people that are engaging in these conversations, to what extent do they need to have that knowledge and to what extent will they be expected to know? Will this be fully provided? Will the external sources be making sure that those implications are well known to anyone that engages in these conversations – that the patient has full access to an understanding of what they are actually taking on and what they can expect?

Ingrid STITT: Mrs Hermans, we canvassed these issues extensively in clause 1 on Wednesday, and I would refer you to my answers to very, very similar questions on Wednesday that you are asking now. I went through in some detail the requirements for those medical practitioners that are engaged in the VAD process to make sure that their patients are cognisant of all of the steps of the process. In fact that is part of the assessment process and part of the process when somebody is seeking to have a VAD application approved. I would refer you to *Hansard* from Wednesday.

Ann-Marie HERMANS: I do remember that conversation, and one of the things I guess I would like to have clarified is: how many different methods are we talking about or different drugs are we talking about? Given that you cannot release the information of what they are, is there just one, are there two, are there three, are there four? Are there different pharmaceutical companies just providing exactly the same thing under different names? It is not clear to me what that information would be and what that expectation would be, so I did not feel that I got that clarified on Wednesday. I do apologise. I wonder if you might at least be able to clarify, without providing the name of the drug, how many different methods there are of VAD and how many different drugs are currently in use in Victoria and that this legislation would provide access to.

Ingrid STITT: Which medications are being used as VAD substances is not information that is made public, for obvious reasons.

Ann-Marie HERMANS: I did not ask you which ones, I asked you how many.

Ingrid STITT: And my point is that that information is not shared publicly for obvious community safety reasons.

The DEPUTY PRESIDENT: I will now put the clause as amended. Mrs Hermans is seeking to omit this clause, so if you are supporting Mrs Hermans's proposal, you should vote no to the clause. The question is that clause 7, as amended, stand part of the bill.

Amended clause agreed to.

Clause 8 (15:45)

Ann-Marie HERMANS: I would like to thank someone that cannot be seen in the room, and that is the Honourable Robert Clark, for his very comprehensive understanding and review of the amendment bill. On advice, I will be withdrawing my amendments for clause 8 – all of them.

Sarah MANSFIELD: I move:

11. Clause 8, lines 26 to 28, omit all words and expressions on these lines and insert –

"(2) Section 9(1)(d)(iii) of the Principal Act is **repealed**.".

This is something I covered in my second-reading speech, but for the benefit of the chamber I will explain again the purpose of this amendment because it is a significant one. It is a proposal to remove the 12-month prognosis timeframe within the eligibility criteria. We very much welcome the government's change from six months to 12 months with the timeframe element of the eligibility criteria. However, I think there are some fundamental issues with a time-based prognosis generally. Our amendment would simply remove that time-based prognosis. All other eligibility requirements would remain. The important element is that all the qualitative criteria remain. So the illness still must be incurable, it must be advanced, it must be progressive and it must be expected to cause death. Additionally, it must be causing suffering to the person that cannot be relieved in a manner that the person considers tolerable. We believe that these qualitative criteria are sufficient safeguards.

I accept that the ACT's legislation is not currently in operation, but they have decided in their legislation to remove the time-based criteria. The Northern Territory's Legal and Constitutional Affairs Committee has just recommended the same for any voluntary assisted dying laws that jurisdiction introduces. Time-based prognoses within voluntary assisted dying schemes are clinically and legally challenging. Estimates of prognosis are just that – they are an estimate. Even experienced clinicians have difficulty providing certain timeframes to death beyond days or weeks. I think what is important for us to consider is that a time-based prognosis was never intended to be a legal test. A prognosis is not a legal test. It is something that you provide to patients to allow them to plan the remainder of their lives. It is something you provide to patients to help inform their treatment decisions. When you are told perhaps your prognosis is approximately three months, six months or 12 months, it is never intended to be something that is a legal test that could potentially be tested in a court. The challenge with it is: how certain do you have to be – 50 per cent certain, 75 per cent certain or 90 per cent certain – that someone's time to death is expected to be within that timeframe?

I think by creating a law that references a specific timeframe, some clinicians may err on the side of caution and wait until they are very certain that death is approaching for fear of breaching the law. It is something that is already a problem with the existing legislation, with it being a six-month prognosis. I think 12 months will help with that, but I still think there is the risk that for many people it will mean that they are forced to wait until it is too late. Again, this chamber has heard stories about that. I think several stories have been provided that indicate that that is an issue. People entering voluntary assisted dying at very advanced stages of their illness has been noted by the Voluntary Assisted Dying Review Board to be a particular issue in Victoria. I think the statistics, when compared to other jurisdictions, bear that out. A lot of people are dying before they are able to get through the process because of the very late stage at which they are entering it, and the time-based prognosis is very likely a contributor to that.

I think I also in my second-reading contribution highlighted this just in a very practical way. I talked about the experience of a friend of mine whose father wanted to access voluntary assisted dying. He had motor neurone disease, to which a 12-month prognosis actually already applies in the existing act. He was living regionally, had to travel to Melbourne to access an assessment and was told during that assessment that his prognosis was likely greater than 12 months, so he was not eligible yet for voluntary assisted dying. He had to return home, then very quickly deteriorated – rapidly – and had to go back to Melbourne to get another assessment to say, 'Actually, your prognosis is now less than

12 months.' That second assessment was extremely difficult to access for a number of reasons, primarily the frailty and the medical condition that that person then experienced. This was a condition where the outcome of this person's condition was undisputed. It is a terminal condition. It is incurable. It was progressive. It was going to cause death. It was very advanced, and it was causing suffering that could not be relieved in a manner that that person considered tolerable. I think that should have been sufficient criteria for this man to be able to start the voluntary assisted dying process when he first sought assistance. The time-based prognosis I think does create a number of issues.

That is why I am putting this forward. It is something that, although I suspect it may not get support from across the chamber, is an issue that I think we really have to look at going forward. I understand my colleague Ms Copsey will move an amendment, should this one fail, which also speaks to this issue. Instead of it being a blanket removal of the time-based prognosis, it would allow for a compassionate exemption. That is a process that actually exists and is in operation in Tasmania, and I think at the very least it would provide a pathway for some of those people whose stories we have heard about where there is some uncertainty about where they sit on one side or the other of that time-based prognosis. I think that could be a step along that journey, but I actually think that the best outcome here is to remove that time-based prognosis altogether.

David LIMBRICK: I would like to thank Dr Mansfield for her engagement on this amendment and discussion about it. I actually share Dr Mansfield's concerns about the time-based prognosis. I note that people on both sides of this debate have expressed scepticism about this time-based prognosis, and as Dr Mansfield rightfully points out, this type of prognosis was never really or should never really be intended for some sort of legal test for access to particular health care. The whole point of it is to give the patient some indication so that they can get their affairs in order and get those sorts of things in their life sorted out. Although I do agree that maybe removing the prognosis requirement would be ideal, I am concerned about potentially some of the unintended consequences of it. I do feel that extending it to 12 months relieves some of these issues. However, I will be supporting the compassionate exemption amendment that I anticipate will be put forward by Ms Copsey. I think that that is an acceptable compromise for those situations where the prognosis is not clear. The case which was very well articulated by Dr Mansfield, maybe in that case they would have received an exemption under that sort of scenario. I will not be supporting this amendment, but I am sympathetic to the motivations behind it.

Evan MULHOLLAND: As I understand it, only the time-related test will be advanced, which I think is a highly subjective term that is open to interpretation by practitioners. I agree with Mr Limbrick in the sense that even the time-related test is not ideal, which is why, as I said in my maiden speech, there will never be enough safeguards and that is why there is no ideal test. I really dislike the subjective nature of this test. The example being: if I am clocked at 120 in a 100 zone, that is because a camera has busted me for doing so. I cannot just say I thought I was going 100 and have that be the test. It is I think quite subjective in its nature, open to interpretation by practitioners and does not provide a true test, because it is purely what the person says they find intolerable. This creates a risk that people with slow-acting chronic conditions will seek VAD due to depression or distress from a diagnosis that might not be coming for some time. I can see the logic, and I can see the reality in which colleagues are making their minds up on this amendment. To my mind, it says to me there is no good outcome regarding these tests or these laws. I will be opposing it.

Ingrid STITT: I just want to indicate that I will not be supporting Dr Mansfield's amendment. I understand exactly where you are coming from, Dr Mansfield, but moving from a six- to a 12-month prognosis timeframe will allow us to maintain the safeguard of a defined timeframe until death while at the same time allowing people to begin the VAD process at a time that suits their condition and level of suffering without forcing them to wait until the final months or weeks of their life, when we know that many people, sadly, start the VAD process but do not make it to the end of the process. On that basis and given the fact that there is not really any evidence to draw from in other jurisdictions on this question, I will not be supporting the amendment.

Georgie CROZIER: Thank you, Dr Mansfield. This was the area I was most concerned with the first time around with the initial legislation. I really did struggle with this part of it, given some personal circumstances that I was experiencing at the time. Whilst I do understand exactly where you are coming from, I do feel strongly about having some safeguard in there, and I do think it is important that we have that to give confidence to the system and enable it to operate, even though you might have a slightly different view on that. However, I think that is very important to maintain, and that is why I will not be supporting Dr Mansfield's amendment either.

Melina BATH: I will not be supporting it. I feel that there has been a thorough review process. When I made my contribution those many years ago, I did talk about – not radically by any stretch – creep, as in the creep of the intent of the bill. I think this has been well considered. We have specialists and we have qualified doctors looking at this, and I take the point that it is not a legal test, but I do not want to see a prognosis into the never-never. I think there needs to be that level of clarity around 12 months. Certainly if someone lives longer than 12 months, then family can rejoice in that quality, and the agency is still with them. There is no reason why this has to be taken within those 12 months; it is just there. But I do not want to see it going off into the future.

Michael GALEA: I acknowledge and thank Dr Mansfield for bringing this in, and like others, I appreciate the intent. As I outlined in my second-reading speech, this and the question of prognosis is something I have weighed up heavily. As per what I said in that speech, though, I do think the government has got the balance right on this particular amendment.

Ann-Marie HERMANS: As Dr Mansfield would well know, it is very difficult sometimes for doctors to be able to predict the actual timeline on which someone's life is going to take place. As many of us have referred to in our speeches, either through this amendment bill or in other amendments, when doctors are trying to figure out how long someone is going to live – and I remember asking the oncologist this for my father, 'What are we talking about here? How much time do we actually have?' – trying to put a date on the timelines is incredibly difficult. The reality is that we were told if my father had chemotherapy he may live an additional six months, maybe. And then when we asked 'Well, how long do you think he has?' the doctor said 'To be honest with you, we don't really know. It's stage 4 cancer. It could be three months, it could be six months, it could be a year'. In the case of my uncle, technically with the level of where he was at in stage 4 bowel cancer, he should have only lived for 12 months. He lived for 18 months. He did have chemo. In the case of my father, he did not have the chemo, and he went on to live for a few years. It was an infection in the end that took him out.

It is incredibly difficult for doctors to predict. I believe that that is the reason why Dr Mansfield has tried to place this amendment, and I understand and respect the spirit in which that has been put in there, because doctors honestly do not have a crystal ball to know if it is six months or 12 months. They do not really know. However, I am so concerned about removing the safeguards. I completely respect the issue that doctors have in trying to predict it. They literally cannot do that, because in every case where you may have stage 4 cancer, for example, it can be very, very different individually as to how that cancer spreads, how quickly it spreads, in what direction it goes and how that affects each patient. We are not really capable 100 per cent of locking down if it is three months, six months or 12 months. We really are not. Doctors do not have that capacity either, no matter how great they are. When they do know is in those last days. Even in the last days for my father when I said to the oncologist, 'What are we looking at here?' – and we said that more than once when he was in hospital – he would say, 'I don't really know.' Then we got to those last few days, and he said, 'We're probably not looking at more than two weeks.' When you get to that point it is fairly clear those signs of death are starting to set in, but beyond that it is not.

I respect 100 per cent the spirit in which Dr Mansfield maybe has tried to put those safeguards in as a doctor by making it a bit more open slather, but my fear is that it also allows it to be abused. I do not like the six months and 12 months. I do not like it; I will be honest. We cannot predict these things. But I also do not want to open it up to allow people who could have actually had a reasonably great

life for five years to suddenly be told, 'Well, you're in the advanced stage.' That advanced stage can also be misconstrued. There is not enough tightness in this for me to be able to support it. But I do want to thank Dr Mansfield for representing the medical profession in the sense that they really cannot predict the end-of-life term for each individual.

Council divided on amendment:

Ayes (7): Katherine Copsey, David Ettershank, Anasina Gray-Barberio, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell

Noes (31): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Adem Somyurek, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendment negatived.

Katherine COPSEY: I move:

1. Clause 8, lines 26 to 28, omit all words and expressions on these lines and insert –

'(2) For section 9(1)(d) of the Principal Act **substitute** –

"(d) the person must be diagnosed with a disease, illness or medical condition that –

(i) is incurable; and

(ii) is advanced, progressive and will cause death; and

(iii) is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable; and

(e) the person must be diagnosed with a disease, illness or medical condition that is expected to cause death within 12 months.

Note

A person requesting access to voluntary assisted dying may apply for an exemption from compliance with the eligibility criteria set out in this paragraph – see section 9B.".'.

We have just canvassed at some length some of the difficulties that can arise in relation to uncertainty when it comes to time-based prognosis. The effect of this amendment would be that a person who meets all of the eligibility criteria except the 12-month prognosis would be able to apply to the secretary for an exemption from that requirement on compassionate grounds. That means a person who is diagnosed with a disease, illness or medical condition that is incurable, advanced, progressive and will cause death and is causing suffering to the person that cannot be relieved in a manner that the person considers tolerable but who, however, does not have a prognosis that that disease will cause end of life within 12 months would still be able, if they chose, to seek an exemption from the secretary to initiate VAD healthcare access on compassionate grounds –

The DEPUTY PRESIDENT: If we could have some quiet in the chamber, please, for Ms Copsey. It is very difficult for the minister and me to hear.

Katherine COPSEY: Further on the amendment: the secretary in these circumstances would be required to seek certain information from that person in order to inform their decision as to whether the compassionate exemption would be granted, including relevant parts of the person's medical record, and the secretary could seek expert advice as well.

This is a process that is in place in Tasmania; this is a process and a ground of exemption that is tested in another jurisdiction in the country already. Another benefit that may be gained from the creation of such an exemption is that, if it were in place, it would allow us to gain some data and some experience regarding the nature and the number of applications that were made on this ground, which could in

turn inform further, future reviews of the act. It would give us a more accurate picture of people who are wanting to seek access to VAD but are falling foul of the 12-month prognosis requirement. It could give us information about certain common conditions in which people want to access VAD but are barred from doing so due to perhaps inherent uncertainty around prognosis or about the advanced state of diseases or conditions that cause intolerable suffering but may not fit within that 12-month window.

Having listened to the debate on the previous amendment put forward by my colleague Dr Mansfield, I actually think that this compassionate exemption amendment is a very sound one to meet some of the concerns that have been raised in the chamber, on both sides of this debate, about the inherent difficulty that applies – the uncertainty that sometimes applies to prognosis – the barrier that this does create for people accessing it and, importantly, simply initiating conversations with a healthcare practitioner about access to voluntary assisted dying. I commend the amendment. I think it could solve a significant amount of suffering. It could address a barrier that is there whilst still providing the safeguards that are there in the legislation. But it would just simply give people who wish to access information grounds to do so, a pathway to do so that still provided some oversight but could decrease barriers without losing that oversight.

David LIMBRICK: I will be supporting this amendment. I share the concerns about the prognosis requirement articulated by Ms Copsey and Dr Mansfield. However, I was not willing to totally remove the prognosis requirement. I agree with Ms Copsey that this provides a reasonable compromise where there are those situations that do not fit the prognosis requirements – that a petition, effectively, can be made to the secretary to provide an exemption. I think that this is a sensible way to ensure that the wishes of the patient and their desire to access this scheme may be facilitated despite not meeting the prognosis requirements, which I think most seem to agree are maybe not fit for purpose for this type of decision. Therefore I will be supporting this amendment.

Ingrid STITT: I thank Ms Copsey for bringing this amendment forward. I do want to indicate, however, that I will not be supporting the amendment. Whilst Tasmania has an exemption process, there is very little evidence to draw from because the numbers have been so small, and there is very little ability for us to draw evidence from anywhere else in Australia either. For the reasons already stated around why we are bringing forward the 12-month period in the bill around giving people better opportunity to access VAD, we will not be supporting going beyond that. I also just want to note that the 12-month prognosis period does align us with the Queensland jurisdiction.

Katherine COPSEY: I will conclude by saying, as the minister has observed, in the Tasmanian experience this would apply to probably a very small number of people, but it would be incredibly meaningful to the individuals who did access it to leave life on their terms and with the ability to minimise their suffering where desired. I think it is an argument for supporting the amendment.

The DEPUTY PRESIDENT: The question is that Ms Copsey's amendment 1 be agreed to, which tests her amendments 2 to 5, 7 to 9 and 12 to 14.

Council divided on amendment:

Ayes (8): Katherine Copsey, David Ettershank, Anasina Gray-Barberio, David Limbrick, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell

Noes (29): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Shaun Leane, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendment negatived.

The DEPUTY PRESIDENT: I invite Mrs Broad to move her amendment 4, which tests her amendment 7.

Gaelle BROAD: I move:

4. Clause 8, lines 26 to 29, omit all words and expressions on these lines.

This is more to stick with the existing act to have the six months, not the expansion to the 12 months as suggested by this bill. I think we have heard in this chamber today that it is very hard with timeframes, and with extended timeframes there could be an unintended eligibility expansion and it could apply to more people. It is to stick to the existing act.

Ingrid STITT: I do not support this amendment brought by Mrs Broad. For all the reasons stated, I believe the 12-month period is appropriate for all VAD applicants.

Sarah MANSFIELD: I thank Mrs Broad for the amendment, but I sit really on the opposite side of this one, and the previous couple of amendments I think indicated that.

Evan MULHOLLAND: I support this amendment.

Council divided on amendment:

Ayes (13): Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Moira Deeming, Enver Erdogan, Renee Heath, Ann-Marie Hermans, Trung Luu, Bev McArthur, Joe McCracken, Evan Mulholland, Adem Somyurek, Richard Welch

Noes (26): Ryan Batchelor, Melina Bath, John Berger, Katherine Copsey, Georgie Crozier, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Shaun Leane, David Limbrick, Wendy Lovell, Sarah Mansfield, Nick McGowan, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt

Amendment negatived.

Clause agreed to; clause 9 agreed to.

Clause 10 (16:32)

The DEPUTY PRESIDENT: We move to clause 10, and we have identical sets of amendments here from Mrs Broad and Mrs Hermans.

Gaelle BROAD: I move:

5. Clause 10, line 21, omit "one year" and insert "5 years".

This is the part of the bill that refers to doctors. It is reducing it from five years experience down to one year of experience. I think it is an interesting one, but it does not speak to the gravity of the issue being discussed. I think that experience in this important conversation is vital. I know it has been said that the shortage of doctors in regional areas is a reason to reduce that. But I feel that we should not be changing the rules because of the situation we are in. We need to look at getting more doctors in regional areas, for example. But I will keep my comments short other than saying that this is about retaining what is in the existing act rather than further expanding it.

Ann-Marie HERMANS: Obviously I will be withdrawing my amendment, because we have the same amendment. I feel very strongly on behalf of those in the medical profession that we are not putting our first-year doctors into a situation which is incredibly difficult for them. I think that the current act requires a level of experience, and we are now taking away that level of experience. I understand the desire to make VAD more accessible to people throughout Victoria, but at the same time I do feel that it is incredibly important that we keep those safeguards in there, that we protect those in the medical profession, that we do not throw people out after their first year when they are still getting their head around all sorts of things that they have to navigate in their profession.

I think if we just look at my own experience here, it is not the same, but I am just saying in the first year as a member of Parliament there was so much to learn. Here I am in my third year, still floundering through some of the things, some procedures, because there is still so much to learn, so many things where I have not yet encountered a precedential circumstance or situation. I think that by asking this of doctors, again, who may have a lack of experience and are new in their profession, also those who may be even challenged with voluntary assisted dying or have not yet even had their own perspective properly moulded, we are actually putting them at risk. I do not like the original bill, but I prefer the original bill to this bill, which puts in these amendments that remove all the safeguards that originally got the VAD bill approved by members of both chambers in the first place. I do feel that we ought to retain the five years and not change it to one year. I will be supporting the amendment.

Sarah MANSFIELD: I will not be supporting this amendment, and I think it is worth clarifying a couple of points that have been raised. This is about years post fellowship. When you fellow from a training program, that is speciality training, so that is additional training on top of your years as a junior doctor. It starts with being an intern and resident. You then become a vocational trainee in different speciality programs. You are working as a doctor for all of that time. So these are not first-year-out interns who are potentially able to be part of VAD. You are talking about people one year post fellowship. In Australia the average time from graduation from medical school to fellowship is probably around 10 to 15 years. It varies depending on your speciality, but that is typically the time. For someone like an oncologist, that would be probably the typical time, and they are often going to be involved in these sorts of assessments. You are talking about someone with a significant amount of experience working as a doctor, and then it is one year post that fellowship. I do not accept the comments that have been made that this is one year. It is just not correct to say that these are first-year doctors. They are people with a significant amount of experience. When you look at it like that, the difference between one and five years then suddenly becomes somewhat arbitrary. I think all it does is it limits the pool of practitioners available and the workforce available to provide voluntary assisted dying, because you are talking about people who are then perhaps 20 years into practice before they are able to participate in voluntary assisted dying. I just think that is an unnecessary restriction. I think what the government has proposed here is very sensible, and we will be supporting the government's proposed changes.

Georgie CROZIER: I want to thank Dr Mansfield. I am glad she got up there and articulated exactly what a specialist is and the training that is required. It is not one year out. I think there is some confusion amongst members around the level of experience that is needed. She spoke very well about that, and I think explained to the house the many, many years that are undertaken to become a specialist. My understanding is that the government, through the review – this was one of the issues that was quite significant in relation to the barriers that were there, particularly for regional Victorians. I do not support Mrs Broad's or Mrs Hermans's reasoning for this or their amendments. Given the exceptional experience that these doctors have undertaken, they know what they are talking about. I will not be supporting this amendment put forward by Mrs Broad.

David LIMBRICK: When I first looked at this bill, I also had concerns about this lowering of the threshold. However, I have found myself much more comfortable with it after seeing what it actually means. Dr Mansfield is entirely correct that one year post fellowship is already someone who is a very, very experienced specialist. Therefore the difference between one year and five years, I agree with Dr Mansfield, is rather arbitrary and does, to my mind, unnecessarily limit the workforce available for this. Therefore I will not support the amendment.

Ingrid STITT: I want to concur with Dr Mansfield, Ms Crozier and Mr Limbrick on this amendment. To become a specialist you need extensive training, and the approach in the bill has been to widen the eligible VAD medical practitioner workforce while at the same time ensuring that we are continuing to have medical practitioners who provide VAD that are suitably qualified and experienced. I will not be supporting the amendments from Mrs Broad or Mrs Hermans.

Evan MULHOLLAND: I would like to thank the chamber for its education and for its discussion on this amendment. I will try to be as fast as possible. I am fully aware of the amount of time it takes to become a specialist. I still see this amendment as an improvement to the bill, and I support any improvement to the bill. I will be supporting this amendment – but depending on the read of the room I may or may not divide.

Amendment negatived.

Sarah MANSFIELD: I move:

17. Clause 10, after line 23 insert –

"(3) Section 10(3) of the Principal Act is **repealed**.".

While I appreciate the government's move to reduce the minimum experience requirements as one way of addressing some of the challenges with finding practitioners who are willing and able to participate in voluntary assisted dying, it continues to be a significant access barrier for many people in Victoria. Some of the challenges in finding practitioners who are able to provide voluntary assisted dying relate to the very narrow interpretation of clause 10(3) in the principal act. This clause pertains to the requirement for one of the consulting or coordinating practitioners. You have to have two – you have to have a consulting and a coordinating practitioner involved in the VAD process. One of those has to have expertise and experience in the disease the person is dying from. While that does not state specifically that the person has to be a specialist consultant in the disease the person is dying from, that is how it has been interpreted in Victoria. What that means is it can be very challenging in practice for people to be able to find the appropriate specialist – they may have that specialist involved in their care, but they also need to find a specialist of that type who is willing and able to be involved in voluntary assisted dying.

Again, I think the chamber has heard some stories of where that has been a specific barrier. I know that in parts of regional Victoria, for example, there are no local neurologists who are willing or able. It is not always conscientious objection; sometimes it is just capacity and sometimes they are just not familiar with it or not comfortable with it. There are lots of reasons why they might not be able to participate in voluntary assisted dying. There are no neurologists in some areas who are willing to participate, which cuts off access for a huge range of people. So their treating doctor might not be willing to be part of it.

I just think it is worth putting yourself in a patient's shoes when you think about what this journey is like. Think about how hard it is when you need to see a specialist – you have to go see your GP and get a referral. It is a difficult enough process a lot of the time anyway. There are often wait times, they are hard to find, it can be expensive and it is tricky. If your specialist is not willing or able to participate in voluntary assisted dying, trying to then navigate the process to find someone who is can be really tricky. How do you find that person? Where are they going to be? Are you going to have to travel? I think it is quite a significant barrier. By removing this clause, you still require two doctors to be the coordinating and consulting practitioners, but we believe it would mean that this narrow interpretation would be lifted. It would limit the restriction to only being non-GP specialist consultants. It would mean that GPs with experience in the condition and expertise in the condition could actually provide voluntary assisted dying. Two well-qualified, experienced GPs who understand the patient and who understand the condition I think are well placed to be able to provide support for someone going through voluntary assisted dying. It is what happens in practice in many other jurisdictions. While they might have very similarly stated laws, their interpretation has not been as strict as it is in Victoria.

We believe that this amendment primarily improves access for patients. The secondary thing that I think it does that is really important is it improves workforce availability and sustainability going into the future. I think there is an issue around having enough practitioners who are willing and able to provide voluntary assisted dying because of the very limited pool that is allowed to participate, given the interpretation of the Victorian law.

Ingrid STITT: Thank you, Dr Mansfield, for this amendment. I do not support the amendment. There are other measures in the bill which address some of the workforce challenges. The expertise and experience requirement maintains that safeguard that provides the Victorian community with confidence that a person accessing VAD has been assessed by at least one medical practitioner who has specialist knowledge in the person's condition, illness or disease.

Evan MULHOLLAND: On my read it will mean that neither practitioner need have training or qualification in the patient's condition, and thus the risk of misdiagnosis, misprognosis and inaccurate or inadequate advice on treatment options will be greater than at present. In that respect, I will oppose this amendment.

Council divided on amendment:

Ayes (7): Katherine Copsey, David Ettershank, Anasina Gray-Barberio, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell

Noes (30): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt

Amendment negatived.

Katherine COPSEY: I move:

6. Clause 10, after line 23 insert –

'(3) In section 10(3) of the Principal Act, for "expertise and experience" **substitute** "expertise or experience".'.

This amendment relates to broadening the eligibility criteria by changing the requirement of this clause from a coordinating practitioner having 'relevant expertise and experience' to having 'relevant expertise or experience'. By broadening these interpretive criteria, the effect will be to increase the workforce that can provide VAD advice and support. The effect of this amendment will be that people will still have relevant expertise or experience and so still be appropriately qualified to support a patient who is seeking advice and support in relation to VAD. The effect of this will, as Dr Mansfield spoke to in relation to our previous amendment, be greatly felt where there is a dearth of practitioners currently who are willing and able to support access to VAD. But this amendment would, for example, broaden the interpretation criteria to allow for, say, a GP who has relevant experience in relation to that patient's condition to be able to provide them two GPs rather than having a GP and a specialist. There will still be significant experience or expertise by those practitioners applied to a patient's case. What this will do is overcome some of those significant practical barriers that we have seen in practice in Victoria, which mean that purely through workforce limitations we are seeing patients who are unable to find relevant medical specialists to support their access to this health care.

Ingrid STITT: For similar reasons to those reasons outlined for not supporting Dr Mansfield's amendment we will not be supporting this. I will not be supporting this amendment. It is important to maintain those safeguards around experience requirements.

Georgie CROZIER: I will not be supporting Ms Copsey's amendment either.

Ann-Marie HERMANS: I will not be supporting it either, as I do feel quite strongly that we need to have at least some checks and balances and both requirements should remain in the bill.

Amendment negatived; clause agreed to.

New clause 10A (16:58)

Sarah MANSFIELD (Western Victoria) (16:58): I move:

18. Insert the following New Clause to follow clause 10 –

'**10A New Division 1A of Part 3 inserted**

After Division 1 of Part 3 of the Principal Act **insert** –

"**Division 1A – Requests to health service providers for information about or access to voluntary assisted dying**

10A Requirement for health service provider – request for information about or access to voluntary assisted dying

(1) This section applies if a person receiving a health service at a health service facility makes a request to the health service provider who operates that facility for information about or access to voluntary assisted dying.

(2) Within 2 days after receiving the request, the health service provider must –

(a) record the request in the person's medical record; and

(b) give the person the information approved by the Secretary.

10B Requirement for health service provider – access to practitioners etc. for purposes of voluntary assisted dying

(1) This section applies if a person receiving a health service at a health service facility (the ***service user***) requests to meet or have discussions with any of the following persons (a ***voluntary assisted dying support person***) for the purposes of the service user requesting access to or accessing voluntary assisted dying –

(a) a registered medical practitioner;

(b) a nurse practitioner;

(c) a pharmacist;

(d) the service user's contact person;

(e) a person who is to witness the signing of a written declaration, the appointment of a contact person or the making of a practitioner administration request;

(f) a person who the service user nominates as a voluntary assisted dying support person.

(2) The health service provider must ensure that the voluntary assisted dying support person is given reasonable access to meet or have discussions with the service user in accordance with the service user's request.

10C Requirement for health service provider – withdrawal of or refusal to provide health service

A health service provider must not withdraw a health service from a person or refuse to provide a health service to a person on the basis that –

(a) the health service provider knows that the person has made a request referred to in section 10A(1) or 10B(1); or

(b) the health service provider believes that the person is likely to make a request referred to in section 10A(1) or 10B(1).".'.

This amendment introduces a requirement for health services, including residential aged care facilities, to provide reasonable access to voluntary assisted dying. Currently this is something that is required in other jurisdictions, including South Australia, Queensland, New South Wales and the ACT, but Victoria does not have any such obligation for reasonable access to be provided. Challenges in accessing voluntary assisted dying, in particular in residential aged care facilities, which I think we should all acknowledge are the homes of most residents in those facilities, is a significant and widespread problem in Victoria. This is highlighted in Go Gentle's recent report, where it was found that 90 per cent of Victorian providers either deny access to voluntary assisted dying in their facilities or do not provide any public information about voluntary assisted dying access.

The effect of this amendment is, in addition to making it an obligation to provide reasonable access to voluntary assisted dying if someone wishes to access it, to make it an offence for a health service provider to withdraw a health service from a person or to refuse to provide a health service to a person on the basis that the health provider knows that the person has made or is likely to make a request regarding voluntary assisted dying. There have been reports of obstruction of access to care in some residential aged care facilities because there is concern that someone might be accessing care and then seeking voluntary assisted dying. This is really concerning because, as we have canvassed throughout this debate, it is something that is currently legal but there are people in our community who through the circumstances of where they are living are being prevented from accessing this care. What we have proposed here is very reasonable. As I said, it is already something that exists in a number of other jurisdictions, so it has been operational. We can see the evidence of it. It just provides an obligation for some expectations around reasonable access.

Ingrid STITT: I will not be supporting this amendment. We have already seen acceptance of and our capability to provide VAD in both our health and aged care services grow over time. We would obviously like to see this continue to improve, and the Department of Health will continue to work with our public health and aged care services on publishing their VAD policies and improving how requests to access VAD are supported in these services. I would note that the five-year review identified some opportunities to strengthen existing departmental guidance and support for these services, and the Victorian government has accepted in principle all the recommendations of the review.

Georgie CROZIER: This is an interesting area. I understand some of the points that Dr Mansfield is making. However, I do have concerns about the extent of this. I think we have to be very, very careful, and I am not convinced by the amendment that the safeguards would be in place. For that reason I will not be supporting the amendment, but I will be interested to see that ongoing work. If patients are being restricted, then the reasons for that need to be understood. Likewise, there has to be some understanding from some of the facilities that may not support and respect VAD. I think there is a balance here, but I do not fully appreciate letting those safeguards go at this point in time. I think we need to maintain those very strongly. Therefore I will not be supporting this amendment.

David LIMBRICK: I understand some of the motivations, thinking about the patient, that have been brought forward by Dr Mansfield. However, I am very concerned about the idea of forcing private facilities to effectively cooperate with something that may be against their policy or their beliefs, and I think that this is a step too far. A far better approach, as was outlined by the minister, is to make sure that facilities do publish their policies so that people who are going to go into those facilities know in advance what those policies are and can properly consent to that or not. I think that is a far better approach – to have a market mechanism where the market is transparent and people can understand what they are signing up for rather than forcing facilities to provide access or other services that they do not believe in or consent to.

Lizzie BLANDTHORN: I also will be opposing Dr Mansfield's new clause, and I would reiterate the same concerns as Mr Limbrick and Ms Crozier. I think that this is an important protection that needs to be preserved as a safeguard within the legislation.

Sarah MANSFIELD: There is another point to make about reasonable access and expectations of reasonable access. Again it is really important to centre the patients who are trying to access VAD. There are places in Victoria where there may only be one aged care facility in the area in which someone lives. They may already be a resident before they think about whether they want to access voluntary assisted dying. It might not be something they think about when they are entering that facility. So while a public policy might be useful, I just think people do not necessarily have as much choice as in an ideal world, where maybe you would have all the choices in the world of the type of facility you go in and where it is. Anyone who has experienced having had a family member or someone close to them trying to navigate the aged care system will know that getting a place in a residential aged care facility can be very difficult. If you look at that standpoint, for someone who does not have all the choice in the world of knowing what sort of facility they are going to be going into,

while VAD might be important to them it may not be the only factor in their decision of going into that particular facility.

The word 'reasonable' is there. There is an understanding that some facilities, for various reasons, may not want VAD happening on their premises. But then I think there is an expectation that they would help to support that person to access it in some other way or provide an avenue for them to do so in another location if it was so fundamentally objectionable. This is someone's home. It is where they have chosen to live. This is still something that they voluntarily enter into. All this would do is allow, for example, external providers to come in and assist someone in their place, which is their home. I think reasonable access is something that people should expect. As I said, a number of other jurisdictions have this in operation. It seems to work quite well. I understand the objections to it, but I think what that really does is it ignores the real-world experiences of the Victorians out there who are living in or potentially moving into residential aged care facilities.

Ingrid STITT: Further to my comments, I would also just point members to Minister Thomas's comments in the Assembly about this and about her commitment to work with me as the Minister for Ageing on those identified opportunities in the five-year review to strengthen the existing departmental guidance and supports for aged care services.

Council divided on new clause:

Ayes (7): Katherine Copsey, David Ettershank, Anasina Gray-Barberio, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell

Noes (30): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt

New clause negatived.

Clause 11 agreed to.

Clause 12 (17:14)

Gaelle BROAD: I guess I feel that this provision of information on the request for information has probably already been prosecuted earlier in the chamber. I am aware of the chamber's position on this. I do thank Mr Batchelor for defining what the information is. I would certainly prefer that we do not force doctors to provide information, so I do support Mrs Hermans's amendment to omit it, but I will be withdrawing both of my amendments.

Ryan BATCHELOR: I move:

2. Clause 12, lines 27 and 28, omit all words and expressions on these lines and insert –

'(b) give the person the following information –

(i) contact details for the prescribed voluntary assisted dying care navigator service;

(ii) the address of an Internet site of the Department of Health that provides information about voluntary assisted dying.".'.

These are identical terms to my earlier amendments.

Ingrid STITT: I support Mr Batchelor's amendment.

Evan MULHOLLAND: I support my amendment, which is now Mr Batchelor's amendment. It is an important concession by the government. Something that Dr Mansfield said actually – that I did not think about – was to even suggest that under a change of government, which is looking more and more likely, a Department of Health secretary under a Liberal government could also redefine what

minimum information is. So this is a great backdown, and I again thank the chamber for working with me on my amendment, which is now being moved by Mr Batchelor.

Lizzie BLANDTHORN: In the unusual circumstances in which we find ourselves, I also thank Mr Mulholland for his amendment that has become Mr Batchelor's amendment and for the cooperative way in which we have worked together on these matters.

Ann-Marie HERMANS: I thank Mr Mulholland for his work, Mr Batchelor for taking it on and the government therefore for considering it. I think that these are important amendments. I would prefer that we remove the whole clause, but under the circumstances I will be supporting this amendment.

Amendment agreed to.

Ann-Marie HERMANS: I still maintain that I would prefer that we were not having to do this at all. As I said, we already have VAD. We have checks and balances. We have made some progress in amendments, which is great, but I would prefer that we omit this whole provision and the information requirement. I am pleased that Mr Batchelor's and – from the background – Mr Mulholland's amendment has got forward, but I will admit that I am finding this whole procedure today extremely difficult and very tiring and very personal. But I still would not support this particular clause, and that is what my proposal is with my amendment.

Ingrid STITT: I do not support this amendment. Requiring medical practitioners with a conscientious objection to VAD to give people, who have made a first request for VAD, information about the statewide care navigator service on the Department of Health's website is a simple way of connecting people with reliable and trustworthy sources of information about VAD at what is no doubt a critical moment in their care.

Georgie CROZIER: No, I will not be supporting Mrs Hermans's amendment either.

Sarah MANSFIELD: I will not be supporting Mrs Hermans's amendment for the reasons previously stated.

The DEPUTY PRESIDENT: If there are no further comments, I will put the clause as amended. If people want to support Mrs Hermans's position, they can vote against the clause.

Amended clause agreed to; clauses 13 to 25 agreed to.

Clause 26 (17:21)

The DEPUTY PRESIDENT: Mrs Hermans, I invite you to move your amendment 9, which tests your amendments 11, 20 and 21 on your sheet 1C.

Ann-Marie HERMANS: I move:

9. Clause 26, lines 22 to 26, omit all words and expressions on these lines.

My concerns in this are around the multicultural community. Again, I totally understand that this is all about making VAD more accessible, but I feel very strongly about protecting the multicultural community, protecting those who have English as a second language and protecting those who require an interpreter. I know that in other jurisdictions people are actually moving away from having interpreters and moving towards things like Google Translate, which is turning out to be quite helpful, and moving towards having those external practices using AI. But again, I just feel that we are taking away a protection here. I am concerned about the possibility of somebody taking their life with VAD through misunderstanding and misinterpretation. I understand that all sorts of precautions certainly have been in place and that this is removing that barrier. I feel quite strongly that we need to protect as much as possible our multicultural communities and those who may be Indigenous, where English may be their second language, from being misguided, misunderstood or misrepresented. That was the spirit in which I have proposed these amendments, simply as a protective guard, with the concern that

we are removing so many protective guards with this VAD bill. I for one do not want to have anybody have their life end through misunderstanding and misinterpretation. I think that would be tragic. Once gone, they can never come back. I do understand that we are looking at people with terminal illnesses and diseases and degenerative diseases, but again, they never know how long their life is going to go for in these situations, and it just seems to me that they could be taken advantage of in this situation.

Ingrid STITT: I just want to put a few things on record. I know this was extensively canvassed in clause 1 on Wednesday. I want to indicate that I do not support Mrs Hermans's amendment associated with removing an exemption to interpreter accreditation requirements. Allowing the Secretary of the Department of Health to grant an exemption from this requirement in exceptional circumstances ensures that those individuals who speak less common languages where there is no National Accreditation Authority for Translators and Interpreters (NAATI) accredited interpreter available are not excluded from accessing interpreter support. The act will continue to prohibit a range of people from being interpreters, including family members and people who believe they are or who have knowledge of being a beneficiary of the VAD applicant. The exemption will be tightly controlled and only granted when necessary – for example, if there is no accredited interpreter in Victoria – to preserve the integrity of the process while ensuring inclusivity. I want to reiterate what I put on record yesterday, and I want to strongly refute what Mrs Hermans's concerns are around somebody losing their life as a result of this provision. There are strong safeguards in other parts of the legislation that would prevent that from occurring, including that a medical practitioner assessing a person for VAD must be satisfied the person's request is voluntary and without coercion, irrespective of whether an interpreter is used or not. If they are not satisfied of that, then they cannot find a person eligible to access VAD.

Georgie CROZIER: I will just ask a couple of questions if I may given that we are talking about this topic and we did, as you said, go through this in detail on Wednesday. Thank you very much for providing the information that I requested, but I have a couple of points of clarification if you would not mind. In the response that you have provided, 196 languages other than English are spoken in Victoria by nearly 1.8 million Victorians, according to the 2021 ABS census data. There are 3600 professionals who interpret across 190 languages, so there are six languages not included in that. You have advised me that LOTE spoken by 130,000 people have no NAATI-credentialed interpreters located in Victoria as of May 2025. Languages lacking NAATI-credentialed interpreters in Victoria include Gujarati, Dutch and Kannada. Could you just tease that out a little bit more, those six languages that are not included, which you have not provided to me, but also those three that you have? I understand that they are very, very small numbers, and in here you have said that it is important to note that many of those people would also be proficient in English. If they are proficient in English, why is an interpreter service required? Wouldn't that apply to most languages that interpreter services are required for?

Ingrid STITT: I think what I was trying to do here was to give you as much data as we could get in a short period of time and to give you a sense of the scale of the number of people who speak languages that we do have NAATI-accredited interpreters to cover and the number of people who speak languages where there are no NAATI-credentialed interpreters. With the 130,000 we do not know whether any of them will apply or seek to access VAD, but I think the point we were making is that for these particular language groups, just because there is no NAATI-accredited interpreter, it does not mean that they do not have proficiency either in English or in a different dialect within a language group. That was just a distinction we were trying to make there. I think I ran through, in my previous comments, how the exceptional circumstances would be strictly controlled and how the secretary of the department would have to be satisfied that a person without a NAATI accreditation has other suitable qualifications, as we traversed on Wednesday in committee.

Georgie CROZIER: This is quite a concern to a number of us and a number of people. We need to ensure that there are interpreter services available for those that require them when they are seeking information and, as you quite correctly said, to have those safeguards in place to not allow family

members or those involved in care or those beneficiaries of that person involved. I am very satisfied with that. You just mentioned in your preamble, before I asked my question, that there are not accredited interpreters in Victoria, but if they were available in Australia, would the secretary undertake to try and access that service from interstate?

Ingrid STITT: I would expect that the secretary would have to be satisfied that the health service or the VAD medical professional has made every effort to have a NAATI-accredited interpreter available, and that would be part of the assessment the secretary would need to make about whether there were exceptional circumstances or not. I am not an expert in how the health services arrangements with different interpreter services are operating, but I do know as Minister for Multicultural Affairs that for our language services it is not unusual to try and source an interpreter with NAATI-accreditation online or interstate if there is not a person that is available. But I guess the intent behind this amendment is just to make sure that in the very rare circumstances where someone might need an interpreter in a language group where we do not have a NAATI-accredited translator available, they do not miss out on that vital language support.

Evan MULHOLLAND: Minister, one of the languages provided on a question on notice is Dutch. The last census had just over 3000 Dutch-born people speaking Dutch at home, almost 32 per cent. Over 98 per cent of those people speak English. Don't you think that is not really a practical example to use when you are talking about a community that by and large speaks English anyway?

Ingrid STITT: I think, in the response I provided Ms Crozier, I was very up-front about the fact that many of those people would be proficient in English. I was giving examples in the time that we had available to try and pull some of the information together for Ms Crozier. We made that point in the response.

Sarah MANSFIELD: We will not be supporting this amendment for the reasons the minister has outlined. I think this is an important exemption. It is unlikely to apply to many people at all and may not ever be used, but if you speak a language and for whatever reason do not have another language you can speak proficiently enough to feel confident in having a conversation about VAD, to be denied access to VAD because there is no NAATI-accredited interpreter available seems to me deeply problematic. Given that there could be alternative arrangements – safe arrangements – made, I think what the government has proposed is very sensible. There are still a whole lot of checks and balances and bureaucracy involved for anyone seeking this exemption. It is not a free-for-all; just anyone cannot come and be the interpreter. The secretary has to be satisfied that a range of criteria are met.

Importantly, there are other provisions within this bill around conflict of interest, which I think are really important protections, including that a person cannot stand to benefit in any way from that person's death, to reduce the risk of coercion, which I think some people may be worried about. So I actually think this is a really sensible change. It is very unlikely it will be used very often, but I think it is an important provision in order to give equity of access to people and not have the language they speak in be a barrier to them accessing something that everyone else is able to. On those grounds we will not be supporting this amendment.

Ingrid STITT: I want to add a couple of additional points, and one is that this exemption process is operating effectively in Queensland, the ACT and Tasmania. I also placed on the record when were discussing clause 1 the fact that in Queensland the provision has only been used once since 2023.

Evan MULHOLLAND: Just to quickly speak on this amendment, I do not think opposing this amendment because the number of people using the intended exemption is small is a good enough reason not to support this amendment. I think there could never be enough safeguards regarding VAD. Dr Mansfield spoke about conflict of interest. I went through in detail examples on Wednesday evening of how many of the communities that might be captured by this are quite small – and we are talking about small numbers; the government has admitted it is talking about small numbers – and are smaller communities where everyone knows each other. And so I just do not think that using non-accredited interpreters – in some of these small communities that we are talking about there are a

multitude of different dialects and there are a multitude of different slangs, and certainly a lot of the multicultural groups and organisations and services that I have consulted with and spoken to regarding this amendment are deeply fearful of this amendment and what this amendment might mean. So for that reason, I will be supporting Mrs Hermans's amendment.

Gaelle BROAD: I think if there is ever a time when you need to ensure that you have got the most appropriate person for the job with the best qualifications, this is the type of issue that would require that high level of experience when it comes to understanding language and the complexity of it, so I am certainly supporting Mrs Hermans's amendment.

Ann-Marie HERMANS: In closing and in summary for this amendment, obviously it rules out a whole lot of other areas. I believe that every human life is of great value and that every single person deserves the dignity of the safeguards, and even if somebody is in this state in a minority, a significant minority – and I agree with Mr Mulholland; quite often when they are in a minority they do all know each other because they band together and maybe have even come out together from another nation and have shared experience – on the basis that every life is of tremendous value and that every single person deserves to have the same safeguards regardless of what level of a minority group they are in and what sort of language barriers there may be, I simply reiterate that this is an important amendment. I will be taking it to the vote because I believe that I am standing up for every individual, particularly those who may not have those safeguards and deserve the safeguards that are in place for every other Victorian.

Council divided on amendment:

Ayes (11): Lizzie Blandthorn, Gaelle Broad, Moira Deeming, Enver Erdogan, Renee Heath, Ann-Marie Hermans, Trung Luu, Bev McArthur, Joe McCracken, Evan Mulholland, Adem Somyurek

Noes (26): Ryan Batchelor, Melina Bath, John Berger, Katherine Copsey, Georgie Crozier, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Shaun Leane, David Limbrick, Wendy Lovell, Sarah Mansfield, Nick McGowan, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt

Amendment negatived.

Clause agreed to; clause 27 agreed to.

Clause 28 (17:46)

The DEPUTY PRESIDENT: Mrs Broad has an amendment and Mrs Hermans has a proposal to omit this clause. Mrs Broad, I believe you are going to withdraw, so I will call on you to formally withdraw that amendment.

Gaelle BROAD: I just want to point out that this is the part about the minimum consultation period moving from nine days to five days, as proposed by this bill. My intention is to maintain the safeguards that are there from the original debate back in 2017. I understand Mrs Hermans is moving to omit this clause, so by voting no to this clause, that is the same. So I will be voting no.

Evan MULHOLLAND: I just have one or two questions on this clause if that is all right. I will speak very quickly; I did not get an opportunity before. With VAD available under this bill within five days, what is the government doing to guarantee that patients can access alternative options just as quickly, including proper palliative care assessments and treatments closer to home, particularly in the regions, where we know that there is a proportionally higher uptake than in metropolitan Melbourne?

Ingrid STITT: Thank you for your patience, Mr Mulholland. There are a number of issues that are relevant here. The five-year review found that between 83 and 88 per cent of people who were seeking to access VAD were already in palliative care, so that is really a demonstration, I think, that it is not about a lack of access to palliative care. People are seeking to access VAD while they are already in

that stream of care, and patients will continue to have full access to palliative care and curative options. VAD does not replace these options but provides an additional choice for those facing that intolerable suffering at the end of their life, which is obviously a patient-led decision. Doctors are required to discuss palliative care and other treatment alternatives before proceeding, and most patients who choose VAD, as I said, are already receiving high-quality palliative care. Their decisions generally reflect a desire for autonomy when suffering becomes unmanageable despite the best medical support available. I think I went to these issues in clause 1 at some length. I know that the minister in the other place is extremely committed to strengthening our palliative care services. She has appointed a chief palliative care adviser in the department, and we are working on refreshing the palliative care framework. The Victorian government also funds the Victorian Palliative Care Advice Service, which offers free confidential advice to all Victorians seeking information about life-limiting illness, palliative care or end-of-life care.

Ann-Marie HERMANS: I thank Mrs Broad for allowing me to put this forward given that we have very similar amendments and that she has withdrawn hers in favour of this one because it has, as she said, the same effect. I have a question for the minister about this change in the period of time between the first and final requests. What empirical evidence is this based on? Have there been situations? It seems to me like we are just narrowing everything here – or actually it is the complete opposite: we are just opening the lid on a whole lot of things. I mean, nine is an arbitrary number. Five is just as arbitrary, it appears, unless there is some empirical evidence to suggest otherwise. Minister, are you aware of any cases where the nine-day period was not appropriate or sufficient? Can you please back up, with empirical evidence, the reason for this change?

Ingrid STITT: I think, as I shared with the chamber on Wednesday, my own mother is an example that I have. This is a serious issue. We have all got our own personal experiences, which have been shared broadly, about some of the access and equity issues that exist in the current VAD system, hence the reason why the minister has brought forward these amendments contained in the bill. There is nothing arbitrary around the proposal for reducing the number of days from nine to five days between the first and final request; it has increased suffering for some VAD applicants who have had to wait until the minimum time has passed before they can complete the assessment process to obtain a permit. Shortening the minimum time period between first and final requests will allow the VAD assessment process to occur within a shorter period where appropriate but will not require that process to occur within a shorter time. The five-year review certainly pointed to a number of areas that needed to be improved in terms of equitable access to a reduced timeframe between first and second assessments, so it is certainly based on the feedback that has been gathered through the five-year review process and also the work of the VAD review board. I would also indicate that this proposal aligns Victoria with New South Wales, where the timeframe has been operating safely and effectively for a period of time now, since 2023. Tasmania has four days, and the ACT has removed a timeframe altogether. So on the basis of the various frameworks that exist in other jurisdictions, we think this is a sensible and balanced approach, and we will not be supporting your amendment.

Sarah MANSFIELD: On this one I also agree with the minister; I will not be supporting this amendment. As has been outlined, there is actually substantial evidence that has been gathered through the work of the voluntary assisted dying board and the data that they have collected about people's experience of the process. Many people, as has already been highlighted, enter the process very late. It is a process that typically takes, putting aside this period between the first and final request, between two to five weeks at a minimum to navigate, which given a lot of people enter this process quite late in their illness, can feel like an eternity for the people who are trying to navigate this. Many people are dying before they finish the application process. Other jurisdictions, including New South Wales and Tasmania, have a similar period to what is being proposed here with the government's changes, and I think the ACT's proposal to remove that mandated time interval between the first and final request is actually an appropriate response. We had actually considered moving an amendment, which I decided late not to put forward, to actually reduce the period to 48 hours, recognising that it is I guess another

way of demonstrating that the request is enduring. But I am certainly very comfortable with reducing it to five days.

We have also got lots of feedback from people who have been through this experience that things like weekends and public holidays can delay further those requests. So at the moment, with nine days, it can actually turn into more like two weeks between that first and final request. And during that time, we have certainly heard of many experiences of people passing away before they have been able to exercise their wishes and their choice to use VAD. So we are very supportive of what the government has proposed here. Obviously it is something that the Voluntary Assisted Dying Review Board will continue to monitor and collect data on and something that I think in the future we may look to modify again, but I certainly do not support the proposal here to retain the nine-day period.

Evan MULHOLLAND: I will be supporting this amendment but not be dividing. I think we should. I hope the government is serious about providing just as speedy support with palliative care. I think there is probably not any Victorian that is not touched by palliative care and issues with palliative care, and I think we should be doing everything possible to accompany those in their final days and try to avoid and alleviate the suffering rather than eliminate the sufferer. And for that I will be supporting this amendment but will not be seeking to divide on it.

Ann-Marie HERMANS: In light of the minister's explanation I will not be seeking to divide. However, as I said, I still feel that the reduction of the time of reflection, regardless of how many states it is in, can often not allow people to change their minds. We do know that there are a number of people that do change their mind; that has been recorded, and that data is available. There are many people that think that they are going to go through with VAD and then decide otherwise. It does bother me that we are speeding things up. I do not want anyone to be suffering. I think good palliative care does allow people to not have that level of suffering. If we only invested as much or significantly more in improving our palliative care and our palliative care resources, then I think that the option of VAD would not be so necessary. It would then only be those who have the degenerative diseases that want to consider their options. Certainly those in situations where they are suffering from things like cancer would I think prefer in many cases to have palliative care if it was operable and accessible. As we know, it has not been as accessible as it should be to the degree that it needs to be in places like the regional areas. I will not be taking this to a division but do want to have that on record.

Ingrid STITT: Without labouring the point, I just want to place on the record that the VAD review board annual report from July 2024 to June 2025 showed that 75 per cent of VAD applicants during that year were accessing palliative care services already.

The DEPUTY PRESIDENT: Mrs Hermans's amendment is to omit the clause. If you support Mrs Hermans's position, you should vote no to the clause.

Clause agreed to; clauses 29 to 58 agreed to.

Clause 59 (18:03)

Michael GALEA: I move:

10. Clause 59, lines 3 to 10, omit all words and expressions on these lines and insert –

'(1) Before section 75(1)(a) of the Principal Act **insert** –

"(aa) who is a registered medical practitioner, registered nurse, registered psychologist or registered Aboriginal and Torres Strait Islander health practitioner is, in the course of providing health services or professional care services to a person, initiating or attempting to initiate a discussion about voluntary assisted dying with that person that is not, or would not be, in accordance with this Act; or".

(2) In section 75(1)(a) of the Principal Act –

(a) for "provides health services or professional care services to a person is" **substitute** "is not a registered medical practitioner, registered nurse, registered psychologist or

registered Aboriginal and Torres Strait Islander health practitioner is, in the course of providing health services or professional care services to a person";

(b) in subparagraph (i) **omit** "in the course of providing those services to the person,".'.

These are the consequential amendments to what was already moved earlier today. They relate to notification requirements to AHPRA and mandatory reporting. There are three amendments to three clauses here. I will not go through everything again for the chamber, but I am happy to take questions if there are any.

Evan MULHOLLAND: I would like to stand in support of Mr Galea's amendments and in doing so again acknowledge Jess Wilson, Daniela De Martino, Mr Galea and others that have seen this amendment come to pass – both this amendment and my amendment, which is now Mr Batchelor's amendment – in good-faith negotiation with the chamber. So well done to Mr Galea. It was also at one point Ms Crozier's amendment. I would like to credit Ms Crozier, who along this journey, particularly on that amendment, has been very good, because she is actually in tune with her health stakeholders and speaks to them often about concerns that they have and, I know, responds to them very well, so there you go.

Ingrid STITT: I support Mr Galea's amendment.

Lizzie BLANDTHORN: Again, like Mr Mulholland, I thank Mr Galea for his amendment and the constructive way he has worked across the chamber. This has facilitated some important compromises and concessions that, while there is much in this bill that I still fundamentally oppose, do improve some clauses. So I thank him for that and continue to support his amendments and recognise those such as Daniela De Martino in the other place, Jess Wilson in the other place, Mr Mulholland and others who have also contributed to that process.

Amendment agreed to; amended clause agreed to.

Clause 60 (18:06)

Michael GALEA: I move:

11. Clause 60, lines 12 to 19, omit all words and expressions on these lines and insert –

'(1) Before section 76(1)(a) of the Principal Act **insert** –

"(aa) who is a registered medical practitioner, registered nurse, registered psychologist or registered Aboriginal and Torres Strait Islander health practitioner is, in the course of providing health services or professional care services to a person, initiating or attempting to initiate a discussion about voluntary assisted dying with that person that is not, or would not be, in accordance with this Act; or".

(2) In section 76(1)(a) of the Principal Act –

(a) for "provides health services or professional care services to a person is" **substitute** "is not a registered medical practitioner, registered nurse, registered psychologist or registered Aboriginal and Torres Strait Islander health practitioner is, in the course of providing health services or professional care services to a person";

(b) in subparagraph (i) **omit** "in the course of providing those services to the person,".'.

Ingrid STITT: I support Mr Galea's amendment.

Amendment agreed to; amended clause agreed to.

Clause 61 (18:07)

Michael GALEA: I move:

12. Clause 61, lines 21 to 28, omit all words and expressions on these lines and insert –

'(1) Before section 77(a) of the Principal Act **insert** –

"(aa) who is a registered medical practitioner, registered nurse, registered psychologist or registered Aboriginal and Torres Strait Islander health practitioner is, in the course of

providing health services or professional care services to a person, initiating or attempting to initiate a discussion about voluntary assisted dying with that person that is not, or would not be, in accordance with this Act; or".

(2) In section 77(a) of the Principal Act –

(a) for "provides health services or professional care services to a person is" **substitute** "is not a registered medical practitioner, registered nurse, registered psychologist or registered Aboriginal and Torres Strait Islander health practitioner is, in the course of providing health services or professional care services to a person";

(b) in subparagraph (i) **omit** "in the course of providing those services to the person,".'.

At the risk of upsetting Ms Crozier, I would like to also acknowledge all the members, particularly in this place, who I have been able to work with across all of these amendments. I should have acknowledged Ms De Martino and Ms Wilson as well, and quite rightly, Mr Mulholland, and you, Ms Crozier. But to the members in this place, I am happy for us all to take the credit, because this is I think a sensible set of amendments. I would like to acknowledge the minister and her team for working collaboratively on these amendments and the minister at the table, the Minister for Mental Health.

Ingrid STITT: I support Mr Galea's amendment.

Evan MULHOLLAND: I support Mr Galea's amendment.

Amendment agreed to; amended clause agreed to; clauses 62 to 71 agreed to.

Clause 72 (18:09)

The DEPUTY PRESIDENT: Mrs Hermans, I invite you to move your amendment 18 on your sheet 1C.

Ann-Marie HERMANS: I am happy to withdraw the amendment in the interests of the fact that I can see where we are heading here. But I do want to say that it does concern me in this bill – in so many other bills that come through this house, we clearly indicate additional powers and responsibility and accountability for the minister. In this case, we are giving the secretary a great deal of power, we do not refer to the minister and we also allow the secretary to defer to bureaucrats that work in an office when the secretary is not available. On an issue like life and death I find that an extraordinary thing to do, because whilst some might say this is just how we operate within our departments and how bureaucracy works, this is not just anything in bureaucracy. This is not just anything within departments or within government. This is a matter of life and death. This is about choices, but it is also about the extermination of life deliberately, wilfully, intentionally, and that will always bother me. That was the reason why I had proposed this.

Again, it does bother me that we are just breezing through this and we are allowing these things to happen and we are not going to be reviewing this for five years. The complications that could arise – I just hope that they will be transparent and available to everybody to enable them to make informed decisions when looking at reforms. I do not feel that we have necessarily had all of that transparency in the formation of accepting many of the amendments that are part of this bill, and that bothers me. So while I am happy to withdraw that in the interest of time and in the interest of where this is heading, I just want to have that on record, because these amendments do concern me, this process does concern me and this accountability of who signs off and how they sign off does concern me.

Ingrid STITT: I understand that Mrs Hermans is withdrawing this amendment, but I make the point that this is a very practical provision. It has been in place without issue in the current act since 2017.

Clause agreed to; clauses 73 and 74 agreed to.

Clause 75 (18:13)

The DEPUTY PRESIDENT: Mrs Hermans, we move to clause 75. You have amendments 2 and 3 on your sheet 2C.

Ann-Marie HERMANS: Again, I am happy to withdraw these. I recognise that we are nearly at the end of this and there is not much that I can do to protect the original act to stand in place as opposed to all these amendments. Therefore I am happy to withdraw any further amendments.

Clause agreed to.

Clause 76 (18:14)

Sarah MANSFIELD: I move:

109. Clause 76, line 16, after "cause a" insert "legislative".

110. Clause 76, line 17, omit "5 years" and insert "3 years".

This is a straightforward amendment that reduces the time period for the review period. Currently in the proposal here there is a five-yearly review period proposed. This is an area where things are changing rapidly as different states and territories introduce their own laws, things are learned from those practices and social attitudes change. Even from this debate we can see that there are a number of things that there are still questions about, whether things could be further improved. I think having a shorter review period for legislation like this, until perhaps it settles a little bit, is a reasonable thing to do. The other change that this makes is it explicitly states that it is a statutory review, which I think is important. We had a situation with the current legislation whereby the review outlined was an operational review. That is a point that has been raised by a number of members. What it meant was that the only obligation was to perform a review on whether the laws were operating as intended. I am very appreciative that the government recognised that we needed to undertake a statutory review and amend some of the laws based on all the feedback from the Voluntary Assisted Dying Review Board and a range of other sources, including that operational review over time. There was a world in which these laws may not have been amended or updated because there was no legislative requirement for that to occur. I think a statutory review is a really important thing to have and shortening that to a three-yearly review really makes a lot of sense for this particular issue.

Georgie CROZIER: Whilst I appreciate what Dr Mansfield has indicated in her reasoning for shortening the review process, I do not support going from five to three years at this point in time. I think we need to ensure that the safeguards and the amendments that we have put in place through this process and the debate today are working as intended, and I do believe that it needs that five-year period to enable a sufficient review process to be undertaken before any further amendments are made.

Ingrid STITT: I just want to indicate that the bill already amends the act to enable a review of the act itself, not just the operation of the existing act, and a five-year period between each review is necessary to ensure that there is sufficient time to implement and gather evidence on the effectiveness of any changes resulting from the previous review. This is also consistent with the review periods for VAD schemes in other Australian jurisdictions. On those grounds I will not be supporting this amendment.

Evan MULHOLLAND: I will not be supporting this amendment. I think five years is the appropriate time. There have been a lot of different amendments. I did not get to speak on the previous Greens amendment, but perhaps any sort of statutory review might be able to look at services in our aged care settings. It might find what Arthur Moses found recently. I was curious that the Legalise Cannabis Party voted with them on that amendment, because it was the Legalise Cannabis Party that last week commissioned legal advice from Arthur Moses, a very distinguished and respected lawyer. You cannot kick someone out of an aged care facility for accessing VAD under the federal Aged Care Act 1997. It is an issue of compliance and not legislation, so while it is not in conflict with the federal Aged Care Act, it is not something that needs to be legislated. The legal advice said that any aged care facility who transferred or denied service on the basis of VAD would be in violation of the Aged Care Act. Again, an eminent Australian lawyer found that. Perhaps a statutory review might say something different.

I think five years is an appropriate time. I can see the logic of Dr Mansfield and the Greens wanting to limit it to three years so they can have another round of amendments and so we can be right back here again. Looking at the experience in places like Canada and some countries throughout Europe, where there are all sorts of reasons that people can end their life – an ever-expanding list – I think this is something that people need to think very carefully about, very seriously about, before very quickly coming back to the well for another review.

Ann-Marie HERMANS: I understand the concerns, and I have a lot of concerns with the new amendments we have proposed in this amendment bill. However, I am also aware that there are many people that would be very content to have even less safeguards than we are now going to have. It seems like there is a desire from some to have even more reductions, and I think that the number of safeguards that are being reduced by this amendment bill is already significant. If I felt confident that we were going to go back to increasing the safeguards in a shorter period of time, then I would be very supportive of Dr Mansfield's amendment. However, given that it appears to me that the intent would be to increase the reduction of safeguards and make it far more accessible and therefore have far more people accessing VAD and going through with it – again, as I said, to me life is of tremendous value. Every life is a gift, and I believe that it ought to be treated as such. VAD distresses me enormously, given my own life experience and upbringing, and I simply cannot support the decrease to three years on that basis, although I do feel that some of the amendments that we have put in place today through this amendment bill may be problematic, and there may be issues that we cannot foresee and circumstances that may be regrettable.

I feel incredibly awkward about what may happen to the elderly in aged care services. I would hate to think that any of them could ever be taken advantage of in a moment of lack of clarity. They may be English-speaking but have a moment that lacks clarity, and then they may lack clarity again. Whilst I understand that people will argue that we have all the safeguards and that we have to accept that the professionals will do their jobs and that we will be able to keep those safeguards in place, all I can say is: I hope so. So while I thank Dr Mansfield, I am simply so concerned that I will not be supporting this amendment.

Amendments negatived; clause agreed to; clauses 77 to 85 agreed to.

Reported to house with amendments.

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (18:25): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Ingrid STITT (Western Metropolitan – Minister for Mental Health, Minister for Ageing, Minister for Multicultural Affairs) (18:25): I move:

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

Council divided on motion:

Ayes (26): Ryan Batchelor, Melina Bath, John Berger, Katherine Copsey, Georgie Crozier, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Shaun Leane, David Limbrick, Wendy Lovell, Sarah Mansfield, Nick McGowan, Tom McIntosh, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt

Noes (14): Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, David Davis, Moira Deeming, Enver Erdogan, Renee Heath, Ann-Marie Hermans, Trung Luu, Bev McArthur, Joe McCracken, Evan Mulholland, Adem Somyurek, Richard Welch

Motion agreed to.

Read third time.

The PRESIDENT: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council has agreed to the same with amendments.

Sitting suspended 6:31 pm until 7:32 pm.

Early Childhood Legislation Amendment (Child Safety) Bill 2025

Introduction and first reading

The PRESIDENT (19:32): I have received a message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, and to make Victorian specific modifications to that Law as it applies as a law of Victoria, to improve child safety in education and care services and for other purposes.'

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:32): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Jaclyn SYMES: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:32): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

> In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Early Childhood Legislation Amendment (Child Safety) Bill 2025 (the **Bill**).
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> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I have this opinion for the reasons outlined in this statement.
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> **Overview of the Bill**
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> The Bill amends the Education and Care Services National Law (**National Law**) set out in the Schedule to the *Education and Care Services National Law Act 2010*, to implement the recommendations of the Rapid Child Safety Review (**Rapid Review**) to improve child safety in education and care services and the early childhood child safety and quality reforms arising from the national Review of Child Safety Arrangements under the National Quality Framework (**Child Safety Review**) and other priority national child safety and quality reforms agreed by the Ministerial Council.
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> The objects of the Bill are to:
>
> *Strengthen Legal and Enforcement Measures*
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> - extend timeframes for prosecuting offences, triple maximum penalties, and add new infringement offences to strengthen enforcement;

Conduct, Supervision and Training

- add new offences for inappropriate behaviour, and allow authorities to suspend or supervise staff and volunteers, or require them to undergo training;

Emphasise Child Safety and Wellbeing

- reinforce that children's safety and wellbeing must be the top priority, with mandatory child protection and safety training for those working in education and care;

Increase Regulation of Technology and Environment

- introduce rules to manage the use of digital devices in care settings, and provide new powers to authorised officers to inspect family day care services;

Increase Oversight and Transparency

- establish a register for key personnel (**National Early Childhood Worker Register**), require approved providers to report changes in ownership or voting rights, and expand information-sharing with providers and agencies; and

Administrative Updates

- make minor and consequential amendments to improve clarity and consistency.

Human rights issues

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

- the right to protection from forced work (section 12);
- the right to privacy and reputation (section 13);
- the right to freedom of expression (section 15);
- the right to freedom of association (section 16)
- the right to protection of children (section 17(2));
- property rights (section 20);
- the fair hearing right (section 24(1));
- the right to presumption of innocence and other criminal process rights (s 25); and
- the protection against retrospective criminal laws (s 27).

Importance of Bill - protecting the safety, rights and best interests of children

As the amendments in this Bill all serve a common purpose of bolstering protections, safety and welfare in child-related education settings, I consider it helpful to preface my statement with an outline of the importance of this Bill and the pressing objectives it serves.

The primary purpose of the Bill is to overhaul the existing systems that safeguard child safety in Victoria so that they are as robust and effective as possible, in order to ensure that children are adequately protected.

The safety, health, wellbeing and protection of children is one of the highest priorities for all Australian governments. In 2023, the Australian Government Minister for Education and Minister for Early Childhood Education, supported by all state and territory Education Ministers, requested that the Child Safety Review be undertaken by the Australian Children's Education and Care Quality Authority (**ACECQA**). The Final Report of the Child Safety Review was published by ACECQA in December 2023.

The Child Safety Review examined new or refined systemic safeguards to better support services to protect children who attend an ECEC service. The Child Safety Review made 16 recommendations to address emerging issues, close loopholes, strengthen policies and practices, child safe cultures, recruitment processes and information handling, support staff capabilities, and improve protections around the use of new, online technologies.

In response to the recent allegations of child sexual abuse in early childhood education and care centres across Melbourne, the Government commissioned a Rapid Review into child safety. The Rapid Review identified immediate actions the Victorian Government should take to ensure predators are quickly detected and excluded from working with children in the national early childhood education and care system or elsewhere. In short, the Rapid Review found Victoria's laws were no longer fit for purpose and among the least flexible in the country – and needed a fundamental reset.

In response to the Child Safety Review and Rapid Review's findings, this Bill introduces new offences for inappropriate conduct and give regulatory authorities stronger powers to suspend or supervise staff and volunteers, as well as require training.

The amendments place greater emphasis on child safety, emphasising it as the central consideration in service delivery and mandating child protection training. Transparency is improved through a new register of personnel and stricter reporting requirements for corporate providers. Legal enforcement is strengthened by extending prosecution timeframes, increasing penalties, and adding new infringement offences. The use of digital devices in care settings is now regulated, and authorised officers have expanded powers to inspect family day care services. Finally, minor technical updates have been made to improve clarity and consistency across the legislation.

In doing the above, the Bill pursues the important and pressing objective of protecting child safety in the early childhood education and care settings. In doing so, it promotes the protection of a child's best interests in accordance with s 17(2) of the Charter, which seeks to protect important values such as the bodily integrity, mental health, dignity and self-worth of a child. The right recognises the special vulnerability of children and the need for measures to protect them and foster their development and education.

At the same time, the balance of these reforms will necessarily interfere with the right to privacy, which has been interpreted to extend to matters relating to the right to seek employment, and may be interfered with where employment restrictions impact sufficiently upon the personal relationships of the individual and otherwise upon the person's capacity to experience a private life (*ZZ v Secretary, Department of Justice* [2013] VSC 267). While it is recognised that the balance of these amendments will collectively impose more restrictions on a person's ability to engage in child-related work, including extending to preventing a person from continuing to work in the sector to which they may be primarily qualified for, they are necessary to ensure that the protection of children and their best interests are paramount. The changes to the education and care services laws are principally directed at stopping predators from commencing or continuing to engage in child-related work.

New paramount consideration of child safety

To codify the importance of protecting children, clause 61 of the Bill inserts new s 2A into the National Law which provides that the safety, rights and best interests of children is the paramount consideration in the operation of an education and care service and in the delivery of education and care services to children. New subsection 2A(2) provides that various persons involved in the provision of an education and care service must have regard to and apply the paramount consideration in making any decision or taking any action under the National Law. The introduction of this paramount consideration promotes the protection of children under s 17(2) of the Charter by effectively imposing a positive duty on education and care providers to have regard to the safety, rights and best interests of children, embedding a culture of child safety into their decision-making processes and day to day operation.

Amendments to the National Law relating to offences, recruitment agencies and powers of the Regulatory Authority

The Bill amends the National Law to introduce penalties for providing false and misleading information to recruitment agencies regarding prohibition orders, and to allow the Regulatory Authority to share information with, and require information from, recruitment agencies. These amendments engage the rights to privacy and freedom of expression.

Rights to privacy and freedom of expression

Section 13(a) of the Charter prohibits unlawful or arbitrary interferences with a person's privacy. The right to privacy has been interpreted broadly by the courts to include protection of a person's physical and psychological integrity, their individual and social identity and their autonomy and inherent dignity. Arbitrary interferences are those that are capricious, unpredictable or unjust, as well as unreasonable because they are not proportionate to a legitimate aim sought. An interference with privacy can still be arbitrary even though it is lawful.

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 5 inserts new section 188B, which mirrors the existing offence in section 188A of the National Law in relation to false or misleading information about a prohibition notice, but expands its application to an individual who has entered into an agreement with a recruitment agency for education and care related work (agency educator) and who is subject to a prohibition notice.

By prohibiting such an individual from making a false or misleading statement to a recruitment agency about the prohibition notice, clause 5 engages the right to freedom of expression in section 15 of the Charter. This is consistent with the lawful restriction on the right to freedom of expression in section 15(3) of the Charter, being that the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other people, including children. The right to freedom of expression is heavily qualified - and generally understood to not extend to protecting false or misleading expression in the context of a person's

participation in a regulatory scheme. Deterring a person from providing false or misleading information about prohibition orders to which they are subject is directly connected to reducing the risk of harm to children and operationalising the effectiveness of these compliance measures.

Clauses 7 and 8 introduce powers to require recruitment agencies to provide information. Clause 7 inserts new section 206A, which mirrors the existing power in section 206 of the National Law of authorised officers to obtain information, documents and evidence, but expands its application to recruitment agencies. Similarly, clause 8 expands the existing power in section 215 of the National Law of the Regulatory Authority to obtain information, documents and evidence by notice, but expands its application to recruitment agencies. The definition of recruitment agency in clause 3 encompasses individuals. Under the National Law and regulations, approved providers are required to keep prescribed documents relating to any staff member employed or engaged by the service, including staff records comprising contact information, and evidence of relevant qualifications and training.

By requiring a recruitment agency to provide personal information about agency educators, clauses 7 and 8 engage the right to privacy and the right to freedom of expression in section 13(a) and section 15 of the Charter respectively. In respect of section 13(a), I consider that any interference with an agency educator's privacy would be in accordance with law and proportionate to the legitimate aim of ensuring that, when an allegation is made against an agency educator and a host provider has an incomplete staff record, authorised officers and the Regulatory Authority are empowered to obtain additional information about agency educators from recruitment agencies in order to take urgent action to mitigate risks to children. While this information may be personal, it will relate to information to which a person undertaking such roles would possess a lower expectation of privacy in relation to. For the same reasons as above, compelling recruitment agencies to provide information would not limit section 15(2) of the Charter, as it would be reasonably necessary to protect the rights of others, and public order.

Clauses 9 and 10 permit the National Authority or the Regulatory Authority to share information about an agency educator with their recruitment agency, including information about the educator's prohibition orders and enforceable undertakings. Clause 9 permits the National Authority or the Regulatory Authority to disclose to an approved provider, without that provider's prior request, information about whether an individual employed (or appointed or engaged) by the approved provider has given an enforceable undertaking or is subject to a prohibition notice, or whether a family day care educator employed (or appointed or engaged) by the approved provider has been suspended, if the National Authority or Regulatory Authority considers on reasonable grounds that the information may assist the provider to comply with the National Law. The effect of this amendment is to enable the National Authority and Regulatory Authority to proactively disclose certain information to an approved provider and to expand the types of information that may be disclosed to include enforceable undertakings. Further, the threshold for allowing disclosure of information is lowered from 'requires', to 'may assist' the provider to comply with the National Law in clause 9. Clause 10 inserts new section 272A, which permits the National Authority or the Regulatory Authority to disclose information to a recruitment agency for the purposes of promoting the objectives of the National Quality Framework about whether an individual has given an enforceable undertaking, is subject to a prohibition notice or has been suspended.

Although these clauses may engage the right to privacy in section 13(a) of the Charter, by allowing the disclosure of personal information pertaining to educators, the disclosure would be in accordance with law, including as already provided for under section 272 of the National Law, and necessary to ensure that prohibited or suspended agency educators do not work with children across multiple services undetected. In my view, a person would not hold a reasonable expectation of privacy in relation to records about their compliance with a regulated scheme or the existence of compliance orders being made against them, and the sharing of that information between the Regulator and employers is necessary for the purpose of upholding compliance with the National Law.

Additionally, allowing proactive information sharing (ie, without an approved provider's prior request) and information gathering by regulators is necessary to support early intervention and mitigation of harm to children, which promotes section 17(2) of the Charter

Extending the time within which proceedings for offence may be brought

Clause 11 of the Bill amends section 284 of the National Law to provide that proceedings for an offence under that Law must be commenced within 2 years after the date on which the person bringing proceedings – being the Regulatory Authority, a person authorised by the Regulatory Authority or a police officer – becomes aware of the alleged offence. This extends the existing limitation period previously set as requiring commencement of proceedings within 2 years of the date of the alleged offence.

Clause 11 further amends section 284 to provide that if the Regulatory Authority becomes aware of an alleged offence but is required to suspend taking action in relation to the alleged offence because of a concurrent

investigation or proceeding in relation to the same conduct under another Act, proceedings for the offence against the National Law must be commenced within 2 years after any investigation or proceeding (as the case requires) in relation to the conduct under the other Act have been finalised. Section 284 applies to all offence provisions under the National Law. The offence provisions carry monetary penalties and are subject to criminal prosecution.

These amendments are relevant to retrospective criminal laws (s 27) and fair hearing (s 24).

Retrospective criminal laws

Section 27(1) of the Charter provides that a person must not be found guilty of a criminal offence because of conduct that was not a criminal offence when it was engaged in.

The amendments to the National Law introduced by clause 11 apply retrospectively, meaning that Regulatory Authorities could bring proceedings for alleged offences that they become aware of in the 2 years *prior* to this amendment coming into force that they would not otherwise have been able to bring proceedings for (because the current limitation period in section 284 starts on the date that the alleged offence occurs).

As the amendments introduced by clause 11 do not retrospectively criminalise conduct or impose increased penalties for existing offences, they do not engage section 27(1) of the Charter. Regulatory Authorities will not be able to prosecute a person for an offence which did not exist at the time the alleged conduct which would constitute the relevant offence occurred or seek a penalty amount greater than the amount which applied at that time.

Fair hearing and criminal process rights

Section 24(1) of the Charter provides that a person charged with a criminal offence has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. A person can be subject to procedural disadvantage and still have a fair hearing. Section 25(2)(a) of the Charter provides that a person charged with a criminal offence is entitled without discrimination to be informed promptly and in detail of the nature and reason for the charge. Section 25(2)(c) provides that a person has the right to be tried without unreasonable delay.

Amendments to extend the limitation period for bringing proceedings are relevant to sections 24(1) and 25(2) of the Charter. In respect of section 24(1), the new limitations period based on when the Regulatory Authority becomes aware of the alleged offending does introduce a potentially indeterminate period for bringing proceedings in relation to when an alleged offence was committed, which could, if a long period has elapsed between the alleged offence being committed and the Regulatory Authority becoming aware of it, prejudice an accused's ability to prepare their defence. Longer periods for commencing proceedings are relevant to an accused's capacity to access or lead admissible exculpatory evidence, the availability of relevant witnesses and their capacity for recollection, and the availability of documentary evidence (noting that longer periods for commencing proceedings may also adversely affect the Regulatory Authority's ability to prove the offence). Similarly, in respect of section 25(2), the delay may limit the minimum guarantees of being promptly informed of the nature of the reasons for a charge and of being tried without unreasonable delay, which ultimately protect against a person being subject to an indefinite prospect of prosecution.

However, clause 11 also involves balancing conflicting rights. Commencing prosecutions for breach of the National Law is essential to safeguarding child safety, ensuring administration of justice for victims and accountability for perpetrators. It promotes the right to protection of children as in their best interests, and in certain circumstances would be relevant to ensuring security of person and the right to life (to the degree that those rights impose positive obligations on the State to have a criminal justice system that is able to bring perpetrators to account without obstacles, and deliver justice for victims). I consider that any limitation on the rights of defendants under sections 24(1) and 25(2) is justified for the following reasons, having regard to section 7(2) of the Charter.

The amendments to section 284 are necessary because the current limitation period provided for does not account for circumstances in which there is a delay in reporting and investigation of alleged offences such as child abuse or failing to protect children from harm and hazards. For example, the Royal Commission into Institutional Responses to Child Sexual Abuse found that it takes an average of 24 years for survivors to disclose childhood abuse. Consequently, statutory time limits are increasingly being removed for certain historical sexual offences against children (e.g. *Crimes Amendment (Sexual Offences and Other Matters) Act 2014* (Vic), which amended the *Criminal Procedure Act 2009* (Vic)).

Delays in reporting of complaints by alleged victims and their parents is further compounded if there are delays in reporting by approved providers to the Regulatory Authority, and delays arising from alleged offences being reported to law enforcement in the first instance, such that the Regulatory Authority is only notified of the alleged conduct at a later date.

Additionally, criminal proceedings take precedence over regulatory proceedings and often continue for years, particularly where there are multiple allegations. Therefore, if the 2 year limitation period commences from the date of the alleged offence or from when the Authority became aware of the alleged offence, the Regulatory Authority may be time-barred from commencing proceedings where it was required to suspend taking action in relation to the alleged offence because of a concurrent investigation or proceedings in relation to the same conduct under another Act. Therefore, the 'stop the clock' amendment of s 284 ensures that the Regulatory Authority is not unfairly prevented from prosecuting serious breaches simply because another investigation or proceeding is underway.

Additionally, under the National Quality Framework, the Regulatory Authority has experienced an increased volume of complaints, particularly sexual abuse or assault allegations. Further, there are complexities involved with investigating and preparing legal action for offences under the National Law, as compared with other summary offences.

Accordingly, these amendments will provide Regulatory Authorities with more time in which to investigate the complex and numerous complaints they receive, thereby facilitating a safer environment for children receiving education and care services.

The offences in the National Law are important to child safety so as to justify the extension of the limitation period and introduction of the 'stop the clock' mechanism. Further, I consider the nature and extent of the impact on rights to be limited by the following factors:

- the majority of prosecutions brought under these provisions are brought against entities who are not natural persons and do not have human rights;
- the ceiling of the proposed limitation period is limited to offending committed on and after 1 January 2012, when the National Law commenced operation;
- the severity of penalties is limited to pecuniary penalties and does not extend to imprisonment;
- prospective defendants are persons who have assumed special roles with corresponding obligations to be able to demonstrate their compliance with the National Law; and
- to the extent that the conditions of a particular case are such that an accused is unable to enjoy a fair hearing or their criminal process rights, the courts retain their discretion to stay an unfair prosecution (such as due to an unreasonable delay in commencement, the unavailability of key witnesses or the deterioration of exculpatory evidence).

Accordingly, I consider this provision strikes the appropriate balance between competing rights, and that any limits on fair hearing or criminal process rights are reasonably justified under s 7(2).

Related provider determinations

Clause 64 of the Bill inserts new sections 5B to 5D inclusive into the National Law which introduce the concept of 'related providers'. These provisions establish a framework for identifying providers who are interrelated by way of ownership, shareholding or shared management, or control or influence arrangements and empower the Regulatory Authority to make a related provider determination where such relationships exist.

Clause 65 then inserts new s 13(2A) into the National Law that provides that in determining whether a person is a fit and proper person to provide education and care services, the Regulatory Authority may have regard to a related provider's history of compliance with the National Law and relevant current and former laws of participating jurisdictions, and various other matters including their criminal history and financial status. The Regulatory Authority may have regard to these matters if it is satisfied that there is a systemic risk to the safety, health or wellbeing of a child or children being educated and cared for by an education and care service proposed to be operated by the applicant or that is already operated by a related provider, or that there is a systemic risk of the applicant or a related provider contravening the National Law or the national regulations. New s 5D provides that in determining whether a risk is a 'systemic risk', the Regulatory Authority may have regard to various factors, including the nature of the risk and whether the risk is shared between an approved provider and any related provider.

Further clauses similarly amend the National Law so that the Regulatory Authority may take into account the conduct of a related provider in making decisions that concern an applicant for provider or services approval, or an approved provider. These actions may be taken if relevant grounds and the systemic risk threshold are met in respect of the related provider, and the action is reasonably necessary to address the systemic risk.

Clause 66 inserts new s 23(2A) into the National Law which provides that the Regulatory Authority may amend an approved provider's approval, or vary or impose a condition on their provider approval if it is satisfied that the systemic risk threshold has been reached either in respect of the approved provider or by a

related provider of the approved provider, and the amendment of, variation or imposition of a new condition on the approval is reasonably necessary to address the systemic risk.

Clause 67 inserts new s 25(2) into the National Law which provides that the Regulatory Authority may suspend the provider approval of an approved provider if various grounds apply to a related provider of the approved provider and the systemic risk threshold is reached in respect of the approved provider or their related entity, and the suspension is reasonably necessary to address the systemic risk. Clause 69 of the Bill then inserts new s 31(2) into the National Law which operates similarly to clause 67 to allow the Regulatory Authority to cancel an approved provider's provider approval if various grounds apply to the related provider and the systemic risk threshold is met in respect of that approved provider or a related provider.

Clause 71 then inserts new s 47(2A) into the National Law which provides that the Regulatory Authority may have regard to the history of compliance of a related provider of an applicant for service approval in making a determination regarding the application if the systemic risk threshold applies to the applicant or a related provider. Clause 72 then provides that the Regulatory Authority may refuse to grant a service approval because of one of the systemic risk grounds found in new s 47(2A). Clause 73 also allows the Regulatory Authority to amend, vary a condition or impose a new condition on a service approval held by an approved provider if the systemic risk threshold is met by the approved provider or their related entity.

Clause 74 of the Bill inserts new s 70(2) into the National Law which provides that the Regulatory Authority may suspend an approved provider's service approval if various grounds apply to a related provider of the approved provider and the systemic risk threshold is reached in relation to the approved provider or their related entity. Clause 76 then inserts new s 77(2) to allow the Regulatory Authority to cancel a service approval of an approved provider if various grounds apply to a related provider and the systemic risk threshold is reached in relation to the approved provider or their related entity.

Finally, clause 77 inserts new s 90(ab) that provides that the Regulatory Authority must consider the history of compliance with the National Law of a related provider of an applicant for a service waiver, in deciding whether the grant of a service waiver is appropriate.

These amendments, in providing for the making of a related provider determination, and allowing the Regulatory Authority to make decisions that affect the rights of approved providers or applicants for provider or service approval or a service waiver, based in part on the conduct of another entity, may engage the rights to freedom of association (s 16) and fair hearing (s 24).

Freedom of association

Section 16(2) of the Charter relevantly provides that every person has the right to freedom of association with others, including protection from adverse treatment on the basis of a person's associations.

In allowing the Regulatory Authority to make decisions regarding whether a person is a fit and proper person to provide education and care services (clause 65), or to make decisions regarding provider or service approvals or the grant of a service waiver, in part on the basis of the conduct of a related provider, the provisions may engage the right to freedom of association under s 16 of the Charter. While in many cases, the 'provider' captured by these provisions will not be a natural person with human rights, there may be instances where an approved provider or applicant is a natural person. As the Bill mandates a factor in the Regulatory Authority's decision-making process to be the association or relationship of that person with a related provider (who may be a corporate entity or another individual) and the conduct of that related provider - this could interfere with that person's freedom of association, to the extent to which they are subject to adverse treatment under the scheme by way of their association.

The right to freedom of association has been interpreted to protect both private and public associations, including the right to associate with other individuals. In my view, the associations of related providers, being a relationship based on corporate ownership or some other company structure, is not likely to be something that comes within the type of protected associations to which this right is concerned.

However, if a broad view is taken and the right is considered to be interfered with or limited by these provisions, I consider any limit to be reasonably justified. The intention behind the provisions is to ensure that the Regulatory Authority can maintain proper oversight and intervene appropriately where systemic risks arise across groups of interrelated providers. This includes situations where a current or past education or care provider, with a history of breaching the National Law, acquires, manages or otherwise exerts control or influence over another provider and in so doing, potentially poses a risk to the safety, health or wellbeing of children attending services operated by that other provider. It is necessary to ensure that relevant considerations of risk are properly taken into account and that evidence of prior compliance breaches or bad character that can be attributed to a provider, or may influence a related provider, are not obscured by corporate structures. Finally, I note that a fit and proper person scheme that takes into account the conduct

and compliance history of associated entities is commonly provided for in regulatory schemes that safeguard against serious risks to public safety and wellbeing.

In this context, I consider that these provisions are compatible with the right to freedom of association.

Fair hearing

Section 24(1) of the Charter relevantly provides that a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The concept of a 'civil proceeding' is not limited to judicial decision makers but may encompass the decision-making procedures of many types of tribunals, boards and other administrative decision-makers with the power to determine private rights and interests. While recognising the broad scope of s 24(1), the term 'proceeding' and 'party' suggest that s 24(1) was intended to apply only to decision-makers who conduct proceedings with parties.

If a broad reading of the fair hearing right is adopted and the right is taken to encompass the administrative decision-making of the Regulatory Authority in respect of related provider determinations and other decisions such as to suspend or cancel a provider approval, insofar as these decisions affect an approved provider that is a natural person, the right may be interfered with. Generally, the fair hearing right is concerned with the procedural fairness of a decision, which in the context of these types of administrative decisions, requires prior notice of a decision, information to interested parties that may be relevant to a decision, and giving them a 'reasonable opportunity' to present their case and respond to adverse information. The right of review of such a decision may also cure any adverse impacts on procedural fairness in the first instance decision.

The related provider determinations in new s 5C of the National Law do not in themselves affect rights, but once a determination is made, information concerning a related provider may then be used in decisions that affect the rights of approved providers or applicants for approvals. However, clause 64 includes the requirement to provide notice of the determination to the affected approved provider or applicant, in addition to reasons for the determination. While the decision to make a determination is not subject to the internal or external review processes in Part 8 of the National Law, an affected person would have the right of judicial review.

Further, the review pathways remain unchanged for the substantive decisions of the Regulatory Authority that will now have regard to systemic risk information of relevant providers, including refusals to grant a provider approval, decisions relating to approval conditions, and decisions to suspend or cancel a provider's approval. These decisions also remain subject to the current notice provisions in the National Law, and the decisions to suspend or cancel provider and service approvals may only be made following a 'show cause process' which allows affected approved providers the opportunity to make submissions in relation to any aspect of the Regulatory Authority's decision, including in relation to related provider status or the existence of a systemic risk. A person who is the subject of a decision may then apply to the Regulatory Authority for an internal review of the decision under current Part 8 of the National Law, and subsequently to review by VCAT under Part 8 of the National Law.

In light of the procedural fairness safeguards that are already in place in the National Law, and the notice and reasons provisions for related provider determinations in clause 64, I am satisfied that the right to fair hearing under s 24 of the Charter is not limited by clauses 64 to 77 of the Bill.

Child protection and child safety training

Clause 78 substitutes s 162A and inserts new s 162B into the National Law, which relate to the requirement that an approved provider of an education and care service must ensure various employees undertake child protection and child safety training respectively. New s 162A now includes an offence provision for non-compliance with the requirement to implement child protection training, which includes a pecuniary penalty, and new s 162B introduces a new requirement that providers roll out child safety training, with an offence provision and pecuniary penalty for non-compliance.

The strengthening of the child protection and child safety training requirements promotes the protection of children under s 17(2) of the Charter, by in effect, imposing a positive duty on providers to ensure relevant staff have adequate training to enable them to keep children in their care safe.

New offence of 'inappropriate conduct'

Clause 79 of the Bill inserts new section 166A, which introduces offences relating to inappropriate conduct. These offences include that an approved provider must ensure that no child is subjected to conduct that a reasonable person would consider to be inappropriate in an education and care service, and that a nominated supervisor of an education and care service must ensure that no staff member or volunteer subjects a child to inappropriate conduct. New section 166A, and especially subsection (8)(a)(ii), (iii) and (iv), promote section 17(2) of the Charter by providing that the circumstances relevant to whether a reasonable person would consider conduct to be inappropriate in an education and care service include whether the conduct is

likely to cause or result in harm (including emotional, psychological or physical harm) or injury to a child, the child's age and stage of development and whether the conduct is sexual, aggressive or violent.

Regulating use of devices in education and care services

Clause 81 of the Bill inserts new Part 6A, which regulates the use of devices in education and care services. New sections 175B and 175C respectively permit approved providers to supply a device for use in an education and care service and authorise a device for use in family day care services exclusively for the purposes of providing education and care to children as part of that service. New Part 6A introduces the following further sections and provides for safeguards aimed at enhancing child safety, including:

- that, in authorising a device under new section 175C(1), an approved provider must ensure that the device is configured to operate in accordance with any policies or procedures of the family day care service that relate to child safety or the security of devices (new section 175C(2));
- requiring approved providers and nominated supervisors of an education and care service to take every reasonable precaution to ensure that only service-supplied devices to capture or transmit an image of a child being educated or cared for by the service (new section 175D);
- requiring approved providers and nominated supervisors of a family day care service to take every reasonable precaution to ensure that only service-authorised or service-supplied devices are used to capture, store or transmit an image of a child being educated or cared for by the service (new section 175E);
- providing for offences relating to capturing, storing or transmitting images of children not using a service-authorised or service-supplied device (new section 175F);
- requiring approved providers and nominated supervisors of an education and care service to take every reasonable precaution to ensure that while each nominated supervisor, staff member or volunteer is working directly with children as part of the service, the person does not have a personal device in their possession or control (new section 175H); and
- prohibiting nominated supervisors, staff members of, and volunteers at, an education and care service from having a personal device in their possession or control (new section 175I).

These provisions are relevant to the rights to privacy, expression and property.

Right to privacy

The regulation in education and care services of devices which can capture, store or transmit images will be relevant to:

- a child's right to privacy in section 13(a) of the Charter, to the degree that the right includes entitlement to control over a person's image and informational privacy; and
- the right to privacy in section 13(a) of a person working in an education and care service, to the degree that the right includes their individual and social identity, autonomy, personal relationships and capacity to experience a private life.

The right to privacy has been interpreted broadly by the courts to include protection of a person's physical and psychological integrity, their individual and social identity and their autonomy and inherent dignity. However, I consider that any interferences with the right to privacy are not unlawful or arbitrary.

In respect of a child's right to privacy, the National Regulations already require documentation of children's learning and participation in an educational program (which is typically achieved by digital images and videos). The amendments inserted by clause 81, including requirements to use service-supplied and service-authorised devices to capture, store or transmit an image of a child, and the prohibition on the control and possession of personal devices, promotes and protects a child's right to control over their information privacy.

In respect of the right to privacy of a person working in an education and care service, prohibiting a person's possession or control of their personal device while working directly with children may interfere with a person's individual and social identity, including their personal relationships and capacity to experience a private life. In my view, any interference is proportionate to the legitimate aim of protecting the safety of children. In particular, any limitations on the use of personal devices are confined to circumstances when a person is working directly with children as part of an education and care service, which excludes when a person is on a short break from providing that education or care. Further, clause 81 provides for exceptions, including when possession or control of the personal device is necessary for the purposes of communicating with a family member, for example.

Freedom of expression

Restricting use of a personal device is relevant to freedom of expression, which encompasses the freedom to impart information of all kinds, including by way of images and using a personal device for communication. For the reasons explained above, I consider that any limitation on a person's right to freedom of expression under section 15(2) of the Charter, which encompasses expression in any medium, to be justified to respect and promote children's rights under section 17(2). Clause 81 of the Bill does this by, and is justified for the legitimate purposes of:

- making it more difficult for individuals providing education and care to use their personal device to generate inappropriate digital content relating to children attending education and care services;
- reducing the potential risk that images or videos of children (including inappropriate content) will be distributed, intentionally or unintentionally; and
- giving approved providers greater oversight of the nature and quality of the digital content being produced in their services, as well as their appropriate storage and disposal.

Right to property

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

By restricting people working directly with children from using, controlling or being in possession of their personal devices while doing so (and the enjoyment of their property rights), new sections 175H and 175I engage section 20 of the Charter. Section 20 provides that a person must not be deprived of their property other than in accordance with law. The right is understood to protect deprivations of the use or benefit of property, which would include quiet enjoyment of personal devices. For deprivation of a person's property to be 'in accordance with law', as required by section 20, the legal authorisation for the deprivation must be clear and certain, publicly accessible and it must not operate arbitrarily.

I consider that new Part 6A satisfies these requirements under the Charter, and note that this right would generally not extend to protect against reasonable restrictions on the use of personal property while at a workplace, where there is a legitimate purpose for doing so. Further, it sets out the following exceptions, allowing the use of personal property in legitimate circumstances, including for example:

- when an authorisation has been given by an approved provider under new section 175J;
- when children are being transported by the service, and the possession or control of the personal device is necessary for the purposes of safety or the provision of education and care to the children;
- use in an emergency; or
- providing support or assistance with a person's disability or health needs (thereby also promoting the protection against discrimination in section 8 of the Charter).

Accordingly, I am satisfied these provisions are compatible with the Charter rights to privacy, expression and property.

Compliance directions and compliance notices

Clauses 82 and 83 of the Bill amends sections 176 and 177 of the National Law, respectively, to empower the Regulatory Authority to issue directions or notices to an approved provider of the education and care service. The proposed sections will require the approved provider to take the steps specified in the direction or notice if there is a systemic risk of:

- to the safety, health or wellbeing of a child being cared for by an education and care service operated by the approved provider or a related provider of the approved provider, or
- the approved provider or related provider contravening the National Law or regulations, and
- the direction or notice is reasonably necessary to address the risk.

Clauses 82 and 83 may engage the right to freedom from forced work by inserting provisions which require an approved provider to undertake acts that the Regulatory Authority reasonably considers necessary to mitigate the risk to child safety, or to address a contravention of the National Law.

Freedom from forced work

Section 11 of the Charter provides that a person must not be made to perform forced work or compulsory labour. 'Forced or compulsory labour' relevantly does not include work or service that forms part of normal civil obligations. While the Charter does not define 'normal civil obligations', comparative case law has

considered that to qualify as a normal civil obligation, the work or service required must be provided for by law, must be imposed for a legitimate purpose, must not be exceptional and must not have any punitive purpose or effect. This would include obligations to undertake work in order to maintain compliance with regulatory standards, particularly where those standards are to protect against risks to vulnerable persons whose safety and wellbeing are reliant on the compliance of others. It would also include obligations assumed as a result of a person's voluntary assumption of regulated roles.

I am of the view that, if the right is engaged, acts or steps required under a notice or direction to address systemic risks to child wellbeing or a contravention of the National Law would form part of normal civil obligations (here, where there is a duty of care over children in the care of the approved provider or a related provider of the approved provider) and would, therefore, not constitute a limit on the right. A notice or direction requiring the undertaking of steps will be provided in accordance with the National Law and will be confined in its impact, in that the direction or notice must be necessary to protect the safety, health or wellbeing of a child (in contrast to being issued for a wide, undefined purpose). As discussed above, the Bill protects children by ensuring that directions or notices require specific acts to be done in order to promote the safety and wellbeing of children.

As such, I consider that these clauses are compatible with the right to freedom from forced work.

Directions to suspend, supervise, or complete training inserted

Clause 84 inserts new sections which empower the Regulatory Authority to issue notices to direct approved providers of a service if it is satisfied that the conduct or inadequacy of the education and care provided by a relevant staff member or volunteer results in a contravention of the National Law or risks the safety, health or wellbeing of children cared for by the service. These notices concern the following compliance measures:

- Section 178A allows the Regulatory Authority to issue notices to direct the suspension of an education and care by a staff member (other than a family day care educator), or volunteer;
- Section 178B allows the Regulatory Authority to issue notices to direct the suspension of education and care by a nominated supervisor;
- Section 178C allows the Regulatory Authority to issue notices to direct supervision of a staff member (other than a family day care coordinator), or volunteer;
- Section 178D allows the Regulatory Authority to issue notices to direct a nominated supervisor to complete training; and
- Section 178E allows the Regulatory Authority to issue notices to direct a staff member or volunteer to complete training.

A contravention of either of these notices results in a pecuniary penalty.

A 'show cause notice' may be given before a notice under either of the above provisions is issued, which can include the reasons for the proposed direction and allows the provider to make submissions to the Regulatory Authority in respect of the proposed direction. There is a discretionary exception to the requirement to give a 'show cause notice' concerning where the Regulatory Authority is reasonably satisfied that there is an unacceptable risk to the safety, health or wellbeing to the child, and the notice is necessary to protect the safety, health or wellbeing of the child or children.

Freedom from forced work

As we discussed above in relation to compliance directions and notices, obligations or directions to undertake work (here being workplace training, suspending or supervising a staff member) in order to maintain compliance with regulatory standards may engage the right to freedom from forced work. However, I am of the view that, if this right is engaged, undertaking these activities and imposing conditions on workers or carers who provide education and care services forms part of 'normal civil obligations'. Further, notices of this nature serve an important purpose of addressing and reducing the systemic risk of harm to the safety, health and wellbeing of children, which supports the overall aim of the Bill.

Right to privacy

Further, a potential restriction on employment, by way of issuing a notice to suspend or supervise a staff member, may also engage the right to privacy. If a restriction on employment sufficiently affects an individual's personal relationships at work and capacity to experience a private life, this may negatively affect their capacity to develop personal relationships and have a private life.

However, I consider that the privacy right is not in fact limited, given any interference in privacy would be pursuant to law and is not arbitrary. Generally, a condition that someone be subject to supervision in an employment setting would not be considered to be of a requisite gravity of interference to engage the right, given the lower expectation of personal privacy in a workplace setting and that such a condition would not

preclude a person from continuing to work. In my view, such a notice is a proportionate, temporary measure to achieve the important purpose of protecting children in education and care services. The inclusion of a provision to allow 'show cause notices' in most circumstances and the opportunity to provide submissions in response also acts as a safeguard to ensure that any proposed notices are appropriate and proportionate.

Presumption of innocence

The above sections may engage the right to be presumed innocent until proven guilty under section 25(1) of the Charter, to the extent that the Regulatory Authority proposes to treat a person adversely on the basis of suspected contraventions of the National Law which could also constitute allegations of criminal offending. In my view, the right is not limited, as the right is primarily concerned with preventing punishment of an accused prior to any finding of guilt.

While it is an offence not to comply with a notice, a notice directing a relevant person to suspend providing education and care does not itself affect criminal proceedings relating to the person. Nor does it presume that person to be guilty of an offence. Rather, it is a preventative measure which protects children where the Regulatory Authority is reasonably satisfied that there is a risk to the safety, health or wellbeing or children. Prior to any direction to suspend providing education or care, the Regulatory Authority may issue a show cause notice and then consider written submissions from the person. The Regulatory Authority can only issue a notice without giving a show cause notice where it is reasonably satisfied that there is an immediate risk to the safety, health or wellbeing of a child and the notice is for the protection of those children. Further, the substantive effects of these compliance measures, being suspension from work, supervised employment or requirements to undertake further training, are not punitive in nature nor possess the character of criminal sanctions.

I therefore consider that the new sections are compatible with the right to be presumed innocent under section 25(1) of the Charter.

Fair hearing

The discretion of the Regulatory Authority to not issue a show cause notice under certain circumstances, and proceed to issue a notice under the above sections, may engage the right to fair hearing (if a broad reading of fair hearing is adopted and the right is taken to encompass the decision-making procedures). This is on the basis that a provider or person to whom a notice applies to will not be able to make submissions in response to a show cause notice to answer the allegations against them before an immediate notice under the above provisions is made.

However, I consider that the limit is reasonably justified under s 7(2) of the Charter, given the discretion to not issue a show cause notice may only be exercised where there is an immediate risk to a child's wellbeing, safety or health and an immediate notice under the new provisions is necessary to protect the safety, wellbeing or health of a child. This is a reasonable balance between the competing rights of fair hearing and protection of children - with the requirements of a finding of immediate risk and the necessity of an immediate notice being legitimate and reasonable circumstances under which to abrogate fair hearing rights.

Further, I note that the Bill provides (in clause 92) that each decision made under new sections 178A to 178E is subject to internal review (as well as the decision to direct an approved provider of a family day care service to suspend the provision of education and care by a family day care educator under existing section 178). The person who conducts the internal review for the Regulatory Authority must not be a person who was involved in the assessment or investigation of the person or service to whom or which the decision relates.

Further, pursuant to section 192(a) of the National Law and the amendments made to section 190 by clause 92, the decisions made under new sections 178A-178E, and the decision to direct an approved provider of a family day care service to suspend the provision of education and care by a family day care educator will be subject to external review.

I am satisfied the above framework is compatible with the Charter rights to freedom from force work, privacy, presumption of innocence and fair hearing.

Prohibition notices for related providers

Clause 89 inserts a new sub-section in section 182 of the Act to empower the Regulatory Authority to give a prohibition notice to an approved provider if a related provider of the approved provider is subject to a prohibition notice under s 182 and the Regulatory Authority is satisfied that there is a systemic risk in relation to the approved provider or the related provider and the notice is reasonably necessary to address the risk. Clause 90 amends section 185 of the Act to refer the new sub-section, allowing section 185 to apply to a related provider of an approved provider.

A prohibition notice under section 185 may state that a person is prohibited from providing education and care to children, being engaged as an educator or staff member at an education and care service, and carrying

out any other activity relating to an education and care service. Clause 91 also amends section 187 of the Act to refer to the new sub-section, which will subject approved providers to penalties if fail to comply with a prohibition notice in respect of a related provider of the approved provider.

As discussed above, the restriction on employment may engage the right to privacy, as prohibition from employment may affect an individual's personal relationships at work and capacity to experience a private life. However, I consider that the privacy right is not in fact limited, given any interference in privacy would be pursuant to law and is not arbitrary.

The prohibition notice can only be given to related provider where the Regulatory Authority is satisfied there is a systemic risk (as defined by the amendments to the National Law in new section 5D) and the notice is reasonably necessary to address that risk. The Regulatory Authority must also issue the notice in accordance with the existing 'show cause' scheme provided for in the National Law, as I have already discussed above, and a decision to give a prohibition notice is subject to external review.

Investigation and determination powers powers of entry and powers to request information

Clauses 94 to 97 concern the powers of entry of authorised officers in Division 2 of Part 9 of the Act into premises where care and education services are provided:

- Clause 94 inserts new section 197A, which allows an authorised officer to enter a family day care service premises (including the area outside of a family day care residence, whether or not that area is used to provide education and care to children as part of the service) during ordinary business hours if they reasonably believe it is necessary to assess or monitor compliance of an approved provider of a family day care service with any prescribed requirement in relation to the safety, health and wellbeing of children. An authorised officer may do so with the consent of the occupier of the premises, and may undertake an inspection of the premises, photograph or film or make audio recordings, take documents or things, or question people at the premises;
- Clause 95 amends section 199 of the Act to specify that authorised officers may enter the premises of any related provider of the approved provider of the approved education and service, but also inserts sub-section 199(5) which requires that an authorised officer must not enter such a premises unless they are satisfied that there is a systemic risk in relation to the approved provider, and such entry is reasonably necessary to address the risk.
- Clause 96 inserts new section 199A, which allows an authorised officer to enter the family day care service premises (including any area outside the residence, whether or not that area is used to provide education and care to children as part of the service) during ordinary business hours with the consent of the occupier to undertake investigatory and search actions (e.g., searching the premises, requiring information from persons on the premises). Prior to entry being effected, the authorised officer must advise the occupier of the premises of the entry and the powers that may be exercised. An occupier of a family day care service premises must not unreasonably refuse to provide consent to an authorised officer who is exercising their powers failure to do so results in a pecuniary penalty,
- Clause 97 amends section 200 of the Act to allow an authorised officer to search documents or other evidence relevant to an offence if they are present at any of the prescribed locations if the authorised officer is satisfied that there is a systemic risk in relation to the approved provider and entry is reasonably necessary to address the risk. Further, clauses 98 to 103 amend the powers to request information under the National Law:
- Clause 98 inserts section 206B, which allows an authorised officer, by written notice, to require a former provider to provide any relevant information (including documents and evidence) specified in the notice for the purposes of a related provider determination.
- Clause 100 inserts three new sections into the Act in relation to the powers of the Regulatory Authority to request information:
    - Section 216A empowers the Regulatory Authority, by written notice, to obtain information, documents and evidence from an approved provider for the purpose of making a related provider determination;
    - Section 216B empowers the Regulatory Authority, by written notice, to obtain information, documents and evidence from a specified person at an education and care service for the purposes of a related provider determination; and
    - Section 216C provides that an approved provider who is a related provider must provide information to the Regulatory Authority about an arrangement entered into by the approved provider relating to the provider's governance or the operation of an education

and care service by the provider, and/or prescribed information relating to the approved operator's ownership or operation. Failure to do so results in a pecuniary penalty.

Accordingly, clause 99 amends s 211(2)(c) of the National Law to protect persons from incrimination in respect of new sections 216A and 216B. Similarly, clause 101 amends section 217 to make it an offence to fail to comply with sections 216A and 216B, clause 102 makes it an offence to hinder or obstruct the Regulator Authority upon a request to provide information under section 216A and 216B, and clause 103 amends section 219 to make self-incrimination not an excuse for a failure to provide information requested under sections 216A and 216B.

Right to privacy

Each of the clauses listed in the above paragraphs engage the right to privacy in section 13(a) of the Charter, which protects against unlawful and arbitrary interferences with a person's privacy, family, home or correspondence. In particular, sections 197A and 199A may constitute a significant increase in privacy intrusion, given that existing sections 197 and 199 only permit entry into the service premises, being the areas where education and care are provided, while the new powers enable entry into any or all parts of the property, including private areas of the residence and wider property (i.e. sheds, outdoor spaces) where family day care services may not be offered.

While the powers, as expanded by the clauses listed above, may involve interference with a person's privacy (and entry into a person's home, in the context of a family day service), these powers are necessary to ensure that authorised officers have suitable powers of entry to monitor compliance and investigate suspected offences, for the protection of children's safety, and the Regulator is able to effectively regulate and respond to systemic risks to the safety, health or wellbeing of children due to the conduct of related providers.

The powers, including the powers in new sections 197A and 199A, are also subject to various safeguards including graduated powers of entry for monitoring compliance (e.g. ensuring emergency exists are accessible) or investigating offences, which are directly linked to necessity and gravity. The entry for monitoring and investigating offences is qualified to only authorising entry to be performed during day time hours and with consent, and in the context of a family day care service, only while the family day care services is operating. Entry for a business premises is predicated on reasonable suspicion of possible offences against the National Law, and satisfaction that the entry is reasonable necessary to address a systemic risk in relation to the approved provider.

Freedom of expression

By compelling a person to impart information, particularly in relation to the new powers to compel provision of information for the purpose of related provider determinations, clauses 94 to 103 also engage the right to freedom of expression in section 15(2) of the Charter. However, I consider any interference on the right to freedom of expression to come within the internal limitation at 15(3), in that it is reasonably necessary to ensure the Regulator Authority can make effective related provider determinations to protect the rights of children in an education and care service. The powers are limited to obtaining information, documents and evidence from specified persons and that are relevant to a determination about a related provider.

Property rights

The power of authorised officers to seize any document or thing from a prescribed premises if they believe on reasonable grounds that the seized document or thing is relevant to the monitoring compliance with the National Law (pursuant to section 197) under Division 2 of Part 9 may also engage section 20.

However, the provisions empowering the removal of documents or things do not limit property rights, as any interference with property through such removal would be undertaken in accordance with the provisions of the Bill, which are accessible, clear and certain, and sufficiently precise to enable an authorised officer to regulate their conduct. In addition, any deprivation of property is reasonably necessary to achieve the important objective of protecting the rights of children in an education and care service.

For the same reasons, the expanded scope of an authorised officer's or the Regulatory Authority's powers to obtain information, documents and evidence for the purposes of monitoring compliance with the National Law and making related provider determinations under the National Law do not limit section 20 of the Charter.

Right to not self-incriminate

Clause 103 is relevant to the right to protection against self-incrimination, by extending the existing abrogation of the privilege against self-incrimination, provided for in the National Law, to apply to the new information-gathering provisions in sections 216A and 216B concerning obtaining information, documents and evidence from specified persons at education and care service providers for the purposes of a related provider determination.

The existing provisions in the National Law partially abrogate the privilege against self-incrimination by removing the availability of an excuse for self-incrimination, but afford protection to a person by providing that any disclosed information is not admissible in any criminal proceedings or any civil proceedings (with the exception of a prosecution for obstructing or hindering the Authority, or giving false or misleading information). This protection is not afforded to any documents required to be kept under the National Law, which remain admissible.

I refer to the justification advanced for this scheme in the original Bill of the National Law, which concluded that this partial abrogation of the privilege was compatible with the right, having regard to:

- the important purpose of ensuing the regulatory regime could be adequately monitored and enforced, in order to give effect to the best interests of children;
- the limited application of the provision to persons who voluntarily participated in the provision of education and care services;
- the recognition at common law that the privilege against self-incrimination was more readily abrogable in the context of pre-existing documents that are required to be kept for the purpose of demonstrating compliance with a regulatory scheme; and
- the difficulties of proceeding with any prosecutions for breaches of regulatory obligations if such records were not required to be produced, or deemed inadmissible.

I consider the extension of this framework to the new information gathering powers at sections 216A and 216B to be consistent with the above reasoning. The provision of such information is necessary in order for related provider determinations to be made, which ultimately seek to protect children, and the limited privilege against self-incrimination is appropriate for this context.

National Early Childhood Worker Register

Clause 107 of the Bill inserts new Division 4A of Part 13 in the Schedule to the National Law. This division deals with the National Early Childhood Worker Register (**NECW Register**). New section 269B in Division 4A provides that the National Authority must establish and maintain the NECW Register which is to hold specified information about all education and care service workers whom are defined in new section 269A to include nominated supervisors, staff members and volunteers at an education and care service.

In accordance with section 269B(2), the NECW Register may include the full name, any alias name or former name, the address, telephone number and date of birth of all education and care service workers, and in relation to each education and care service where the education and care service worker is or has been employed, engaged or appointed: the name of the service; the person's role at the service; the date that the person was employed, engaged or appointed in or for the service, and the date the person ceased to be employed, engaged or appointed in or for the service (if applicable). The NECW may also include any other prescribed information.

New section 269C provides that the National Authority may, for the purposes of establishing and maintaining the NECW Register, use any information on the register of approved providers kept by the National Authority in accordance with section 266 of the National Law, and may access and use any information on the registers kept by the Regulatory Authority and relevant approved providers in accordance sections 267 and 269 of the National Law.

New section 269D deals with access to NECW Register and subsection (1) provides that the National Authority is authorised to access the NECW Register for the purposes of maintaining the Register and performing any other functions of the National Authority. Section 269D(2) provides that the Regulatory Authority is authorised to access the NECW Register for the purposes of performing its functions under the National Law.

Section 269D(3) provides that approved providers are authorised to access the NECW Register to provide information to the National Authority in accordance with section 269E which requires all approved providers to give, or to update, the information stipulated in section 269B(2) to the National Authority within the prescribed time after an education and care service worker is employed, engaged or appointed at the service, or the approved provider becomes aware of a change to an education and care service worker's information. A failure by the approved provider to provide the stipulated information within this timeframe, imposes a criminal penalty on the approved provider.

New sections 269F and 269G provide that the National Authority may collect for the NECW Register, information from stipulated entities and use that information for the purposes of maintaining the Register and performing its functions under the National Law. The National Authority may also disclose this information for reasons specified in section 269G(3) to relevant Commonwealth, State or Territory Government Departments, public and local authorities, as well as the Regulatory Authority.

New section 269H deals with the collection, use and disclosure of information on the NECW Register by the Regulatory Authority. The provision provides that Regulatory Authority may collect and use the information on the NECW Register for the purposes of performing its functions under the National Law. Section 269H(2) and (3), much in the same way as section 269G(2) and (3), governs to whom and for what purposes information retrieved from the NECW Register may be disclosed.

Right to privacy

The establishment of the NECW Register and the National Authority's power to collect and use education and care service workers' information to perform its functions is relevant to the right to privacy, as the information contains personal identifiers of an individual, their employment status and their employment history. Similarly, the National Authority's ability to disclose this information to the Commonwealth, State and Territory departments and specified authorities as set out in section 269G(2) and for the purposes set out in section 269G(3) also engages the right to privacy. In the same vein, the ability of the Regulatory authority to, in accordance with section 269H, collect, use and disclose the information in the NECW Register is also relevant. The fact that the information is shared outside of Victoria in the form of a National Register is also relevant to assessing the impact on the right.

However, any interference with the right to privacy are not unlawful or arbitrary. The interference with privacy is authorised under the National Law and information to be included in the NECW Register is clearly set out in the National Law and is limited to basic personal information (e.g. name and date of birth), employment history and any information prescribed in the National Law Regulations. Access to the information held in the NECW Register is limited to the National Authority and the entities, and for the purposes, listed in new sections 269G and 269H. The sharing of the information held in the NECW Register serves the objective of enabling the regulators, government bodies and authorities to effectively exercise their oversight, compliance and enforcement powers about the appropriateness of a person to work, or continue to work, with young children, and to ensure the safety of young children in the care of the education and care services sector. For example, the information sharing provisions enable the Regulatory Authority to ascertain the work history of a person against whom allegations are made, thereby identifying patterns of behaviour, which may lead to other alleged victims being discovered. The type of information are matters that a person choosing to engage in employment in a regulated sector would expect to provide to a regulator and to be shared to monitor compliance, being basic identifiers to verify their identity as well as their employment history in the sector.

Further, the NECW Register is established in response to recommendation 4 of the recent urgent review into child safety in the early childhood education and care settings which identified an urgent need to create a national register, hosted by the Commonwealth Government, covering all early childhood education and care staff across Australia who have regular contact with children, including casual staff. The establishment of the NECW Register has as its objectives to support providers in making safe recruitment decisions and to provide a protective mechanism for identifying persons whose history indicates that they pose a risk of causing harm to children if allowed to work in the ECEC sector. The national register creates visibility of predatory and unsafe individuals and prevents them from moving between jurisdictions. Further, the departments and authorities that may under Division 4A collect, use and disclose information held in the NECW Register, are all public entities obliged to handle the said information in accordance with the relevant Commonwealth, State and Territory privacy laws.

Accordingly, any impacts that the creation of a national register has on the right to privacy of persons working in the education sector are, in my view, appropriate and proportionate to the legitimate aim of protecting children across the ECEC sector in Australia. I therefore consider that Division 4A is compatible with the right to privacy in section 13 of the Charter.

Amendment to grounds for cancellation of provider approval

Clause 117 adds new section 16HAB to the ECSNL Act, which amends the application of section 31 of the National Law in Victoria by providing that the Regulatory Authority may cancel a provider approval if the provider has been deregistered under the *Corporations Act 2001* (Cth), is under administration or liquidation or is in an association whose registration has been wound up, or has otherwise ceased to operate or exist.

Right to property and fair hearing

By amending the grounds for cancellation of provider approval in section 31 of the National Law, the Bill expands the grounds upon which the Regulatory Authority may exercise its powers to cancel provider approval.

While the loss of regulatory permission to participate in the sector as an approved provider is unlikely on its own to constitute a deprivation of property within the meaning of the right, the implications of such a cancellation can have implications for the enjoyment of private property rights of natural persons.

However, in this case, I consider such impacts to be negligible where the cancellation of approval is occurring where the provider has already ceased to operate or exist. Further, the amendments are formulated precisely and will be publicly available and accessible to those with provider approval and applicants for provider approval prior to their commencement. These amendments are not arbitrary (capricious, unpredictable, unjust or unreasonable), in the sense of being disproportionate to the legitimate aim sought. The amendments are to ensure that provider approval is cancelled in circumstances where a provider has ceased to operate or exist because of the circumstances outlined in section 16HAB. It will also occur in accordance with the existing provisions of the National Law, which provide for procedural fairness (in the form of a show cause notice and opportunity for the holder to give a written response to the proposed cancellation) and the right of external review to VCAT.

In conclusion, I do not consider that these amendments limit the rights to property or fair hearing.

Timing for responding to show cause notice before cancellation

Section 16HAC is added by clause 117 of the Bill. This new section provides that section 32(2) of the National Law applies in Victoria as if section 32(2)(c) provides that an approved provider provided with a show cause notice stating that the Regulatory Authority intends to cancel the provider approval, generally has 30 days after the notice to provide a written response, but that if the proposed cancellation is under new section 31(3), then the approved provider must give a written response within 14 days after the notice is given.

Fair hearing

If a broad reading of s 24(1) is adopted and it is understood that the fair hearing right applies to administrative decisions such as these, the provision of 14 days to respond to a show cause notice will be relevant to this right. I am the view that this specified time period affords a reasonable opportunity for an affected provider to respond to a notice that their approval is to be cancelled due to the fact that they have ceased to operate or exist because for the reasons specified above. These will be matters within the knowledge of a provider to respond to immediately. They are also matters which warrant the Regulatory Authority having a shorter show cause period upon which to act to safeguard public safety. I am satisfied these provisions are compatible with the right to fair hearing.

Suspension of revocation of rating while under investigation

Section 16HAF, added by clause 117, adds new section 138A to the National Law as it applies in Victoria. New section 138A provides that the Regulatory Authority may suspend ratings of approved education and care providers while the Regulatory Authority is investigating such an entity, if the Regulatory Authority is satisfied it is in the public interest. This new section also provides that, after the conclusion of the investigation, the Regulatory Authority may revoke or re-rate a rating level.

Presumption of innocence

This provision may engage the right under section 25(1) of the Charter to be presumed innocent until proven guilty according to law. However, in my opinion, this provision does not limit the right. It does not affect criminal proceedings relating to the person or entity. Nor does it presume that person or entity to be guilty. Rather, it is simply a preventative measure which helps to protect children from exposure to persons or entities being investigated. The purpose of the ratings system is to allow families to have access to information relating to the quality of early childhood education and care services so they can make informed choices about their child's care.

The suspension is only in place while the investigation is being conducted and if the Regulatory Authority is satisfied it is in the public interest. I therefore consider that new section 138A is compatible with the right to be presumed innocent under section 25(1) of the Charter.

Offences for failure to display prescribed information and notify Regulatory Authority of alleged offences and misconduct

Section 16HAH is added by clause 117, it amends section 172 of the National Law to add subsection 172(3). This subsection adds the requirement for an approved provider of an education and care service to display its quality and compliance history for the service provided at the education and care service premises. Section 16HA is also added by clause 113 and amends the National Law as it applies in Victoria to add new section 174B. This provision provides for an offence for an approved provider for failing to notify the Regulatory Authority of any reportable sexual conduct committed by relevant staff members.

Freedom of expression

To the extent that this new subsection engages the right not to express oneself by compelling the display of information or notification an approved provider that is a natural person, I consider that it falls within section 15(3) of the Charter. In this case, the provisions are necessary to ensure the safety and wellbeing of

children in education and care services by enabling the effective monitoring and enforcement of the regulatory standards. Accordingly, I consider that the provisions are compatible with the right to freedom of expression.

Right to privacy

While these provisions require the display of quality and compliance history at the approved provider's premises and notification to the Regulatory Authority of alleged sexual offences and sexual misconduct committed by staff, I do not consider that they impose a limit on the right to privacy. This is because the quality and compliance history of a service provider is unlikely to consist of private information. To the extent there is any disclosure of personal information as a result of this new subsection, it will be lawful and not arbitrary, as it will only occur at the approved provider's premises.

In relation to the notification of alleged sexual offences and sexual misconduct to the Regulatory Authority, this type of disclosure is consistent with the purposes of disclosure recognised by the Information Privacy Principles as being consistent with protection of privacy, being where disclosure is a necessary part of investigating unlawful activity or reporting concerns to a relevant authority.

Further, a person exercising functions under the National Law is subject to strict confidentiality requirements under s 273 of the National Law, and any disclosure of information that is outside that the current exceptions in s 273(2), may amount to an offence.

I therefore consider these provisions to be compatible with the right to privacy.

Notice directing certain persons to suspend providing education and care

New section 16HB is added by clause 118. This section amends the National Law as it applies in Victoria to add section 178BA. This provision provides that the Regulatory Authority may give notices directing certain persons to cease providing education and care services if it is reasonably satisfied that a certain specified person is not complying with any provision of the National Law or there is a risk to the safety, health or wellbeing of children being educated and cared for at an education and care service if certain persons continue to provide education and care at the education and care service. This section applies to the following persons at an education and care service: a nominated supervisor, staff member or a volunteer. Before giving such notice, the Regulatory Authority may give the person a show cause notice, and if a show cause notice is given, the Regulatory must consider any submissions from the person received within the show cause period. Equally the Regulatory Authority may give a person a notice without giving them a show cause notice if the Regulatory Authority is reasonably satisfied that there is an immediate risk to the safety, health or wellbeing of a child or children being educated or cared for by the person and the notice is necessary to protect the safety, health or wellbeing of the child or children. It is an offence not to comply with such a notice.

Further, the decision to direct a relevant person to suspend their provision of education and care under section 178BA is a reviewable decision for internal and external review under section 190 (see new section 16KB).

Presumption of innocence

In the same context as my discussion regarding clause 82 above, new section 178BA may engage the right to be presumed innocent until proven guilty under section 25(1) of the Charter, as a suspension notice may be given in relation to alleged contraventions of offence provisions of the National Law or other unlawful conduct constitute an offence.

However, in my view, and for the same reasons I gave above, the provision does not limit the right. While it is an offence not to comply with a notice, a notice directing a relevant person to cease providing education and care does not itself affect criminal proceedings relating to the person. Nor does it presume that person to be guilty. Rather, it is a preventative measure which protects children where the Regulatory Authority is reasonably satisfied that there is a risk to the safety, health or wellbeing or children. To limit such preventative measures to only occur after a finding of guilt or substantiated regulatory finding is not sufficient to prevent risks to children. It is critical that the Regulatory Authority is not fettered with regards to the matters it can take action to in relation to a dynamic assessment of risk.

Prior to any direction to a person to cease providing education or care, the Regulatory Authority may issue a show cause notice and then consider written submissions from the person. The Regulatory Authority can only issue a notice without giving a show cause notice where it is reasonably satisfied that there is an unacceptable risk to the safety, health or wellbeing of a child and the notice is for the protection of those children. I therefore consider that new section 178BA is compatible with the right to be presumed innocent under section 25(1) of the Charter. It also ensures, as I set above regarding the existing show cause provisions in the National Law, that any limits on the corresponding right to fair hearing are narrowly confined to circumstances where there would be an unacceptable risk to the child safety if procedural fairness was afforded in the circumstances.

Disciplinary action

New section 16KA (in clause 119 of the Bill) inserts new Division 3A into the National Law as it applies in Victoria. Under Division 3A, new section 188E provides that if the Regulatory Authority reasonably believes grounds for disciplinary action exist against a relevant person then the relevant person and the Regulatory Authority may agree on action to be taken or the Regulatory Authority may apply to the relevant Tribunal or court for the making of an order. New section 188F provides that a court or tribunal may, on application, make an order reprimanding the person, requiring them to pay a penalty payable to the Regulatory Authority or order that the person takes or refrains from taking certain actions to comply with the National Law or the Regulations.

Grounds for disciplinary action are that a person has contravened the National Law or the Regulations or that the person is a person with management or control of a body corporate which has failed to comply with the National Law or Regulations and the person with management or control has failed to exercise due diligence to prevent the failure (new section 188D). A relevant person for the purposes of these provisions is, in respect of an education or care service, an approved provider, nominated supervisor, person with management or control or a family day care educator engaged by or registered with such a service (new section 188C).

Fair hearing

The introduction of a disciplinary regime may be relevant to the right to fair hearing.

Following on from my above discussion about the scope of the fair hearing right – if a broad reading of s 24(1) is adopted and it is understood that the fair hearing right is engaged by these provisions, this right would nonetheless not be limited. The right to a fair hearing is concerned with the procedural fairness of a decision and the right may be limited if a person faces a procedural barrier to bringing their case before a court, or where procedural fairness is not provided. The entire decision-making process, including reviews and appeals, must be examined in order to determine whether the right is limited.

Having the ability to take disciplinary action provides an important mechanism by which the Regulatory Authority can ensure relevant persons are complying with the National Law and the Regulations. Compliance with the National law and Regulations will work to protect the safety and welfare of children in education and care settings.

The disciplinary regime inserted by the Bill affords relevant persons procedural fairness given, failing agreement with the relevant person, the Regulatory Authority must apply to a tribunal or court for an order. This affords licence holders a hearing before an independent and impartial tribunal and satisfies the requirements in s 24(1) of the Charter.

As such, I conclude that the fair hearing rights in s 24(1) of the Charter are not limited by the provisions referred to above.

Publication of information

Clause 110 of the Bill inserts new section 16Q which amends section 270 of the National Law as it applies in Victoria to substitute subsections 270(5) to (7). New subsection 270(5) provides that the Regulatory Authority may publish information about enforcement action taken, or being taken, under the National law, including, amongst other things, details about compliance directions, compliance notices, suspension directions, emergency action notices, prohibition notices, prosecutions and suspensions or cancellations of provider or service approvals.

New subsection 270(6) provides that the Regulatory Authority may publish information about the matters in subsection 270(5) including information about the nature of enforcement action taken and the outcome, details of persons in relation to whom the enforcement action has been taken, the reason for taking enforcement action (including the breach or alleged breach), and any other information prescribed. Further, new subsection 270(7) provides that the information the Regulatory Authority may publish under subsection 270(5) about enforcement action does not include information that may identify, or lead to the identification of, a child.

The amendments provide the Regulatory Authority with the power to publish contextual information about its enforcement decisions. Publication of this information is limited in order to avoid the publication of information that may reveal the identity of a child. Further, the Regulatory Authority's exercise of the power to publish the information specified must be about enforcement action taken, or being taken, under the National Law.

Right to privacy and reputation

The publication of information about enforcement action taken by the Regulatory Authority may involve identifying individuals and may negatively affect the reputation of those individuals.

In my opinion, any interference with the right to privacy and reputation resulting from the amendments to section 270 is neither unlawful nor arbitrary. The details of what may be published under amended section 270 are clearly outlined. Existing section 270 already provides for certain information about approved providers, approved education and care services and nominated supervisors to be published. The scope of amended section 270 will be a known condition of any providing a service under the National Law.

Further, the publication of information about enforcement action listed in amended section 270, including contextual information, is appropriate and limited to being or in connection with, enforcement action taken by the Regulatory Authority under the National Law. It will not include information that can lead to the identification of a child. This provision is precise and is appropriately tailored to ensuring compliance with National Law, protecting children and promoting transparency, and accordingly does not constitute an arbitrary interference with privacy or reputation. The publication of this information helps to ensure compliance with the National Law, which in turn protects the safety, health and wellbeing of children.

Protection from liability for good faith publication

Clause 110 also adds new section 16R which adds new section 270A to the National law as it applies in Victoria. This provision protects a protected person from liability for republications under section 270 if the publication is in good faith, including protection from liability for defamation. This protection covers a number of listed 'protected people', including the Minister, the Regulatory Authority, the proprietor, editor or publisher of a newspaper, the proprietor or broadcaster of a radio or television station or producer of a radio or television show, an internet service provider or internet content host or a member of staff acting at the direction of one of these people.

Fair hearing and property rights

New Section 16R which adds section 270A to the National Law in Victoria provides a protection from liability for certain protected persons listed above for republications under amended section 270. Where an immunity clause restricts a plaintiff's ability to access a court by effectively removing a person's ability to bring an action in court due to the absence of an appropriate defendant, the right to a fair hearing may be engaged.

Similarly, insofar as a cause of action may be considered 'property' within the meaning of section 20 of the Charter, new section 270A may engage the right by depriving a person of their ability to obtain effective relief for that cause of action.

However, to the extent that this immunity provision could be considered to bar access to a court or deprive a person of a course of action, I consider this provision to be compatible with these rights. Any deprivation of property will be 'in accordance with law'. It will pursue the important objective of ensuring that parents and other members of the public are able to make informed decisions regarding the provision of education and care services to their children, particularly in relation to providers that are subject to enforcement action under the National Law. It will facilitate the Regulatory Authority to use the enforcement tools at its disposal without fear of litigation or reprisal, and add to the deterrent effect of available enforcement action. It is reasonable as it only extends to good faith actions done under section 270 of the National Law and specified information. It also protects against the situation where media entities could be liable for republication of information published by the Regulatory Authority in accordance with law. Finally, it applies to circumstances that in my view are unlikely to give rise to a legitimate cause of action, and to which any potential respondent would likely enjoy the protection of existing defences at law.

Accordingly, in my view the protection from liability provision is appropriately granted and is compatible with the rights to fair hearing and property.

Disclosure of information about person to approved providers

New section 16S in clause 110 adds new section 272B to the National Law as it applies in Victoria. New section 272B provides for the disclosure by the Regulatory Authority of certain information about persons to approved providers and recruitment agencies or labour hire agencies if required to comply with the National Law. The information that may be provided includes the identity of the person, whether they are subject to a suspension direction, supervision direction or training direction and if so, the provision of the National Law that formed the basis of that direction and any conditions attached to it. The Regulatory Authority may also disclose information about any current investigation into whether a person has not complied with a suspension direction, supervision direction or training direction applying to them.

Right to privacy

Having regard to the circumstances in which information may be shared under new section 272B, and the limited scope of information that may be shared, I consider that this provision is compatible with the right to privacy. The sharing of information with approved providers, recruitment agencies and labour hire agencies will be lawful under this provision, will only apply in specified circumstances and permit disclosure to certain

persons, accordingly it will not arbitrarily interfere with the privacy of individuals. It serves the important purpose of safeguarding against risk by empowering the Regulatory Authority to notify relevant entities about persons who are subject to compliance orders and prevent further contraventions of the National Law. This is necessary to ensure the protective purpose of these orders are realised in practice. Accordingly, I am satisfied the power is compatible with privacy.

Additional court orders

New section 16U in clause 114 provides for the insertion of Division 4A into the National Law as it applies in Victoria. New section 292A is added by Division 4A and it provides that a Court may order, if a person commits an offence against the National Law or the Regulations, in addition to any penalty that the offender take action to publicise the offence and the consequences of the offence. New section 292B provides that if a person is found under section 188F to have contravened the National Law or the Regulations, a relevant tribunal or court may make an order requiring the relevant person to take specified action to publicise the contravention, including the circumstances of the contravention, and the consequences of the contravention.

Right to privacy

This new power engages the right to not have a person's privacy unlawfully or arbitrarily interfered with under section 13(a) of the Charter and the right to not have a person's reputation unlawfully attacked under section 13(b) of the Charter, by mandating that a person must make the commission of an offence known to the public or to a specific person, or both.

I consider it likely that the information that a person will be required to publish under an order to publicise the offence or the contravention and its consequences will already be in the public domain as a consequence of judicial proceedings held in open court.

In my view, the right not to have a person's privacy unlawfully or arbitrarily interfered with under section 13(a) and the right to not have one's reputation unlawfully attacked under section 13(b) of the Charter will not be limited, because any interference with a person's privacy or damage to the person's reputation will not be unlawful as it will be in accordance with an accessible and precise legislative framework. Further, any interference with a person's privacy will not be arbitrary as the required disclosure of information serves the legitimate purpose of promoting the safety, health and wellbeing of children. Such an order serves the important purpose of seeking to promote accountability by preventing a person from concealing that they have been convicted of an offence and have been subject to a penalty or found to have contravened the National Law or Regulations. This empowers parents and the community to take their own protective steps, as they are able to gain awareness of the previous conduct of providers they may be considering for the education and care of their children. The risk of such an order resulting damage to a person's reputation may create a greater deterrence than a monetary penalty, which in turn may encourage greater compliance with the National Law and Regulations.

I am satisfied that the right to privacy and reputation under section 13 of the Charter is not limited by new sections 292A and 292B.

Right to freedom of expression

The new power engages and may limit the right to freedom of expression, because it compels a person to publish certain information. To the extent that the right to freedom of expression may be limited, I am satisfied that any such limitation is justified, given the important child safety and deterrent purposes that an order under new sections 292A or 292B serves, as described above.

Offence to enter into contracts of insurance indemnifying against financial penalties

Clause 114 of the Bill adds new section 16V to the ECSNL Act, which provides that the National Law applies as the law of Victoria as if new Division 6A were inserted. This new Division adds an offence of, without reasonable excuse, entering into contracts of insurance indemnifying against the payment of a financial penalty or being a party to a contract of insurance under which a person is indemnified in respect of the payment of a financial penalty on or after the relevant day (new section 295A of the National Law). This applies to entering into a contract of insurance after the amendments have commenced or to existing contracts to which a person is a party to, on or after the day that is a year after the commencement of the Amending Act. Consequently, it will apply prospectively in relation to entering into contracts, and only to existing contractual arrangements from one year after the commencement of the amendments.

Right to property

'Property' under the Charter includes all real and personal property interests recognised under the general law, relevantly including contractual rights. However, the right to property will only be limited where a person is deprived of property 'other than in accordance with the law'. For a deprivation of property to be 'in

accordance with the law', the law must be publicly accessible, clear and certain, and must not operate arbitrarily.

The purpose of the new offences is to ensure that financial penalties, being fines ordered by a court when a person is found guilty of offence under the relevant Act and its Regulations retain their deterrent value, and thereby encourage compliance with duties under the law.

The offence either operates prospectively in respect of entering into contracts or to the extent it applies to existing provisions, the operation of the offence is narrow in nature and only applies from the relevant day. Further, the scope of the offences is narrow and not intended to affect other provisions in contracts or other arrangements which cover other kinds of legal expenses. For example, insuring or indemnifying a person for the cost of defending a prosecution or court-ordered damages.

Where a contract or other arrangement insures or indemnifies a person against more than one expense, offences will only relate to those terms which purport to insure or indemnify the person for the person's liability to pay a financial penalty under the relevant Act or its regulations.

Generally, under the common law an insurance policy cannot cover the consequences of a criminal conviction or penalty. However, this does not necessarily apply to unintentional criminal acts that involve negligence. Offences under the National Law can be established without direct culpability on the part of the duty holder. There is nothing that explicitly prevents a body corporate or a sole trader from insuring themselves for their own liability for offences.

To the extent the offences relate to entering into contracts in the future, I do not consider that the offences amount to a deprivation of property. To the extent that the offence in respect of being a party to a contract of insurance under which a person is indemnified in respect of the payment of a fine on or after the relevant day may amount to a deprivation of property, any such deprivation will be in accordance with the law, and not pursuant to a discretionary power that may operate arbitrarily. As such, I consider that the right to property is not limited by these provisions.

Presumption of innocence

As discussed above, 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

By creating a 'reasonable excuse' exception, the offence in new section 295A of the National Law may be viewed as placing an evidential burden on the accused, in that it requires the accused to raise evidence as a reasonable excuse. However, in doing so, this offence does not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution who must prove the essential elements of the offence. I note the Supreme Court has taken the approach that an evidential onus of this nature does not limit the right to be presumed innocent.

For these reasons, in my opinion, new section 295A of the National Law is compatible with the right to be presumed innocent.

Hon. Lizzie Blandthorn MP
Deputy Leader of the Government in the Legislative Council
Minister for Children
Minister for Disability

Second reading

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:33): I move:

That the bill be now read a second time.

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

The Early Childhood Legislation Amendment (Child Safety) Bill 2025 is a critical component of Australian governments' overhaul of child safety regulation.

This Bill gives effect to the commitment of all Australian governments to implement recommendations of the Review of Child Safety Arrangements under the National Quality Framework (known as 'the Child Safety Review') in December 2023. The Bill also implements seven recommendations of the Rapid Child Safety Review commissioned by the Victorian Government in 2025.

I want to emphasise that the vast majority of educators in education and care services are skilled, hard-working, professional, and committed to protecting and caring for our youngest Victorians. Educators are our greatest asset in keeping children safe in services.

Unfortunately, in 2023, 2024 and 2025, several serious incidences of sexual assault and abuse of children in early childhood education and care settings came to light in several jurisdictions including Queensland, NSW and Victoria. These shocking allegations have highlighted the urgent need for further action by governments and the education and care sector to improve the safety and quality of education and care nationally.

The Bill amends the Education and Care Services National Law (National Law) in the Schedule to the *Education and Care Services National Law Act 2010*. It also amends the Victorian application provisions in that Act to modify the National Law as it applies in Victoria, to further strengthen the regulatory regime that applies to Victorian education and care services and their providers.

The proposed amendments to the National Law are expected to be settled nationally by the Australasian Parliamentary Counsel's Committee (APCC) in accordance with the APCC *Protocol on Drafting National Uniform Legislation*, and have been approved by EMM in accordance with the Ministerial Council's function under section 220(1)(g) of the National Law.

Amendments to the National Law – for all participating jurisdictions in the National Quality Framework

The key features of the Bill include to amend the National Law as it applies in all states and territories to:

a. introduce a statutory duty that the safety, rights and best interests of children are to be the paramount consideration for approved providers, persons with management or control of the service, persons in day-to-day charge of a service, nominated supervisors, staff, students and volunteers;

b. mandate child protection training for all staff who work with children and child safety training for all persons who are involved in the provision of education and care services;

c. empower the Regulatory Authority to impose:

    i. a (time limited) suspension notice on approved providers directing them to suspend a specific staff member from providing education and care to children at that approved provider;

    ii. a supervision notice requiring an approved provider to ensure that a specific staff member is supervised in the provision of education and care;

    iii. a mandatory training notice requiring an approved provider to ensure a specific staff member undertakes training to address certain conduct;

d. introduce a new offence which prohibits 'inappropriate conduct' while providing education and care to children;

e. expand the information sharing powers of the Regulatory Authority to proactively share information about individuals with their current approved provider, and gather and share information with recruitment agencies

f. increase the maximum penalties for offences under the National Law by a factor of 3;

g. expand the number of offences that are infringeable offences

h. introduce powers to deal with systemic non-compliance by related providers (including large provider groups);

i. expand the powers for authorised officers to check compliance and investigate offences in the residence and other areas beyond the FDC service premises

j. extend the time in which the Regulatory Authority may commence proceedings for offences under the National Law to 2 years from the date on which the Regulatory Authority becomes aware of the offence, and include a 'stop the clock' mechanism which suspends the two-year limit on commencing proceedings during periods in which a concurrent investigation or proceedings under another Act are taking place;

k. regulate the use of digital devices while taking images or videos of children while providing education and care.

l. establish the National Early Childhood Worker Register.

The expectations of all governments for all those in the sector – from those who control providers through to individual educators 'on the floor' with children – are clear. The Bill creates a new statutory duty for all

decision makers in the ECEC system to make the safety, rights and best interests of children their paramount consideration when making decisions.

The Bill contains over 30 measures that aim to improve the safety and quality of the education and care provided to children attending services.

They will strengthen the powers of Regulatory Authorities to monitor and take action against non-compliance, and hold service providers, their staff and volunteers to account. The Bill will triple the maximum penalty amounts for offences against the National Law and provide the authority to create new infringement offences.

Importantly, the Bill will give Regulatory Authorities new powers to address the conduct of individuals who do the wrong thing, including better information sharing powers with an educator's approved provider or labour hire agency.

There are also new powers to deal with non-compliance at a systemic level by 'related providers' (including large provider groups).

The Bill makes provision for the establishment of a National Educator Register which will give regulators better visibility of the education and care workforce, students on practicum placement and volunteers to strengthen accountability, planning, and professional recognition.

The Bill also improves information-sharing and information-gathering powers for Regulatory Authorities. This includes ensuring that Regulatory Authorities can share information about an educator's prohibition with an approved provider where the educator is employed or with the educator's recruitment agency, and power for a Regulatory Authority to obtain information about an educator from a recruitment agency.

The Bill also addresses critical operational requirements for services, to improve child safety practices and understanding.

For example, it establishes a new requirement for all involved in the sector – service providers, their staff and volunteers, whether or not they work with children – to undergo mandatory training in child safe practices. It also expands the existing requirement for training in the child protection requirements of their jurisdiction to all people who work with children.

There will also be new offences to ensure that images and videos of children are only taken on digital devices issued by the service, and that educators do not have a personal digital device with them while working with children. This puts in place mandatory requirements that reflect the voluntary National Model Code on taking images and videos of children in education and care that was put in place earlier this year. The new national offences back up the Victorian restrictions on personal digital devices in services set out in the Statement of Regulatory Expectations – National Model Code that commenced in September this year.

Further child safety measures that will apply in Victoria only

This government is committed to doing everything in its power to ensure the safety of children and restore the community's trust in the early childhood education and care system, so the Bill goes further with additional reforms specifically for Victoria.

The Bill amends the Victorian application provisions in the Education and Care Services National Law Act 2010 to implement additional child safety measures that are specific to Victoria and align with changes recently passed in New south Wales. To achieve this, the Bill makes a number of modifications to the National Law, as it specifically applies in Victoria, to:

a. expand the power for the Regulatory Authority to issue a prohibition notice to include giving a notice to a person who was previously involved in providing an education and care service (regardless of whether the service had the proper approvals);

b. empower the Regulatory Authority to prohibit persons who have been refused provider approval or service approval in the past 12 months from reapplying for the approval;

c. expand the grounds for cancellation of provider approvals to include where an approved provider has been deregistered under the Corporations Act, is under administration or in liquidation or is an association that has been wound up or whose incorporation has been cancelled;

d. empower the Regulatory authority to take disciplinary action and bring disciplinary proceedings against an approved provider who has contravened the National Law or the national regulations, including against a person with management or control of the approved provider;

e. empower the Regulatory Authority to publish information about enforcement or disciplinary action taken under the National Law against certain persons involved in the provision of education and care;

f. introduce a new offence for a failure by an approved provider to display the approved provider's quality and compliance history at an education and care service premises of a service operated by the provider;

g. empower the Magistrates Court to make an order requiring a person convicted of an offence to publicise the offence, and the circumstances and consequences of the offence;

h. empower the Victorian Civil and Administrative Tribunal (VCAT) to make an order requiring a person against whom disciplinary action has been taken for non-compliance to publicise the non-compliance, and the circumstances and consequences of the non-compliance;

i. require an approved provider to notify the Regulatory Authority of any sexual offences or sexual misconduct committed by staff, students or volunteers working at an education and care service operated by the approved provider within a prescribed timeframe.

j. expand the information sharing powers of the Regulatory Authority to enable proactive disclosure of any suspension directions, supervision directions and mandatory training directions given directly to an individual with approved providers and recruitment agencies;

k. increase the maximum penalties for large approved providers (providers which have 25 or more services) by a factor of 9;

l. Empower the Regulatory Authority to give a notice directing individuals working in education and care services to suspend providing education and care for a specified period;

m. clarify that an application for internal review of a decision by the Regulatory Authority does not affect the application, operation and validity of that decision;

n. expand the power of Regulatory Authority to better determine and control rating levels for education and care services, including to suspend a service's quality rating during an investigation;

o. expand the number of offences under the National Law which are infringeable offences;

p. introduce a power to empower Victorian regulations to be made which modify the maximum penalty imposed for offences under the National Regulation which are infringeable offences;

q. introduce a new offence prohibiting an approved provider from entering into a contract of insurance which indemnifies the approved provider or any staff members from a financial penalty for non-compliance with the National Quality Framework or the Child Safe Standards;

r. introduce a power for the Regulatory Authority and the Minister for Children to issue binding directions and guidelines, including to prioritise the safety, welfare or wellbeing of children and set out best practice guidance for operating education and care services;

s. introduce a power for the Minister for Children to issue binding directions to the Regulatory Authority in relation to the exercise of its functions and powers under the National Law;

t. introduce a power for the Regulatory Authority to order the closure of services in a geographic area because of an emergency event;

u. introduce a power to make Victorian regulations for transitional or savings provisions (that are required as a consequence of the reforms proposed above and which may be retrospective in operation to the commencement of those measures to ensure operational continuity and proper functioning of those provisions), and to prescribe additional provisions necessary to give effect to the Victorian- specific measures.

Specifically, the Bill will further improve transparency of information available to families by mandating that approved providers publish their quality and compliance history. It will also prevent persons whose application for service or provider approval has been refused within the previous 12 months from applying again.

Victoria will have a new category of maximum penalties in Victoria for large service providers at 9 times the current amount, applicable to approved providers that operate 25 or more services. In doing so, we are sending a signal to large providers that they need to be more accountable and ensure better adherence to child safe practices and behaviours.

The Bill will give the Regulatory Authority a new regulatory tool to take disciplinary action and bring disciplinary proceedings against an approved provider who has contravened the National Law or the national regulations. If the Regulatory Authority and person cannot agree on an appropriate sanction or remediation for the breach, the Regulatory Authority can seek an order from VCAT to issue a disciplinary order that could include a reprimand, an administrative penalty or an order to take or refrain from taking certain actions.

The Bill also expands on the new suspension power in the National Law to empower the Regulatory Authority to give a notice directing individuals working in education and care services to suspend providing education and care for a specified period, rather than providing a notice to the approved provider directing them to suspend a specific staff member from providing education and care to children at that approved provider.

The Bill responds to the Victorian Rapid Child Safety Review conducted earlier this year in response to distressing allegations of abuse in Victorian education and care services. We have already implemented the Victorian Worker Register, which will be compatible with a National Register that will be established under this Bill.

This Bill goes hand in hand with the Victorian Early Childhood Regulatory Authority Bill and demonstrates our commitment to ensuring the safety of children in the education and care services sector.

The new, independent Victorian Regulator will be more transparent with greater ability to publish compliance and enforcement activity information on its website.

All children deserve to be safe wherever they learn, play and grow.

I commend the Bill to the house.

Evan MULHOLLAND (Northern Metropolitan) (19:33): I move, by leave:

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

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

Labour Hire Legislation Amendment (Licensing) Bill 2025

Introduction and first reading

The PRESIDENT (19:33): I have received a further message from the Legislative Assembly:

The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Labour Hire Licensing Act 2018** in relation to the meaning of labour hire services, fit and proper persons, monitoring, investigation and enforcement powers and information sharing and the **Workforce Inspectorate Victoria Act 2020** in relation to causing or threatening to cause detriment and for other purposes.'

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:34): I move:

That the bill be now read a first time.

Motion agreed to.

Read first time.

Jaclyn SYMES: I move, by leave:

That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:34): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the *Labour Hire Legislation Amendment (Licensing) Bill 2025* (the **Bill**).

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

Overview of the Bill

The purposes of this Bill are to amend the *Labour Hire Licensing Act 2018* (**LHL Act**):

- to further provide for:
  - the meaning of labour hire services; and

- determining if a person is a fit and proper person; and
- the Labour Hire Authority's (**Authority**) monitoring, investigation and enforcement powers; and
- information sharing; and
- the subject matter for regulations; and

- to make minor and consequential amendments.

The Bill also amends the *Workforce Inspectorate Victoria Act 2020* to prohibit persons from causing or threatening to cause detriment to other persons in certain circumstances.

Human rights issues

The following rights are relevant to the Bill:

- right to privacy and reputation (s 13);
- right to freedom of expression (s 15);
- right to property (s 20);
- presumption of innocence (s 25(1)); and
- right to protection against self-incrimination (s 25(2)(k)).

Declaration of financial viability

Clause 8 of the Bill amends section 17 of the LHL Act to, amongst other things, add the requirement that an application for a labour hire licence must include a declaration by the applicant, or if the applicant is a body corporate then an officer of the body corporate, that to the applicant's or the officer's knowledge, the applicant is financially viable.

The Bill imposes a similar requirement to include this declaration with applications for the renewal of licences (see new section 29(1)(da)).

Relatedly, the Bill amends:

- sections 24 and 29 (respectively, grant or refusal to grant a licence and renewal and refusal of application to renew a licence) to provide that the Authority must grant or renew a licence if, amongst other considerations, the Authority is satisfied that the person who made the application is financially viable at the time of deciding the application; and
- section 34 (licence condition relating to information that must be provided annually) to add that it is a condition of a licence that the holder of the licence provide to the Authority a declaration that the holder of the licence is financially viable for each reporting period for the licence (clause 16 of the Bill).

These requirements will be subject to the existing powers of the Authority under section 21 to require an applicant to give further information and under section 47 to conduct inquiries and require a relevant person to provide further information or consent to the disclosure of information in considering an application for a licence, or a variation or renewal of a licence.

Further, the Authority retains the discretion to grant a licence even if a business may not be demonstrated as financially viable where appropriate in all the circumstances (for example, this discretion may be exercised for new market entrants who may not yet have the requisite documents to demonstrate viability).

Right to privacy

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

The right to privacy is relevant to the provisions governing licence applications. The amendments require a licence application to include a declaration of financial viability. While financial information is not required as part of an application, the Authority may request further information on the applicant's financial viability if such information is necessary for, or relevant to, the determination of the application. This may include personal information that would come under the protection of this right. The right to privacy will only be engaged where the provisions affect the privacy of an individual (or an individual's personal information), rather than the information of a corporation.

In my view, these provisions are compatible with the right. The addition of a declaration of financial viability helps to ensure that workers will be paid for their work, strengthens the labour hire licensing system and consequently supports the objects of the LHL Act, namely, protecting workers from being exploited and improving the transparency and integrity of the labour hire industry. A licence applicant (or renewal applicant)

is required to provide a declaration that they are financially viable, and may be required to provide evidence in support of their viability if requested by the Authority. This may include financial documents such a profit and loss statements, balance sheets, or bank statements. The Authority is a public authority under the Charter and will be required to exercise its powers to require additional information compatibly with the right to privacy.

Further, applicants who are seeking to participate in a regulated industry have a diminished expectation of privacy. The licensing regime has been in place for a number of years already, it imposes various requirements on applications and is already subject to the Authority's power to request further information. Consequently, persons who involve themselves in a business providing labour hire services are already aware of the existing requirements of the regime. Relevant persons are likely to have a relatively limited expectation of privacy regarding the information obtained and reviewed by the Authority in assessing applications. Given the aims of the licensing system, I consider the addition of the financial viability declaration and the Authority's ability to request further information in relation to it under the LHL Act, to be lawful and not to be arbitrary in the circumstances. Accordingly, in my opinion, it is compatible with the right to privacy.

Amendment to the fit and proper test and compliance with legal obligations requirement

Clause 10 of the Bill amends section 22 of the LHL Act to strengthen the fit and proper test and introduce mandatory consideration that the Authority must have regard to in determining if a person is fit and proper to hold a licence. Clause 11 of the Bill amends section 23 of the LHL Act to require ongoing compliance with a broader range of laws specified in section 23(1A). These sections are relevant to the grant, renewal, variation, cancellation and suspension of a licence.

The transitional provision in new section 121 (added by clause 29 of the Bill) provides that these amendments (and other amendments made by the Bill) apply in relation to an application for the issue or renewal of a licence irrespective of whether the application is made before, on or after the commencement of the amendments in the Bill. The amendments will commence on a day or days to be proclaimed and if a provision has not come into operation before 1 October 2026, then it comes into operation on that day.

Right to property

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

By amending the criteria in sections 22 (fit and proper person test) and 23 (compliance with legal obligations) of the Act, the Bill amends the grounds by which the Authority may exercise its powers of variations, suspensions and cancellations of licences.

This could have the effect of exposing existing licence holders to variation, suspension or cancellation of their licence by way of no longer satisfying the amended eligibility criteria or ongoing obligations for holding a licence.

While the effect of these provisions could lead to a deprivation of property (ie loss of a licence), I consider the provisions to be compatible with the right. The amendments to sections 22 and 23 are formulated precisely and will be publicly available and accessible to licence holders and applicants prior to their commencement. Further, these amendments are not arbitrary (capricious, unpredictable, unjust or unreasonable), in the sense of being disproportionate to the legitimate aim sought. The amendments to the fit and proper test are in part a response to a recommendation by the *Formal Review into Victorian Government Bodies' Engagement with Construction Companies and Construction Unions* and aim to strengthen the licensing scheme and address identified problems in the labour hire sector. Further, the amendments to section 23 to require applicants and licence holders to demonstrate continued compliance with an expanded set of laws are proportionate and legitimate in circumstances where these laws should be being complied with in any event.

Accordingly, I do not consider these amendments to be arbitrary and any deprivation of property (resulting from a cancellation, suspension or variation on the basis of the amended section 22 or section 23) will be 'in accordance with the law'. Applicants are choosing to participate in a regulated industry and have a conditional right to a licence. It will also occur in accordance with the existing provisions of the Act, which provide for procedural fairness (in the form of a show cause notice and opportunity for the holder to give a written response to the proposed variation or cancellation) and the right of review to VCAT.

In conclusion, I do not consider that these amendments limit the right to property.

Publication of information

The LHL Act requires that the Authority keep a register of licensed labour hire providers that records information about licence-holders, licences and decisions of the Authority. The register is publicly available

and includes prescribed particulars such as the name and contact details of licence-holders and each nominated officer, and details of any condition to which the licence is subject.

Clause 20 of the Bill amends section 49 to provide that the Authority's power to publish certain information must be 'in, or in connection with, the performance of a function or duty' under the LHL Act and that it can be in any manner the Authority considers appropriate.

In terms of amendments to the information that may be published under this provision, subsection 49(1)(a) is amended by the Bill to provide that in the case of an application for a licence that is withdrawn or a licence that is cancelled at the request of the licence holder, the name and business name of the applicant or licence holder may be published.

New subsection 49(1)(b) provides that in any case the Authority may publish specified information. New subsection 49(1)(b)(i) provides that the Authority may publish the name and business name of a person against whom 'the Authority has exercised, or is considering whether to exercise, a power' under the LHL Act 'in connection with investigating, monitoring or enforcing compliance' with the LHL Act or the regulations. Under new subsections 49(1)(b)(ii) the Authority may also publish the particular power being exercised or considered. This includes but is not limited to an investigation commenced by the Authority that is currently on foot, consideration of whether to suspend or cancel a licence, a decision to suspend or cancel a licence, a decision to impose a condition to which a licence is subject, and a proceeding commenced under the LHL Act. Further, new subsection 49(1)(b)(iii) and (iv) provide that the Authority may publish the contravention that the Authority has formed the view has occurred or is occurring, and, in relation to conduct of a person who is not a licence holder, the matters the Authority was satisfied of before exercising that power.

New subsection 49(1)(b)(v) is also added by the Bill. It provides that the Authority may publish any other information about decisions made under Division 4 of Part 3 (grant, duration and renewal of licenses), Division 6 of Part 3 (conditions and notices to comply) or Division 7 of Part 3 (variations, suspensions and cancellations) of the LHL Act.

The amendments to section 49 provide the Authority with the power to publish contextual information about its licensing decisions. Publication of this information is limited in order to avoid the publication of information that may be protected by other legislative regimes relating to information privacy or secrecy (as provided under new subsection 49(2)). Further, the Authority's exercise of the power to publish the information specified must be in, or in connection with, the performance of a function or duty under the LHL Act.

Right to privacy and reputation

As noted above, s 13(a) of the Charter protects the right to privacy from arbitrary or unlawful interference. Section 13(b) provides that a person has the right not to have their reputation unlawfully attacked. An 'attack' on reputation will be lawful if it is permitted by a precise and appropriately circumscribed law.

The publication of information about applicants involves identifying individuals and may negatively affect the reputation of those individuals.

In my opinion, any interference with the right to privacy and reputation resulting from the amendments to section 49 is neither unlawful nor arbitrary. The details of what may be published under amended section 49 are clearly outlined. The Register is already publicly available and in operation pursuant to existing sections 48 and 49. The scope of amended section 49 will be a known condition of any person seeking to be licensed as a labour hire provider after the commencement of this Bill.

Further, the publication of information listed in amended section 49, including contextual information, is appropriate and limited to being in or in connection with, the Authority's performance of a function or duty under the LHL Act. It will not include information that is otherwise protected by the operation of another Act relating to privacy or secrecy. This provision is precise and is appropriately tailored to ensuring compliance with the licensing scheme and promoting transparency, and accordingly does not constitute an arbitrary interference with privacy or reputation. The publication of this information helps to ensure compliance with the licensing scheme, which in turn protects workers.

Production of documents

Clause 24 of the Bill adds new section 67A to the LHL Act. It provides an inspector with the power to request, by written notice, that a person produce a document or provide information. This power is additional to the existing power in section 67 for inspectors to require holders of licences to produce documents.

An inspector may make a request to a person to produce a document or provide information under new section 67A if they reasonably believe that the person is in possession of the document or the information is known to the person, and the document or information is reasonably required for the purposes of investigating,

monitoring or enforcing compliance with the LHL Act or regulations. The written notice must state that a person may refuse to produce the document or provide the information.

If a person refuses to produce a document or provide information requested under this section, an inspector may, by written notice, direct a person to produce the document or provide the information to the inspector in the form and manner specified in the notice, and before the date specified in the notice. Such a notice directed to a natural person must inform them that it is a reasonable excuse for them to refuse or fail to give information if giving the information would tend to incriminate them. A failure to comply with such a notice, without reasonable excuse, is an offence.

Right to privacy and right to freedom of expression

The exercise of this additional power may interfere with the privacy of an individual in some cases; however, in my opinion, any such interference will be lawful and not arbitrary. The purpose of this additional power is to assist inspectors in enforcing compliance with the licensing regime. While this power will apply more broadly than just to licence-holders, it is limited to information or documents reasonably required for the purposes of investigating, monitoring or enforcing compliance with the LHL Act and regulations, and consequently will be limited to information relevant to the provision of labour hire services. Licence-holders and persons with information relevant to the labour hire regime will have a diminished expectation of privacy in the regulatory context, and it is reasonable that they can be required to produce information for compliance purposes.

Further, existing section 89 protects the confidentiality of information provided to inspectors by making it an offence for an inspector to give such information to any other person unless authorised, and existing section 91 preserves the privilege against self-incrimination in relation to the provision of information to inspectors.

The provision may also engage the right to freedom of expression under section 15 of the Charter, which can include a right not to impart information. In my view, this provision furthers appropriate oversight and monitoring of compliance with the licensing regime, and is reasonably necessary to protect labour hire workers. Therefore, to the extent that the freedom of expression is engaged, I consider that this provision falls within section 15(3) of the Charter, as reasonably necessary to respect the rights of other persons.

Right to protection against self-incrimination

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 applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid.

At common law, the High Court has held that the protection accorded to pre-existing documents is considerably weaker than that accorded to oral testimony or to documents that are brought into existence to comply with a request for information. The compulsion to produce pre-existing documents that speak for themselves is in strong contrast to testimonial oral or written evidence that is brought into existence as a direct response to questions. Accordingly, any protection afforded to documentary material by the privilege is limited in scope and not as fundamental to the nature of the right as the protection against the requirement that verbal answers be provided.

The right in section 25(2)(k) of the Charter is relevant to new section 67A in light of the operation of existing section 91 in respect of new section 67A. Existing section 91 provides that it is a reasonable excuse for a person to refuse or fail to give information or do any other thing that the person is required to do under Part 5, if the giving of the information or the doing of the thing would tend to incriminate the person. Under new section 67A(4) a notice under new section 67A(3) given to a natural person must inform the person that it is a reasonable excuse for the person to refuse or fail to give information if the giving of the information would incriminate the person.

Section 91 does not apply to the production of a document that the person is required to produce under the existing provisions in Part 5. New section 67A will be part of Part 5 of the LHL Act and so section 91 will operate in this way in respect of new section 67A.

Accordingly, section 91 is a limited abrogation of the privilege against self-incrimination. A document required to be produced under a provision in Part 5 may contain evidence that would tend to incriminate the person with respect to certain offences under the LHL Act and, as section 91 does not apply to such documents, such documents will need to be provided under new section 67A. However, section 100 (evidence given in proceedings for pecuniary penalty) will continue to apply in the same way that it applies to the existing provisions in the LHL Act. This means that new section 67A does not alter the position that information produced in a proceeding for a pecuniary penalty order against a person for a contravention of a

civil penalty provision, will not be admissible in subsequent criminal proceedings against that person on the basis of the same conduct (except in respect of the falsity of the evidence).

As has been previously discussed in relation to those existing provisions, the purpose of the abrogation in relation to documents is to facilitate compliance with the licencing scheme, and there is significant public interest in ensuring compliance by labour hire providers. There are no less restrictive means available to achieve the purpose of enabling inspectors to have access to relevant documents to facilitate and ensure compliance.

This limitation is related to this purpose, appropriately tailored and is reasonable and justified under section 7(2) of the Charter.

Presumption of innocence

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.

Clause 24 of the Bill which adds new section 67A makes it an offence for a person, without reasonable excuse, to refuse or fail to comply with a direction in a notice to produce documents under new subsection 67A(3) that are reasonably requested by an inspector for the purposes of investigating, monitoring or enforcing compliance with the LHL Act and the regulations (see new subsection 67A(5)).

In providing that it is an offence for a person to refuse or fail to comply if they do not have a 'reasonable excuse', this exception may be viewed as placing an evidential burden on the person alleged to have refused or failed to comply with a direction in a notice provided under new subsection 67A(3). The Supreme Court has held that evidential onus provisions on an accused to establish an exception does not transfer the legal burden of proof and do not limit the right to the presumption of innocence. Once the accused has pointed to evidence of a reasonable excuse, the burden shifts back to the prosecution who must prove the essential elements of the offence to a legal standard. Further, the exceptions relate to matters which are peculiarly within an accused's knowledge and would be unduly onerous for a prosecution to disprove at first instance.

Accordingly, I do not consider that an evidential onus to show a reasonable excuse such as this provision limits the right to be presumed innocent.

Public interest disclosure

Clause 28 of the Bill introduces new section 103A into the LHL Act and provides that, despite the secrecy provision in section 103(2) of the LHL Act, the Commissioner may disclose any information acquired under or for the purposes of this Act relating to a labour hire provider or the labour hire industry if the Commissioner is reasonably satisfied that it is in the public interest to disclose the information and the disclosure is to a person employed in a department or agency of a State or Territory or of the Commonwealth, or to the Minister.

Right to privacy and reputation

New section 103A may interfere with the privacy and reputation of an individual in some cases; however, in my opinion, it does not limit these rights as any interference will be lawful and not arbitrary. Disclosure under new section 103A is limited to where the Commissioner is satisfied that it is in the public interest and is limited to only certain particular persons, who in turn are subject to existing information privacy obligations.

Further, this power cannot be delegated by the Commissioner. In my opinion, this provision appropriately balances the right to privacy and reputation with the public interest in ensuring compliance with the licensing regime and the protection of workers.

JACLYN SYMES MP
Minister for Industrial Relations

Second reading

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:34): I move:

That the bill be now read a second time.

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

The Formal Review into Victorian Government Bodies' Engagement with Construction Companies and Construction Unions, led by Mr Greg Wilson (Wilson Review), has further highlighted a rotten culture in the construction sector and the Victorian Government is taking strong action to stamp it out.

That is why I am introducing a Bill to implement the Victorian Government's response to recommendations 3–6 of the Wilson Review to strengthen Victoria's labour hire licensing laws. Labour hire was identified as a

particularly problematic area in relation to the allegations which led to the Review. Mr Wilson noted in his final report how important it is to ensure that the regulation of labour hire firms is effective and proposed four key areas of legislative change aimed at strengthening the regulatory scheme.

The Bill will also amend the *Workforce Inspectorate Act 2025* (WI Act) to provide protection for people making complaints to the Workforce Inspectorate. A new offence will ensure that persons who make a complaint or provide information to the Workforce Inspectorate as part of its new construction industry complaints referral function are appropriately protected from reprisal. The establishment of the complaints referral function in the Workforce Inspectorate acquits recommendation 1 of the Wilson Review.

Background

In July 2024, the Victorian Government commissioned the Wilson Review as part of a range of actions responding to allegations of criminal and other unlawful conduct in the construction industry, to examine how Victorian Government bodies interact with construction companies and unions.

Mr Wilson's Final Report was delivered to the Victorian Government on 29 November 2024. The review made eight recommendations about how the powers and processes of Victorian Government bodies can be strengthened to better respond to allegations of criminal and other unlawful behaviour. The recommendations emphasise collective action among employers, agencies and law enforcement to encourage complaints, share information and act on misconduct, as well as highlighting the need for a multifaceted approach involving cultural, regulatory, legal, policy and contractual changes.

The Government released its response to the final report on 18 December 2024, accepting all recommendations either in-full or in-principle.

The Review found that most relevant interventions sit with the Commonwealth under its broad industrial relations and regulation of employee associations powers, but that there are a number of actions Victorian Government agencies can take to enhance oversight and management to deter criminal and unlawful activity.

The measures the Victorian Government is adopting aim to complement Commonwealth reforms and the placement of the Construction Division of the CFMEU into administration, as well as actions already taken by this Government, which include passing anti-bikie laws in 2024 that make it easier to prevent certain individuals from associating with each other.

The Bill will amend the *Labour Hire Licensing Act 2018* (LHL Act) broadly in line with recommendations 3–6 of the Wilson Review as well as introduce other amendments to improve the overall operation of Victoria's labour hire laws.

The Bill in detail

Recommendation 3 proposes that the "fit and proper person" test in the LHL Act be broadened so that additional factors can be considered when assessing the suitability of an applicant for a labour hire licence.

The Bill amends the LHL Act to delete the current mandatory prescriptive considerations and replaces them with new provisions similar to Queensland's mix of mandatory and discretionary considerations. The amendments incorporate the Wilson recommendation considerations that are not otherwise covered by the Queensland test and retain some elements of the current Victorian test.

The proposed amendments are broader than those in recommendation 3. This will provide the Labour Hire Authority (LHA) with greater flexibility to respond to practices by labour hire providers that may be unlawful, criminal, coercive and/or systemic at the licensing decision stage. Further, providing the LHA with a general discretion to have regard to any other matter it considers relevant in considering whether an applicant is fit and proper is an additional protective factor in response to the harms observed in the industry.

Recommendation 4 proposes amending the *Labour Hire Licensing Regulations 2018* (LHL Regulations) to define certain activities connected to construction to be explicitly regulated under Victoria's labour hire licensing scheme. The recommendation aims to provide clarity about which construction activities are covered by the scheme to prevent businesses from structuring themselves to avoid regulatory oversight.

This recommendation was supported in principle to ensure it could be acquitted without risking some forms of labour supply or construction activities falling outside of the regulations or conversely covering businesses that are not intended to be covered. This Bill broadly implements the intent of recommendation 4 with specific amendments to the general definition of 'provides labour hire services' in the LHL Act. Further amendments to the LHL Regulations in line with recommendation 4 will be prepared following the preparation of the requisite regulatory impact statement.

The Bill amends the general definition of 'provides labour hire services' to state that a person will be a provider where they enter into an arrangement with another person, the character of which is the supply of labour by the provider to another person (either directly or indirectly); and the labour is performed by individuals who are workers for the provider, or another provider, within the meaning of the Act.

The amended definition addresses identified issues and ambiguity about who is a labour hire provider under the current definition and, therefore, subject to regulation under the LHL Act as well as the practice of businesses deliberately structuring themselves to avoid regulation. It focuses on the character of the arrangement itself (being the supply of labour) rather than the business structure or requirement for workers to be integrated into a host business. Whether the character of an arrangement is for the supply of labour will be assessed on the basis of the real substance, practical reality and true nature of the arrangement. The amended definition focuses on what the arrangement is in practice, irrespective of how the business may describe itself, and makes clear that arrangements involving supply chains and intermediary businesses may be covered where they have the character of labour supply.

The amended definition is not Intended to cover genuine sub-contracting arrangements.

Recommendation 5 proposes providing the LHA with a power to request that a person provide information or documents that an inspector has a reasonable belief are necessary for monitoring or enforcing compliance with the Act (broadly referred to as a 'notice to produce' or NTP power). Currently this power is broadly linked to an entry power which first must be exercised before making the request for documents.

This recommendation is implemented by the proposed amendments in the Bill. They specify that the request should give the recipient the option to consent to providing the document or information at first instance (which preserves their right of refusal in line with the Wilson recommendation) and also includes protection against self-incrimination for individuals. The LHA can serve a notice to produce any documents that are not provided by consent. It is an offence to fail to comply with 'notice to produce' without a reasonable excuse.

Recommendation 6 proposes that the LHA be provided with expanded publication powers. It recommends that the LHL Act be amended to empower the LHA to publish additional contextual information about suspensions and cancellations of licences on the Register of Licensed Labour Hire Providers (Register).

This recommendation is being implemented by permitting the LHA to publish certain information in, or in connection with, the performance of a function or duty under the Act. This could include specified information about investigations on foot or proceedings commenced. The Bill also includes a broader power for the LHA to publish any information about decisions made under Part 3, Divisions 4, 6 or 7 of the Act and specified information connected to the exercise of certain powers. The amendments go further than the Wilson recommendation, in that they will permit the publication of information about a broader range of licensing decisions in any manner considered appropriate by the LHA. In doing so, the amendments will better equip the LHA to perform its functions under the LHL Act to promote compliance, and disseminate information about the duties, rights and obligations of persons under the LHL Act.

The Bill makes other amendments to the LHL Act which complement the changes arising out of the Wilson recommendations and strengthen the overall labour hire regulatory scheme. These include amendments to the hinder or obstruct offence to cover all LHA staff and the Commissioner; expanding the list of laws that licence applicants and holders must comply with; requiring licence applicants and holders to demonstrate that the labour hire business is financially viable; and providing the Commissioner with a power to disclose information to government departments or agencies, as well as the Minister, where the Commissioner is reasonably satisfied that the disclosure is in the public interest.

The Bill ensures that persons who make a complaint or provide information to the Workforce Inspectorate as part of their new complaints referral function will be protected from reprisal through the inclusion of a criminal offence in the WI Act. The offence prohibits detrimental conduct being taken (or threatened) against a person who makes a complaint or provides information about public construction to the Inspectorate (broadly referred to as the 'detriment offence'). The detriment offence will have a significant maximum penalty of 1200 penalty units or level 5 imprisonment (10 years maximum) or both. The culture of coercion and intimidation which led to the Wilson Review has to stop and the maximum penalty for the detriment offence reflects the seriousness with which government views this conduct. The offence will be enforced by Victoria Police, reflecting the serious nature of the conduct.

Commencement date

The Bill will come into operation on proclamation or on default commencement. The commencement of the detriment offence in Part 3 of the Bill will align with the commencement of the complaints referral function provisions in the *Workforce Inspectorate Act 2025*.

I commend the Bill to the house.

Evan MULHOLLAND (Northern Metropolitan) (19:34): I move:

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

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

Planning Amendment (Better Decisions Made Faster) Bill 2025

Introduction and first reading

The PRESIDENT (19:34): I have received the following message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Planning and Environment Act 1987**, to make consequential amendments to the **Land Acquisition and Compensation Act 1986**, the **Subordinate Legislation Act 1994** and other Acts and for other purposes.'

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:35): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Jaclyn SYMES: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:35): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

> In accordance with the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Planning Amendment (Better Decisions Made Faster) Bill 2025 (the **Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I base my opinion on the reasons outlined in this statement.
>
> **Overview of the Bill**
>
> The Bill makes a series of major reforms to the *Planning and Environment Act 1987* (**Principal Act**) that are aimed at improving housing supply in Victoria, which is one of the State's most urgent policy priorities.
>
> The key reforms delivered by the Bill include:
>
> - Providing developers and the community with greater certainty about future changes to land use and development across the state by requiring planning scheme amendments to be consistent with State Planning Strategies such as "Plan for Victoria", which was issued on 28 February 2025;
> - Significantly reducing the time, cost and complexity of making the planning scheme amendments needed to support Victoria's projected population growth by establishing planning approval pathways that are proportionate to the risks and complexity of the amendments;
> - Reducing administrative burdens associated with the Distinctive Areas and Landscapes regime;
> - Reducing the time and cost associated with obtaining planning permits by establishing three assessment processes that implement procedural steps and timeframes which are more closely aligned with the risk and complexity of different permit applications;
> - Increasing certainty and reducing the complexity, time and cost of removing or varying restrictive covenants that are inconsistent with relevant planning policies and objectives under the planning scheme;
> - Providing for traditional owners to be notified of proposed planning scheme amendments and development proposals in prescribed areas;
> - Eliminating ambiguity, reducing claim management costs, and reducing future financial liabilities relating to planning compensation claims;
> - Introducing new requirements to declare "reportable donations and gifts"; and

- Improving the efficiency and effectiveness of future compliance monitoring and enforcement by providing new tools, and updating penalties and sanctions, to align with regulatory best practices that have evolved in Victoria since the Principal Act was established in 1987.

The Bill also makes consequential amendments to the *Land Acquisition and Compensation Act 1986* (**LAC Act**).

The aspects of the Bill of most relevance to this statement of compatibility are those that relate to:

- The amendments to Parts 3 and 4 of the Principal Act, which involve:
  - Changed notice, consultation and consideration requirements in relation to planning scheme amendments;
  - The inclusion of additional Ministerial power to continue abandoned amendments;
  - New powers of exemption from notification and exhibition requirements for planning scheme amendments; and
  - Modified notice and objections provisions in relation to applications for planning permits;
- The amendments to Part 5 of the Principal Act, which clarify when compensation will be payable for claims arising under the Principal Act, and how the amount of compensation will be assessed;
- New Part 5A, which establishes a new scheme for written disclosure of "reportable gifts and donations"; and
- The amendments to Part 6 of the Principal Act, which introduce additional enforcement powers and sentencing orders for breaches of the Principal Act.

Human rights issues

The following rights are relevant to the Bill:

- Right to equality (section 8);
- Right to privacy and reputation (sections 13);
- Freedom of expression (section 15);
- Freedom of association (section 16);
- Taking part in public life (section 18);
- Cultural rights (section 19);
- Property rights (section 20);
- Right to a fair hearing (section 24); and
- Right not to be tried or punished more than once (section 26).

Right to equality (section 8)

Section 8(2) of the Charter provides that every person has the right to enjoy their human rights without discrimination. Section 8(3) of the Charter relevantly 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. The purpose of this component of the right to equality is to ensure that all 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 section 6 of the EO Act. Direct discrimination occurs where a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute. Indirect discrimination occurs where a person imposes a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with a protected attribute, but only where that requirement, condition or practice is not reasonable.

Section 8(4) of the Charter provides that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination. Section 8 as a whole is concerned with substantive rather than merely formal equality. This means that any measure taken for the purpose of assisting or advancing a group disadvantaged because of discrimination, such as First Peoples, will not constitute discrimination where it satisfies the test for establishing a special measure. This includes demonstrating that the disadvantage to be targeted by the measure is caused by discrimination, that the measure is reasonably likely to advance or benefit the disadvantaged group, and that it addresses a need and goes no further than is necessary to address that need.

Right to privacy and reputation (section 13)

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

Section 13(b) of the Charter relevantly provides that a person has the right not to have their reputation unlawfully attacked. An 'attack' on reputation will be lawful if it is permitted by a precise and appropriately circumscribed law.

Freedom of expression (section 15)

Section 15 of the Charter provides that every person has the rights to hold an opinion without interference (section 15(1)) and to freedom of expression (section 15(2)), which includes the freedom to seek, receive and impart information.

However, section 15(3) provides that special duties and responsibilities attach to this right, which may be subject to lawful restrictions reasonably necessary to respect the rights and reputations of others, or for the protection of national security, public order, public health or public morality.

Freedom of association (section 16)

Section 16 of the Charter protects every person's right to peaceful assembly and freedom of association with others, including the right to form and join trade unions.

Taking part in public life (section 18)

Section 18(1) of the Charter provides that every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.

Cultural rights (section 19)

Section 19(1) of the Charter provides that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy their culture, declare and practise their religion, and use their language.

Section 19(2) of the Charter further provides specific protection for Aboriginal persons, providing that they must not be denied the right, with other members of their community, to enjoy their identity and culture, maintain and use their language, maintain kinship ties, and maintain their distinct spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

Property rights (section 20)

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

Right to a fair hearing (section 24)

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 term "civil proceeding" in section 24(1) has been interpreted as encompassing proceedings that are determinative of private rights and interests in a broad sense, including some administrative proceedings.

Right not to be tried or punished more than once (section 26)

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

This right embodies the fundamental common law principle of 'double jeopardy', which guarantees finality and certainty in the criminal justice system. This principle ensures that a person is not subjected to multiple prosecutions for an offence for which they have been finally acquitted or convicted.

Amendments to Parts 3 and 4 of the Principal Act

The Bill makes significant changes to Parts 3 and 4 of the Principal Act. The changes include the introduction of three different assessment processes for for planning scheme amendment and permit applications that are applied based on the potential risk, complexity and impact of amendments and permit applications under consideration.

Part 3

Amended section 16N provides that an amendment to a planning scheme is to be categorised, in accordance with the regulations, as one of the following –

- A low-impact amendment;
- A medium-impact amendment; or
- A high-impact amendment.

It is envisaged that:

- A low-impact amendment will be a planning scheme amendment where the impact of the amendment is such that broad public involvement in the amendment process is not warranted;
- A medium-impact amendment will be a planning scheme amendment where the impact of the amendment is such that public exhibition is necessary but independent review via a planning panel is of limited benefit; and
- A high-impact amendment will be a planning scheme amendment where the impact of the amendment is such that exhibition and independent review of the amendment is necessary.

In other words, notice, consultation and consideration requirements for planning scheme amendments will depend on the category of the amendment. In particular:

- Notice of preparation of an amendment to a planning scheme will only be required for medium and high-impact amendments. There is a new requirement (at new section 19(1)(ba)) that such notice is to be given to any native title holders, traditional owner group entity or registered Aboriginal party for the area;
- Public submissions on exhibited amendments can only be made to the relevant planning authority for medium and high-impact amendments. However, the Bill makes provision for consultation in respect of low-impact amendments, including with the traditional owners for affeceted lands. For all amendments, the planning authority must prepare a proposed public engagement plan as part of its amendment application, and must prepare and publish an "engagement report" under new section 20F. The Minister may also direct a planning authority to undertake more consultation; and
- After considering comments and submissions, a planning authority may decide to change, not change or abandon the amendment if it is a low or medium-impact amendment. A planning authority must not refer a low or medium-impact amendment to a planning panel (however, the Minister may do so under new section 34AA.. For high-impact amendments, a planning authority may change or not change the amendment and refer it to a panel, or abandon the amendment.

The role of planning panels is to be more confined. The Principal Act will no longer provide that a panel is bound by the rules of natural justice. In addition, in most circumstances, a person making a submission will not have a right to be heard before a panel. Further, while a referral to a panel will ordinarily need to be accompanied by any submissions or comments received by the planning authority or the Minister about the amendment, those submissions or comments need not be provided if, in the opinion of the planning authority or Minister, they are:

- Frivolous or vexatious; or
- Wholly irrelevant to the amendment.

The Minister is to be granted broader powers with respect to planning scheme amendments. If the Minister prepares an amendment to a planning scheme, the Minister may determine that a high-impact amendment is to be treated as a medium-impact amendment if the Minister considers that a panel review of the amendment is unnecessary given the specific nature of the amendment.

Further, in specified circumstances, the Minister may decide to continue an amendment abandoned by a planning authority, and may exempt a planning authority from any requirement under section 19 if satisfied that the planning authority undertook sufficient public consultation before applying for authorisation to prepare the amendment.

New Division 3A of Part 3 introduces measures which seek to ensure transparency in decision-making in relation to amendments, and new sections 42A and 42B make provision for the collection, retention, analysis and reporting of information from planning authorities about the performance of the planning scheme amendment process under Part 3.

Finally, existing section 38 of the Principal Act – which requires the Minister to provide notice to Parliament of the approval of every amendment of a planning scheme within 10 sitting days, and permitting Parliament to revoke the amendment – is to be removed. Instead, the parliamentary scrutiny requirements applied to

subordinate legislation under the Subordinate Legislation Act 1994 will be applied to planning scheme amendments.

Part 4

New section 47AA provides that there are to be three types of permit application: types 1, 2 and 3.

Only type 3 applications and "specified type 2 applications" will be subject to notice requirements.

Objections will no longer be able to be made in respect of type 1 and 2 applications. Section 57 of the Principal Act, which deals with objections to applications for permits, will now only apply to type 3 applications.

Under new section 57(2A), the responsible authority may reject an objection which it reasonably believes has been prepared by a third party and not the objector. However, this will not apply to an objection prepared by a third party for an objector if:

- The objector requires assistance or personal representation because of age or disability; or
- The objector has engaged legal representation for the purpose of preparing the objection.

The responsible authority may also reject an objection which it considers:

- Has been made primarily to secure or maintain a direct or indirect commercial advantage for the objector;
- Is frivolous or vexatious; or
- Is wholly irrelevant to the grant of the permit following the type 3 application.

The matters that a responsible authority is required to consider before deciding a permit application will be reduced in respect of type 1 applications (see new section 59A).

Further, the section 64 decision process will only apply to grants of permits for type 3 applications.

By specifically providing for First Peoples to be notified of, and participate in, planning scheme amendment processes, the Bill may engage the right to equality. Section 8(3) of the Charter may be engaged because these provisions provide for differential treatment between First Peoples and Victorians who are not First Peoples. However, given that notice is required to be provided to native title holders, traditional owner group entities and registered Aboriginal parties for the affected area, I consider that any limits on rights are minimal and appropriately confined. Further, I am of the view that these provisions constitute a special measure under section 8(4) of the Charter. These provisions also promote the rights of First Peoples under section 19(2) of the Charter.

By restricting the ability of certain persons to make public submissions and be heard in relation to planning scheme amendments, and the ability to object in writing to a planning permit application, the Bill may limit the right to freedom of expression under section 15(2) of the Charter in that it may prevent those persons from imparting information and ideas in writing or orally to the relevant planning authority, panel, or responsible authority. However, interested persons will still be able to impart information and ideas in relation to planning scheme amendment and permit applications in a range of ways, including by writing to the Minister, and speaking to or writing to their local council or local member. Further, to the extent that the right to freedom of expression is engaged, I consider that these amendments are reasonably necessary to accelerate the provision of improved housing supply, and thereby respect the rights of other persons – namely, Victorians who are negatively impacted by lack of housing and lack of adequate housing. I therefore consider that these amendments fall within the exception in section 15(3) of the Charter.

The Bill does not affect the rights of owners and occupiers of land materially affected by a planning scheme amendment, and recipients of notice of type 3 planning permit applications, to impart information and ideas orally or in writing to the relevant authority.

By confining notification, consultation and consideration requirements in relation to planning scheme amendment applications, and who may object to planning permit applications, the Bill may be relevant to the right to participate, without discrimination, in the conduct of public affairs and the right to a fair hearing, under sections 18(1) and 24(1) of the Charter respectively.

This assumes that planning scheme amendment and permit application processes could be "public affairs" for the purposes of section 18(1) of the Charter. However, that right focuses on participation in public affairs "without discrimination". These amendments do not involve unfavourable treatment, or the imposition of a requirement, condition or practice that has the effect of disadvantaging persons, because of a protected attribute.

Further, section 24(1) of the Charter only applies where a person is a "party" to a "civil proceeding". The Bill seeks to clarify the procedure of planning panels to make clear that the function of panels is to conduct independent reviews of planning scheme amendments. The role of a panel is intended to be inquisitorial,

rather than legalistic. Persons who give evidence or make submissions to planning panels are not "parties" and panels do not make determinations. This analysis also applies in relation to the grant of permits by responsible authorities.

For these reasons, in my view, the section 18(1) and 24(1) Charter rights are not engaged and the provisions are compatible with the Charter.

To the extent that authorities or the Minister make determinations, the Bill is adequately confined in a number of ways. It clarifies what the authority or Minister is required to take into account in making decisions on planning scheme amendment and permit applications, and also establishes a performance reporting process for planning scheme amendments.

Amendments to Part 5 of the Principal Act

- The Bill amends Part 5 of the Principal Act to clarify when compensation will be payable for claims arising under the Principal Act, including: clarification that references to financial loss in sections 98(1) and (2) are references to actual financial loss;
- Clarification that references to value in Part 5 are references to market value;
- Expansion of the specified circumstances in section 98(3) in which a person cannot claim compensation under section 98(1), to include:
  - Where the land has been vested in the acquiring authority by any means; and
  - Where a condition on a permit granted in relation to the land provides that compensation is not payable;
- For a claim for expenses incurred in preparing and submitting a claim under section 98, new section 101(2) provides that the claim cannot be made in relation to any expenses incurred (a) before the right to compensation arises under section 99 or (b) after the claim is referred to the Tribunal or Supreme Court;
- Amendments to section 108 so that only a single claim for compensation for the same public purpose reservation may be made; and
- Making clear when a Minister, public authority, municipal council or acquiring authority is liable to pay a claim for compensation under section 109.

Additionally, new section 100(3) narrows the operation of section 100 to an assessment of the value of the land based on the existing residential use of the land.

These aspects of the Bill may engage the section 20 Charter right. It may be argued that the Bill "deprives" a person of property by reducing the amount of monetary compensation that they may have otherwise been able to obtain against the State. While such deprivation of property is likely to be considered "in accordance with law" in so far as the Bill is "publicly accessible, clear and certain", existing case law (*PJB v Melbourne Health*) also requires that it be shown that the Bill does not operate arbitrarily. The Court of Appeal, in *WMB v Chief Commissioner of Police* (2012) 43 VR 446 in the context of discussing the meaning of 'arbitrary' in section 13(a) of the Charter, has stated that a law is arbitrary where it is capricious, unjust, unpredictable or unreasonable in the sense of not being proportionate to a legitimate purpose. Withdrawing compensation to which people may otherwise be entitled, could be considered to be "capricious" or "unjust". Therefore, an argument might be made that the deprivation of property under the Bill is arbitrary, so that the right not to be deprived of property otherwise than in accordance with the law is limited.

However, I consider that any limitation on property rights is reasonable and justified. These amendments are aimed at reducing ambiguity about what a person might be entitled to claim against the State, and restoring the text of the legislation so that it reflects Parliament's original intent. Ambiguity regarding the meaning of "a residence" in the existing section 100 of the Principal Act has led to multiple contested compensation claims, including the claim litigated in *Minister for Energy, Environment and Climate Change v Megson* [2017] VSC 774, sometimes resulting in a higher dollar amounts being paid to claimants in additional allowance on top of the planning compensation for a permit refusal (where the claimant retains their land), than is paid in solatium following the actual taking of the land on the eventual acquisition of the land. These clarifying amendments will reduce ambiguity for claimants, assist the Courts in interpreting the relevant provisions and ultimately reduce the State's financial expenditure in connection with compensation claims. This money will be able to be redirected into investment in improved housing supply for Victorians and building Victoria towards 2050, in line with the "Plan for Victoria".

I do not consider that these amendments engage or limit the right to a fair hearing in the Charter, because this right will be engaged where a person is prevented from having their civil rights or liabilities in a proceeding considered by a court. However, this right does not prevent the State from amending the substantive law to alter the content of those civil rights.

New Part 5A

New Part 5A inserts, in section 113B, requirements that persons, and their "associates" (as defined in section 113B(4)), who make "relevant planning applications" or "relevant planning submissions" must disclose, in the form of a disclosure statement, "reportable donations and gifts" (as defined in section 3(1)) given to "relevant recipients" (as defined in new section 113C). If the relevant recipient is a Minister or a Councillor, reportable gifts or donations to their registered political parties (where known) must also be disclosed. These requirements only apply during "the disclosure period", which is defined to mean the period commencing 2 years before the relevant planning application or submission is made, and ending when the relevant application or request is determined.

A disclosure statement must include a range of matters, including names and addresses of donors and recipients, the amount or value of the gift or donation, the date the gift or donation was given and any other prescribed matter.

New section 113G creates an offence for failing to disclose a reportable gift or donation, punishable by 240 penalty units or 2 years' imprisonment or both.

To the extent that the information collected under these provisions includes personal information, the right to privacy will be engaged. However, the disclosure of personal information is not arbitrary as new section 113F requires publication of the disclosure statement in accordance with the public availability requirements.

Further, if this right is limited by new Part 5A, these limits are reasonably necessary to achieve legitimate anti-corruption purposes, including those set out in new section 113A. IBAC has investigated and reported on allegations of corrupt conduct involving councillors and property developers in the City of Casey in their report on Operation Sandon. The outcomes of Operation Sandon highlight system vulnerabilities, emphasise corruption risk in state and local government and underscore the need to establish transparent planning decision-making processes. IBAC's Special Report recommended amendments to legislation to require the disclosure of donations made by parties to relevant planning decision-makers. These provisions implement that recommendation.

Amendments to Part 6 of the Principal Act

To improve the efficiency and effectiveness of future compliance monitoring and enforcement, the Bill provides for updated, increased penalties for contraventions of the Principal Act.

The Bill makes it an offence to knowingly or recklessly make a false or misleading statement to a person or body carrying out a function or power under the Principal Act, and to produce a document that the person knows to be misleading. These offences are punishable by 240 penalty units or 2 years' imprisonment or both. The Bill clarifies that a proceeding for a summary offence against the Principal Act must be commenced within 24 months.

Additionally, the Bill empowers courts to make the following "specific court orders":

- "adverse publicity orders" that require offenders to publicise wrongdoing including the offence, its consequences and penalty, typically in electronic and print media;
- "commercial benefit orders" that require offenders to pay a fine of up to 3 times the estimated gross commercial benefit (profit) that was received;
- "supervisory intervention orders" involving the appointment of persons or entities to supervise the activities of offenders, most commonly where offenders are found by courts to be persistently or systematically breaking the law; and
- "industry exclusion orders" that exclude a person from participation in an industry for certain periods if the courts finds that the person is a persistent or systematic offender against laws.

These provisions empower a court to limit the right to privacy and reputation (in respect of all specified orders), the right to freedom of association (in respect of supervisory intervention and industry exclusion orders) and property rights (in respect of supervisory intervention and commercial benefit orders). However, I consider that the courts' powers to make these orders are reasonably necessary to deter non-compliance with the Principal Act, and are adequately confined, including because:

- The court has a discretion as to whether to make any of these orders;
- Any order made will be subject to Court-imposed conditions, for example as to the duration of the order;
- A supervisory intervention order can be made for a maximum period of one year;
- The commercial benefit order provisions expressly state that a court can make an order for less than the estimated gross commercial benefit; and

- The supervisory intervention and industry exclusion order provisions provide that the person in respect of whom the order was made can apply to the court for amendment or revocation of the order (and the court can amend or revoke the order if satisfied that there has been a change of circumstances warranting the revocation or amendment).

While an argument might be made that these provisions engage the right not to be punished more than once, in my view they are unlikely to constitute punishment for the purpose of the section 26 Charter right. I therefore do not consider that these provisions engage or limit the right not to be tried or punished more than once.

New section 134A empowers an authorised person to enter land without notice, consent or a warrant if the authorised person reasonably believes that permanent and irreversible damage or material harm to the environment in contravention of the planning scheme is occurring, is about to occur or has occurred on the land. This provision may engage the right to privacy under section 13(a) of the Charter and the right not to be deprived of property other than in accordance with the law under section 20 of the Charter. However, given the provision specifies the limited circumstances in which an authorised person may enter land without notice, consent or a warrant, requires an authorised person to announce themselves on entry and produce their identity card for inspection, and excludes entry into a building being used as residential premises without consent, any interference will be lawfully permitted. In addition, in my view any interference will not arbitrary, as it is for the clear purpose of preventing permanent and irreversible damage or material harm to the environment.

The exercise of new enforcement powers will also occur by reference to a policy – which new section 150B of the Principal Act will require the Secretary to develop (after consultation with responsible authorities and other relevant stakeholders) – designed to promote compliance with and enforcement of planning laws. The policy is to provide guidance on the exercise of monitoring, compliance, investigation and enforcement powers. The Secretary must provide training, guidance and support to authorised officers in relation to the policy and persons involved in compliance, monitoring or enforcement activities must have regard to the policy when exercising powers under, the Principal Act.

The Hon Harriet Shing MP
Minister for the Suburban Rail Loop
Minister for Housing and Building
Minister for Development Victoria and Precincts

Second reading

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:35): I move:

That the bill be now read a second time.

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

The Bill amends the Planning and Environment Act 1987 to make reforms to the planning system in Victoria and to make consequential amendments to the Land Acquisition and Compensation Act 1986 and the Subordinate Legislation Act 1994.

Victoria is a great place to live and work. Known for its cultural diversity, strong economy, education opportunities, beautiful natural landscapes and vibrant arts and sports scenes, Victoria has consistently drawn people from across Australia and the world.

With Victoria's population expected to grow from 7.2 million residents in 2025 to 10.3 million residents by 2050 we must plan for more homes and other developments to support that population growth whilst maintaining Victoria's enviable liveability.

Victoria is facing a housing challenge, with more and more Victorians finding it increasingly difficult to find a home, particularly younger Victorians. This challenge has been decades in the making.

While there is no quick fix, addressing this challenge requires reform and sustained commitment. That means building more homes in well-connected areas, modernising planning rules to deliver housing faster, and investing in social and affordable housing so that no one is left behind. It also means working with local government, industry, and communities to ensure new developments are sustainable, inclusive, and resilient – creating neighbourhoods where people can live, work, and thrive for generations to come.

Victoria's Housing Statement – the decade ahead 2024–2034, set a target to build 800,000 homes in 10 years.

Consistent with the commitments made in the Housing Statement the Government is using every policy lever available to it to increase the supply of land, make redevelopment opportunities available and streamline the delivery of housing and other developments that are needed to accommodate population growth.

In the planning portfolio, this includes:

- Planning for 60 new train and tram activity centres and establishing the new Housing Choice Transport Zone and Built Form Overlays for Activity Centre cores to streamline approvals in these centres.
- Establishing a new precincts zone to facilitate the development of 15 priority precincts, which are key areas for transformational urban development to deliver new homes, jobs, and better transport, as outlined in the Plan for Victoria. Priority precincts include Fishermans Bend, Arden, Sunshine, Parkville, Docklands, Footscray, East Werribee, the Richmond to Flinders Street corridor and several new precincts that will be established as part of the Suburban Rail Loop program.
- Codification of residential development requirements to eliminate or otherwise streamline planning permit requirements for townhouses and low-rise apartment developments; single dwellings on blocks over 300 metres squared; single dwellings on blocks under 300 metres squared; small second dwellings; and two dwellings on a block. These reforms will significantly streamline and enable small scale development at the local level.
- Enactment of legislative reforms to the Planning and Environment Act 1987 and the Victorian Civil and Administrative Tribunal Act 1998 to: enable streamlined consideration of low impact planning scheme amendments; provide a formal and transparent process for proponents to initiate amendments; enable the Minister for Planning to complete abandoned amendments; provide planning panels with increased discretions to consider submissions on the basis of documents without holding a public hearing; and provide the Victorian Civil and Administrative Tribunal (VCAT) with broader powers to actively manage proceedings in the interests of making just, timely and efficient determinations.

Importantly, the government has systematically engaged with the community, local government and industry to plan for the future through the development of Plan for Victoria. Following the most extensive community-led consultation ever undertaken for a strategic plan in Victoria, Plan for Victoria is a plan for Victorians, written by Victorians. More than 110,000 Victorians were engaged through the process.

Housing targets have been established for every local government area as part of Plan for Victoria to ensure that enough homes are built in the right places. These housing targets have now been incorporated into all planning schemes across the state by amendment to the Victoria Planning Provisions.

A large number of planning scheme amendments will need to be made over the next 10 years to supply land and enable greenfield development that will accommodate new homes. Further, a large number of planning scheme amendments and planning permits will be needed to enable the delivery of more homes in established areas, including in regional Victoria.

It this context, it is of utmost importance that assessment and decision-making processes remain robust: ensuring that changes to land use, and proposed developments, are economically, socially and environmentally sustainable. Regulatory processes must also be agile, proportionate and efficient to respond to dynamic changes in community needs and preferences in a timely fashion.

Consistent with the commitments made in the Housing Statement the Government is systematically reviewing the Planning and Environment Act 1987. From the initial phase of the Review, the evidence is clear that regulatory processes for making planning scheme amendments and for processing planning permit applications under the Act are not fit for purpose.

Reform of planning scheme amendment processes

It takes greater than two years, on average, to make a planning scheme amendment. Given this, it should not be surprising that successive State Government Planning Ministers have been called on to use special exemption powers in the majority of cases. However, this practice does not deliver transparency, and it does not deliver certainty. Importantly, the current one size fits all process is not sufficiently responsive to the emerging needs of the community.

The Allan government recognises the importance of planning for the future and is doing so through a Plan for Victoria. But we also recognise the importance of responding to the market. The current prescribed process for making planning scheme amendments does not effectively enable this to occur. We need better decisions made faster.

The Bill will make amendments to Part 3 of the Act to establish three pathways for planning scheme amendments that are proportionate to complexity, risk and the potential impact of the amendment. This will deliver significant time and cost savings, and importantly, will provide greater certainty and predictability to development proponents and to the community regarding the process to be followed. The community does not have that certainty at present because of the extensive use of exemptions.

For low impact amendments, the Bill requires the Planning Authority to consult with affected landowners, occupiers and prescribed authorities. The Planning Authority must then deliver a report to the Minister for Planning to inform the Minister's decision making on the amendment.

For moderate impact amendments, public notice and exhibition would occur but there would be no independent review by a planning panel and no public hearing, unless the Minister determines that independent review and advice from a panel is needed. The Minister would make this decision when the proposed amendment is adopted by the Planning Authority and provided to the Minister for approval.

Under the high impact pathway, there would be public notice and exhibition and independent review by a planning panel, but this does not necessarily mean that a public hearing would be conducted. As indicated, the Parliament has already provided planning panels with discretion to undertake their review functions "on the papers", either in full, or in part, using public hearings to supplement and support their considerations as the panel see fits.

The Bill also makes additional planning scheme amendment reforms that will add to the cost, time and certainty benefits associated with establishing the three new assessment processes.

In summary, the Bill:

- Provides explicit processes for the initiation of amendments, including cost recovery arrangements for councils who choose to facilitate proponent-initiated amendments. These reforms will build on those included in the Consumer and Planning Legislation Amendment (Housing Statement Reforms) Act 2025.
- Provides that when authorisation is sought to develop an amendment the Minister may request further information is provided by councils, and that once further information is provided, the Minister will then have a prescribed timeframe to make a final decision on the authorisation request.
- Provides that the Minister may, subject to receiving a request from the planning authority when authorisation is sought, grant exemptions from notice and exhibition requirements where the planning authority has already undertaken an equivalent level of public consultation in relation to the changes to the planning scheme the amendment seeks to implement.
- Requires a planning authority proposing to prepare a planning scheme amendment to develop a public engagement plan and submit this with the authorisation request is made to the Minister. The engagement plan would set out how the planning authority will give notice and undertake community consultation in respect to the amendment. This is intended to replace prescriptive requirements, for example, advertising in newspapers, and enable innovation in respect of the method of engagement.
- Requires amendment proponents and persons who make submissions to declare financial interests. This reform would acquit the IBAC's Operation Sandon Inquiry recommendation to require every applicant and person making submissions to a council, the Minister for Planning or Planning Panels Victoria to disclose reportable donations and other financial arrangements.
- Requires the planning authority for a planning scheme amendment to publish a report on submissions received following exhibition of the amendment. Codifying this practice will ensure transparency and foster accountability and accessibility in the planning system by providing community members and other stakeholders with clarity regarding how their submissions have been considered and the extent to which the details of the amendment are proposed to change in response.
- Provides that the role of and function of planning panels is to undertake an independent review of the amendment and that the panel has discretion over who the panel chooses to hear from during the conduct of public hearings. These changes will complement amendments made through the Consumer and Planning Legislation Amendment (Housing Statement Reforms) Act 2025 that provide for the fulfilment of panel function using only written submissions. The effect is that there will no longer be any entitlement to respond to all submissions or opinions provided by other parties.
- Provide that planning scheme amendments will follow the normal tabling, scrutiny and disallowance procedures under the Subordinate Legislation Act 1994. This means that approved planning scheme amendments will be reviewed by the Scrutiny of Acts and Regulations Committee (SARC) and subject to disallowance on the recommendation of SARC.
- Makes provision for annual performance monitoring of the planning scheme amendment process, including compliance with statutory timeframes.

While the delivery of time and costs saving is the direct benefit of the proposed reforms, it is equally of importance to deliver certainty and predictability so the development industry can consider and mitigate development risks with a much higher degree of confidence. The substantial time and costs savings associated with the reforms to the assessment and approval of planning scheme amendments will allow earlier realisation of development benefits to the community.

Reforms to planning permit assessment and approval processes

Just over 40,000 planning permit applications were received by responsible authorities in 2024 relating to proposed development works in excess of $38 billion. For the period between 2015 and 2023, the number of days it took for an application to reach an outcome have remained consistently high. However, the average processing time of approximately 140 days – more than double the statutory time period – hides the true extent of the problem. Applications that receive at least one or more objections or submissions take an average of just over 300 days to reach a final outcome.

The opportunity cost of delays in decision making in excess of the statutory timeframe of 60 days are estimated to be in excess of $1 billion per annum. Potential use and development of land is at risk of stalling, or not proceeding, due to costs associated with delayed decision making. In the case of residential development, delays risk the future availability of housing stock. For these reasons, reforms to reduce the time and cost of planning permit processes is essential.

Following consideration of the options available to address planning permit delays the Red Tape Commissioner (2020) recommended streaming planning permit applications according to risk. Similarly, the Victorian Planning System Ministerial Advisory Committee in its 2011 report considered that a system of planning permit application streams should be developed. This was further supported by the Victorian Auditor-General in its 2017 report Managing Victoria's Planning System for Land Use and Development. Many of these past inquiries have noted that the 'streaming' of planning permit applications already occurs in most other Australian States and Territories to provide for more efficient and timely consideration of development proposals.

The Bill will establish three assessment processes that implement procedural steps and timeframes which are more closely aligned with the risk and complexity of different permit applications. The three application assessment processes vary in terms of timeframes for requesting information; whether or not notice is required and if so, the extent of notice that is required; the extent to which applications are referred to public authorities for comments and conditions; the timeframe for a decision and whether deemed approvals apply, or whether a failure to determine an application gives rise to a right of review at VCAT.

Assessment type 1 is established to process simple low risk proposals that are envisaged by the zone and overlay that applies to the relevant land. Assessment type 1 will replace the existing vicsmart process. As is the case with vicsmart applications, there would be no public notice of these development applications with the assessment of applications being made by responsible authorities against the relevant decision guidelines and codes set in the planning scheme. For applications considered through assessment type 1 it is proposed to establish a new deemed approval mechanism in circumstances where the responsible authority has not made a decision within the prescribed timeframe. In short, if the responsible authority does not make a decision within the prescribed period, then the permit is deemed to be approved.

Assessment type 2 would apply to applications for uses or developments that are intended to comply with specified codes; or significantly comply with specified codes but also include an element or elements that do not comply with the code but are permissible under state and local policies applied under the relevant planning schemes. No notice will be required to be given for permit applications under the type 2 assessment process, unless the code or the planning scheme specifies circumstances where notice must be given. The statutory time period for making a decision will be prescribed in regulations and is intended to be less than the 60 day period that is currently specified. This assessment process will only be applied to permit applications where it is not necessary to refer the permit application to a referral authority. Codes, such as that developed for town homes and low rise developments, are proposed to be developed in collaboration with local Government, the development industry and the community during the proposed implementation period for reforms.

Assessment type 3 will closely mirror the existing planning permit assessment process set out in the Act that provides for public notice and referral where it is required. This assessment process is applicable to proposals that are more complex and represent a higher risk of negative spillover effects on owners and occupiers of land in the proximity of the proposed development and the local community more generally. Determination of type 3 applications require the balancing of state and a local policy, and a determination of appropriateness against the purpose and decision guidelines of the zone or overlay controls that apply to the land. The Bill specifies assessment type 3 as the default process that is applied.

The Bill provides for a number of reforms to steps in the assessment process that is currently specified in the Act. In summary, the Bill:

- Provides for regulations to specify the type and extent of notice required for each type and class of permit application instead of continuing to rely on differing interpretations of the requirement to notify anyone who could potentially suffer a material detriment as a consequence of the proposed development.
- Requires that requests for information from the responsible authority to the applicant must have a clear link to the assessment that is required to be undertaken and demonstrate a connection to controls that trigger the permit required. This will be achieved by enabling the form and content of further information requests to be prescribed. Subject to complementary regulation changes, requests for information will also not reset the statutory clock, but instead, will result in a pause.
- Changes the decision-making criteria that apply when an applicant applies to remove or vary a restrictive covenant using a planning permit. The effect is that responsible authorities will have greater discretion to approve the removal or variation of a restrictive covenant in circumstances where the restriction is inconsistent with what is permissible under the planning scheme, zone and overlays that apply to the land to which the covenant applies.
- Incentivises referral authorities to comply with prescribed timeframes by making it clear that if there is a failure to respond within the relevant timeframe, the referral authority is deemed to not object and the permit application progresses without any conditions being recommended or required. To address the underlying resourcing issues that lead to delays, referral authority will be enabled to charge a fee to the applicant when applications are referred to them and responses are provided within statutory timeframes.
- Enables responsible authorities to not consider a submission when it is frivolous or vexatious or irrelevant. It will also be required that an objection must be submitted to the Responsible Authority by the person making the objection and not by a third party.
- Limits the right to apply for a review of a permit decision to VCAT to objectors that have the potential to be impacted and are therefore required to be directly notified of the permit application in accordance with the regulations.
- Requires a proposed amendment to an approved permit to follow the assessment process, that is, type 1,2 or 3, that would apply if the amendment was a new application.
- Establishes a clear process and decision framework for the assessment of extension of time requests for approved permits, including requiring requests to be in a prescribed form, prescribing a clear timeframe for decision-making and introducing decision criteria based on the relevant case law. It is also proposed to specify that an approval to extend a permit must have a minimum extension timeframe of six months and VCAT is being given jurisdiction to review the length of the period that permits are extended.
- Specifies that a permit and its conditions do not extend to subsequent development of land that does not need a planning permit, except in specific circumstances. This would reduce the number of permit amendments and secondary consents that are required, reducing costs and delays for permit holders and freeing up resources within councils.
- Establishes a head of power that would enable the Minister to issue directions or guideline on the form and content of permit conditions and require that any conditions included on a permit must be in accordance with the requirements of the direction or guideline.
- Establishes a new process to guide the assessment of plans and documents submitted to satisfy conditions on planning permits. The process would require the responsible authority to endorse or reject submitted documents within a prescribed time and send a referral to a referral authority within a prescribed time if required. If the responsible authority does not make a decision to endorse or reject the plans within the prescribed time, then the plans are deemed to satisfy the condition.

These changes to the legislative framework for planning permits that are necessary to make better decisions faster.

Other reforms to the Act

The Bill, as I will now explain, also makes a range of other improvements to the Act. The Bill:

- Ensures that the planning system is focused on delivering the outcomes that the community desires and expects it to deliver by aligning the objectives of planning in the Act with community aspirations identified during the development of a Plan for Victoria. This includes making it an explicit objective of the planning system to promote the rights, interests and values of Traditional

Owners and enable Registered Aboriginal Parties (raps) to be notified of, and then participate in, strategic planning for Country.

- Provides developers and the community with greater certainty about future changes to land use and development in the state by requiring planning scheme amendments authorised and approved by the Minister for Planning to be consistent with strategic land use and development plans such as Plan for Victoria.
- Improves the efficiency and effectiveness of future compliance monitoring and enforcement by providing new tools, and updating penalties and sanctions, to reflect regulatory best practices that have evolved since the Act was established in 1987. The Bill also provides for better coordination between enforcement agencies and transparency and accountability in respect to the use of powers.
- Eliminates ambiguity, reduce claim management costs and reduce future financial liabilities of the State due to planning compensation claims by making a range of technical changes to planning compensation provisions.
- Reduces administrative burdens associated with the Distinctive Areas and Landscapes scheme by making technical changes and aligning the processes for developing and making amendments to affected planning schemes with the new planning scheme amendment processes included in the Bill.
- Acquits Independent Broad-based Anti-Corruption Commission (IBAC) Operation Sandon recommendations and outstanding recommendations of the Environment and Planning Committee of the Legislative Council by requiring transparency in decision making; requiring financial relationships and donations to be disclosed; extending the period of time available to commence prosecutions for contraventions of planning laws; and in specified circumstances, eliminating the notice authorised officers need to provide to entry land (except places of residence) for compliance monitoring and enforcement purposes.
- Amends the Infrastructure Contribution Plan provisions to:
  - Enable revenue for icps to be used to acquire land that is needed for the purpose of establishing new infrastructure and facilities;
  - Provide clear authority to include in an ICP, infrastructure, facilities and services that are located outside of the plan collection area but are needed to address the needs of land owners and occupiers within the plan area;
  - Reduce the level of project detail required when icps are established and enable specific projects to be identified and prioritised for funding as part of a subsequent process, so that funding can be used more effectively to address emerging community needs;
  - Enable ICP administration costs to be paid for from ICP funding; and
- Improve the Growth Areas Infrastructure Contribution (GAIC) scheme by:
  - Enabling the staging of payments on progressive subdivision of land;
  - Provide clear authority to fund infrastructure, facilities and services that are located outside of the GAIC area but are needed to address the needs of land owners and occupiers within the GAIC area;
  - Enable roads and active travel projects to be funded from the Growth Areas Public Transport Fund; and
  - Enabling administrative costs to be funded from GAIC revenue.

I commend the Bill to the house.

Evan MULHOLLAND (Northern Metropolitan) (19:35): I move:

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

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

Restricting Non-disclosure Agreements (Sexual Harassment at Work) Bill 2025

Introduction and first reading

The PRESIDENT (19:36): I have received the following message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to promote the health, safety and welfare of persons at work by regulating non-disclosure agreements relating to sexual harassment at work and for other purposes.'

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:36): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Jaclyn SYMES: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:36): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

> In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Restricting Non-disclosure Agreements (Sexual Harassment at Work) Bill 2025 (the **Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I have this opinion for the reasons outlined in this statement.
>
> **Overview of the Bill**
>
> The purpose of the Bill is to promote the health, safety and welfare of persons at work by restricting:
>
> - the circumstances in which non-disclosure agreements (**NDAs**) relating to workplace sexual harassment can be entered into;
> - the terms that may be included in NDAs relating to workplace sexual harassment; and
> - the enforceability of NDAs relating to workplace sexual harassment.
>
> The Bill implements recommendation 10 of the report of the Victorian Ministerial Taskforce on Workplace Sexual Harassment, which recommended that the Victorian Government introduce legislative amendments to restrict the use of NDAs in relation to workplace sexual harassment cases.
>
> The objects of the Bill are to:
>
> - reduce the incidence of NDAs being used to conceal workplace sexual harassment;
> - protect and empower workers who are subjected to workplace sexual harassment (referred to in the Bill as complainants), recognising their vulnerability; and
> - address power imbalances between complainants and employers and other persons in the negotiation of NDAs.
>
> **Human rights issues**
>
> The human rights protected by the Charter that are relevant to the Bill are:
>
> - the right to equality before the law (section 8(2) and (3) of the Charter);
> - the right to privacy and reputation (section 13);
> - the right to freedom of expression (section 15);
> - the right to protection of children (section 17(2));

- property rights (section 20); and
- the fair hearing right (section 24(1)).

The Bill seeks to balance these rights, to the extent that they are held by both complainants and respondents. Each right is outlined below, before I outline why I consider that two key aspects of the Bill – relating to the information that can be disclosed in NDAs and their enforceability – are compatible with these human rights.

Information that can be disclosed in NDAs

Clauses 11 and 12 of the Bill provide that a workplace NDA entered into between a complainant (ie, a worker subject to, or allegedly subject to, sexual harassment) and the complainant's employer (or the respondent) must not prevent a complainant from disclosing *material information* about workplace sexual harassment (subject to the exceptions in each clause, as I discuss below) to a person or body specified in Schedule 1. Material information is defined in clause 3 to include:

- the identity of the respondent (ie, the person who committed, or allegedly committed, the sexual harassment); and
- any details about the conduct constituting the commission, or alleged commission, of the sexual harassment.

The Bill also carves out certain information from the requirement that a workplace NDA permit a complainant to disclose material information to a person or body specified in Table 1 in Schedule 1, providing that the requirement does not apply to material information that is *protected information*: clause 11. Specified bodies or persons in Table 1 in Schedule 1 include Victoria Police, health professionals, legal practitioners, government authorities and investigation bodies, and a friend or family member for the purposes of obtaining personal support (provided that they agree to keep any material information disclosed to them confidential).

Protected information is defined in clause 3 as:

- the amount of any financial compensation payable in respect of the sexual harassment; and
- the identity of any respondent who is under 18 years of age at the time of the commission, or alleged commission, of the sexual harassment.

The Bill also provides that the requirement that a workplace NDA permit a complainant to disclose material information to a person or body specified in Table 2 in Schedule 1 (ie, certain government bodies, including human rights commissions) does not apply to material information that is protected information, but also to the identity of the respondent (or the complainant's employer): clause 12. Finally, clause 13 provides that a workplace NDA must not prevent a complainant from disclosing the amount of any financial compensation payable in respect of the workplace sexual harassment to the financial persons and bodies specified in Table 3 in Schedule 1.

By requiring that a workplace NDA permit a complainant to disclose the identity of the respondent or any details about the conduct constituting the sexual harassment (subject to exceptions, including in relation to protected information), clauses 11 and 12 of the Bill engage the rights to equality before the law (section 8(2) and (3) of the Charter), privacy and reputation (section 13), freedom of expression (section 15) and protection of children (section 17(2)).

Equality before the law

Section 8(2) of the Charter provides that every person has the right to enjoy their human rights without discrimination. Section 8(3) provides that every person is equal before the law and is entitled to its equal protection without discrimination. Section 8(3) also provides that every person has the right to equal and effective protection against discrimination.

Under section 8(2) and (3) of the Charter, discrimination relevantly includes indirect discrimination, which occurs if a person imposes an unreasonable requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with a protected attribute including, relevantly, sex.

I consider that workplace sexual harassment is a form of discrimination on the ground of sex as sexual harassment is recognised as disproportionately affecting women and girls. NDAs, which often include keeping confidential the existence of the complaint and the alleged harassment, are an accepted practice in settling workplace sexual harassment complaints out of court. This practice creates a culture of secrecy and a disincentive for employers to engage in measures to prevent workplace sexual harassment.

By restricting the circumstances in which NDAs relating to workplace sexual harassment can be entered into, the terms that may be included and their enforceability, the Bill operates as a safeguard against practices that may have a discriminatory effect on women and girls, and promotes their right (as well as the right of other complainants) to equality before the law under section 8(2) and (3) of the Charter.

Privacy and reputation of respondents

Section 13(a) of the Charter prohibits unlawful or arbitrary interferences with a person's privacy. The right to privacy has been interpreted broadly by the courts to include protection of a person's physical and psychological integrity, their individual and social identity and their autonomy and inherent dignity. Arbitrary interferences are those that are capricious, unpredictable or unjust, as well as unreasonable because they are not proportionate to a legitimate aim sought. An interference with privacy can still be arbitrary even though it is lawful.

Section 13(b) of the Charter prohibits unlawful attacks on a person's reputation.

By requiring that a respondent's identity be disclosable under a workplace NDA, together with personal details that may be relevant to them (ie, material information), that respondent's privacy and reputation will be interfered with.

In respect of section 13(a) of the Charter, I consider that any interference with a respondent's privacy would be in accordance with law and proportionate to the legitimate aim of protecting and empowering workers who are subjected to workplace sexual harassment, and reducing the incidence of NDAs being used to conceal workplace sexual harassment. Further, the scope of material information is limited to a person's identity and details connected to the relevant conduct, which in effect is information already known to the complainant, which, if not for an NDA, the complainant would otherwise be entitled to disclose to others. In other words, the requirement does not extend to making disclosable other personal information which may be private (such as addresses).

Finally, permitted disclosures under Division 2 of Part 3 of the Bill must be made to a person or body specified in Schedule 1. As described above, this list of bodies includes enforcement, oversight and investigative bodies, health and legal professionals, and friends and family providing personal support and making an undertaking of confidentiality. I consider it reasonable and justified to permit material information in relation to the relevant sexual harassment to be disclosed to these people and bodies specified in Schedule 1. This is because the class of people and entities have been carefully confined to the purpose of ensuring that complainants are not prohibited from reporting the sexual harassment to relevant authorities, and are able to access adequate support. Further, some people and bodies specified in this clause would be public authorities under the Charter.

Accordingly, under section 38, they would be obliged to act compatibly with a respondent's right to privacy in relation to information that they receive by operation of the Bill.

In respect of section 13(b) of the Charter, the disclosure of a respondent's identity would not constitute an unlawful attack on that person's reputation. This is because clause 11 of the Bill provides a lawful basis for the disclosure of a respondent's identity, as part of material information.

Any interference with a respondent's rights under section 13 of the Charter is also justified because it promotes a complainant's rights under section 13(a), as explained in the section below.

Privacy and freedom of expression of complainants

In addition to privacy rights discussed above, 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.

In respect of section 13(a) and complainants, regulating the entry into a workplace NDA promotes a complainant's right to protection from unjustified interference with their psychological integrity, including personal security and mental stability, including in their workplace. I understand that complainants can find the process of negotiating NDAs traumatic and distressing, and that they can experience negative mental health impacts and career setbacks as a result of signing them. The Bill also allows a complainant's privacy and anonymity to be protected by an NDA, when it is the complainant's choice, enhancing the victim-centricity of the response and compatibility with section 13(a) of the Charter.

In respect of section 15 of the Charter, the requirement to disclose certain information promotes a complainant's freedom to impart information, including material information as defined in the Bill. The exclusion in relation to protected information limits the right by preventing disclosure of a respondent's identity if the respondent is under 18 years of age at the time of the commission (or alleged) commission of the sexual harassment and, pursuant to clause 12, the identity of a respondent to certain government bodies. This is consistent with the lawful restriction on the right to freedom of expression in section 15(3) of the Charter, being that the right may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other people, including children.

Protection of children

Section 17(2) of the Charter provides that every child has the right, without discrimination, to such protection as is in the child's best interests and is needed by the child by reason of being a child.

The exclusion from a workplace NDA of the identity of any respondent who was a child at the time of the commission (or alleged) commission of the sexual harassment promotes the right in section 17(2) of the Charter to such protection as is in the child's best interests and needed by the child. I consider that the policy balance of protection of the complainant versus protection of a child, who is the alleged perpetrator, falls in favour of the child. I further consider that the protection of a child's identity would be in the child's best interests. The protection of a minor's identity recognises a child's cognitive and emotional immaturity and increased vulnerability, as compared to adults.

Enforceability of NDAs and the rights to fair hearing and property

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. Part of the right to a fair hearing, protected in section 24(1), is the common law right to unimpeded access to the courts.

Additionally, section 20 of the Charter provides that a person must not be deprived of their property other than in accordance with law. While the Victorian courts have not determined whether the right to bring a claim against the State constitutes 'property' for the purposes of section 20 of the Charter, the Supreme Court has indicated that the term should be 'interpreted liberally and beneficially to encompass economic interests'. This could include contractual rights and accrued causes of action. Section 20 requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

Clauses 14 and 15 of the Bill provide that a workplace NDA is not enforceable against a complainant:

- to the extent that a workplace NDA has the purpose or, if enforced, would have the effect of preventing the complainant from disclosing material (but not protected) information, or if the preconditions to entering into a workplace NDA listed in clause 8 of the Bill have not been met: clause 14; and
- to the extent that a workplace NDA, if enforced, would otherwise have the effect of preventing the complainant from making a permitted disclosure: clause 15.

As the Bill restricts a respondent's right to enforce a workplace NDA against a complainant in the above circumstances, this could have the effect of altering or extinguishing an accrued cause of action for breach of contact. Such an outcome could constitute a limit on access to the courts (under section 24(1) of the Charter) as well as potentially deprive a respondent of a property right (under section 20).

In relation to any limit on access to a court, I consider it would be reasonably justified and necessary to address the power imbalances between workers and employers and other persons in negotiations to enter into NDAs relating to workplace sexual harassment. The Bill provides for protections and preconditions for parties to enter into workplace NDAs, providing procedural fairness to those parties. The Bill also includes protections to mitigate against any limitation to section 24(1): clause 17 provides that a person who receives a breach notice from a complainant, stating that any preconditions to entering into a workplace NDA have not been met, may apply to the Industrial Division of the Magistrates' Court for an order that the preconditions were met. Finally, the effect of this provision is limited to these particular matters, and does not affect the broader enforceability of such agreements.

In relation to any deprivation of property, the Bill clearly sets out the circumstances in which an NDA is unenforceable, and is not arbitrary, for the reasons outlined above.

JACLYN SYMES MP
Minister for Industrial Relations

Second reading

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:36): I move:

That the bill be now read a second time.

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

Non-disclosure agreements (NDAs) were meant to protect trade secrets. These days they have become an entrenched practice in settling workplace sexual harassment complaints.

These victims – overwhelmingly women – are being asked to sign NDAs, as part of the settlement of their complaint. What is actually being bought is their silence – compelling victim-survivors to stay silent, even to their family and friends. Sometimes, even their doctor or psychologist.

This culture of secrecy hides serial offending and prioritises employer reputations over prevention of workplace sexual harassment and victim recovery.

That is why I am introducing a Bill to restrict the use of NDAs in workplace sexual harassment cases. The Bill does not place a blanket ban on NDAs, recognising that in some instances these can be the preference of a complainant; rather the Bill places restrictions on the circumstances in which workplace NDAs can be entered into.

The Bill will acquit recommendation 10 of the report of the Victorian Ministerial Taskforce on Workplace Sexual Harassment and contribute to Government action to improve prevention of workplace sexual harassment and assist in keeping Victorian workers and workplaces safe.

Background

In 2021, the Victorian Government established the Victorian Ministerial Taskforce on Workplace Sexual Harassment to develop reforms that will better prevent and respond to sexual harassment in workplaces. In July 2022, the Victorian Government published its response to the Taskforce's report, accepting in-part, in full or in principle 21 of the 26 recommendations. The Victorian Government provided in principle support for recommendation 10 – to introduce legislative amendments to restrict the use of NDAs in relation to workplace sexual harassment cases. The Taskforce noted that NDAs are often misused to silence victims, protect employer reputations, and avoid full liability. The Taskforce also noted that NDAs can be used to hide serial offending and offenders. The Australian Human Rights Commission has also recommended legislating to restrict the use of non-disclosure agreements in workplace sexual harassment cases.

NDAs have become an accepted practice in settling workplace sexual harassment complaints out of court. Confidentiality and non-disparagement terms are considered standard terms of settlement agreements. In such cases, NDAs are used to keep the details of the settlement arrangement confidential, and importantly often include keeping the existence of the complaint and the alleged harassment confidential. This means perpetrators often face no consequences and may continue their behaviour, a trend which is exacerbated by the fact that the public and government are unable to understand the extent of the problem. The use of NDAs also creates a disincentive for employers to engage in measures to prevent workplace sexual harassment.

NDAs are largely unregulated in Australia, either in workplace sexual harassment or more generally. Best practice for the use of NDAs in workplace sexual harassment matters is currently outlined in guidance materials.

Internationally, several jurisdictions have moved to regulate the use of NDAs. Examples of leading approaches include those enacted in Ireland and Canada's Prince Edward Island. These jurisdictions have regulated the use of NDAs by creating a model centred on complainant choice. This effectively means that an employer and a worker cannot enter an NDA unless it is requested by the worker. A number of American states have also legislated to regulate NDAs, with approaches ranging from complete bans to a range of limitations regulating aspects of NDA use. The United Kingdom has recently introduced legislative amendments to ban NDAs related to certain forms of work-related harassment and discrimination.

In developing this Bill, the Government has undertaken wide-ranging consultation including hearing directly from workers who have signed NDAs.

The Bill in detail

<u>Requirements for workplace non-disclosure agreements</u>

There are significant power imbalances in the NDA process which often leave victim- survivors of workplace sexual harassment feeling intimidated and forcibly silenced.

The Bill sets out preconditions which must be met prior to entering a workplace NDA, including that the NDA is requested by a complainant and it is their express wish and preference to enter into one. In practice, this means that an employer or respondent can not propose an NDA which requires a complainant to keep confidential material information about an incident of workplace sexual harassment, unless this is requested by the complainant. The Bill will not prevent employers settling a workplace sexual harassment claim in exchange for a complainant agreeing to legally release the employer from liability and further action, and settlement amounts can still be kept confidential at the request of the employer. In circumstances where the respondent is under 18 years of age, an employer can also request an NDA to keep their identity confidential. This is in recognition of a child's cognitive and emotional immaturity and increased vulnerability compared to adults.

Complainant choice is a core component of other leading international approaches such as those in Canada and Ireland, and is a critical element in addressing power imbalances and ending the practice of using NDAs as the default solution to addressing sexual harassment in the workplace. It shifts the focus to first considering whether the NDA is beneficial to the complainant and helps them to recover – as opposed to the current approach where the first consideration is the employer's interests and reputation.

The Australian Human Rights Commission *Guidelines on the Use of Confidentiality Clauses in the Resolution of Workplace Sexual Harassment Complaints* and the Victorian Equal Opportunity and Human Rights Commission Guideline *Preventing and responding to workplace sexual harassment* both note that as a matter of best practice consideration should be given to whether confidentiality is requested by the complainant, and whether there is a clear reason why it is required.

To ensure that a workplace NDA is only entered into where the complainant wants to enter into one, it is also a precondition that the employer or respondent (or someone acting on their behalf) must not exert undue influence or pressure on a complainant in relation to their decision to enter into a workplace NDA. This might include, for example, an employer suggesting that a complainant 'won't get a job' in the industry again if they do not request an NDA; or an employer proposing a lower settlement amount without an NDA, and a higher settlement amount with an NDA in an attempt to influence a complainant to request an NDA.

If a complainant has requested an NDA, the Bill requires as a precondition that a complainant is provided with a 'workplace non-disclosure agreement information statement' and a review period during which time the complainant can consider the NDA and seek legal advice if they wish. The review period must be at least 21 days but a complainant can request a lesser period or waive the review period if they wish. For example, if a complainant does not wish to delay settlement and is confident they understand the terms and implications of an NDA. The complainant must also sign a form to acknowledge and evidence that certain preconditions have been met.

These preconditions will ensure that NDAs are not being used as a matter of course in the resolution of sexual harassment matters and complainants have the opportunity to consider and understand the implications of entering an NDA.

If a complainant enters a workplace NDA, it is important that they are still able to make disclosures to certain persons and bodies to support their recovery and engagement with relevant authorities. The Bill provides a comprehensive list of persons to whom a 'permitted disclosure' can be made, despite the existence of an NDA. Broadly, this includes Victoria Police, health professionals, legal professionals, government authorities and investigation bodies. A complainant will be able to make disclosures to family members, and friends for the purposes of personal support and providing they agree to keep any material information disclosed confidential.

The Bill also requires that an NDA be written in plain language and that the complainant is provided with a signed copy of the NDA.

If the preconditions to entering a workplace NDA have not been met, the Bill provides that a complainant cannot be prevented from disclosing material information about the sexual harassment. If the preconditions have been met, an employer or respondent can enter into a workplace NDA with a complainant to keep confidential information about the workplace sexual harassment. However, a complainant will be able to disclose information about the sexual harassment to specified persons or bodies (for example, police, medical and legal professionals, and government authorities). This is to ensure that workers are not prohibited from reporting to relevant authorities and to enable access to proper support.

Termination of non-disclosure agreement

During consultation many victim-survivors who had signed an NDA spoke about wanting to end their NDAs given the impact it was having on their mental health, including preventing them from processing trauma. A survey on Engage Victoria asked respondents whether, having signed an NDA, if they had later wanted to end it – 93 per cent said yes.

Evidence suggests that complainants often sign NDAs in a state of distress, and do not comprehend at the time the long-lasting implications of confidentiality. It is only after they have had time to process their experience that they comprehend what they have agreed to do and realise how important their ability to speak out is.

To address this, the Bill will enable a complainant to elect to terminate an NDA after a minimum of 12 months from signing. If a mutual NDA has been entered into which imposes confidentiality obligations on both an employer and worker, this would end the confidentiality obligations imposed on both parties (unless the parties agree that the employer retains their confidentiality obligations, for example to protect the worker's privacy).

If a complainant elects to end the NDA they must give the other party a minimum of seven days' notice, and the notice must be in an approved form. If a complainant does terminate an NDA this would not affect the validity and enforceability of a settlement agreement or any financial compensation that has been paid.

This is not intended to prevent employers resolving workplace sexual harassment claims out of court if they wish. An employer may wish to agree to settle a claim in exchange for a complainant agreeing to legally release the employer from liability and further action, and avoidance of a costly and public trial.

Application of the Bill

To establish the relevant connection to Victoria the Bill will apply to complainants who are usually based in Victoria with respect to their work. This is similar to the approach adopted for Victoria's workers compensation laws.

The Bill will also apply if any part of a complaint relates to workplace sexual harassment. For example, if a complainant entered an NDA in settlement of discrimination and sexual harassment, that NDA would be unenforceable to the extent that it had the purpose or effect of preventing the complainant from disclosing material information about the sexual harassment. This will avoid confusion for complainants about what can and cannot be disclosed where workplace sexual harassment intersects with other forms of misconduct.

The Bill also provides that non-disclosure terms in employment contracts which have the purpose or effect of preventing a worker from disclosing material information about workplace sexual harassment will not be enforceable. This provision will ensure that employment contracts are not misused to avoid compliance with the Act.

Agreements between an employer and the respondent

As part of the terms of a respondent's departure from an organisation, employers will sometimes agree that a finding of sexual harassment is kept confidential. This can enable repeat offenders to continue misconduct in a new workplace. The Bill provides that a complainant's employer cannot enter into an NDA with a respondent that prevents an investigation into workplace sexual harassment or prevents the employer from disclosing material information about the workplace sexual harassment to a prospective employer of the respondent. This disclosure to prospective employers would be at the employer's discretion and limited to where the allegations of workplace sexual harassment have been substantiated by the employer.

Breach notice and compliance orders

To provide a means for a complainant to action a breach of the legislation, the Bill establishes procedures for a complainant to give the other party to the workplace NDA a 'breach notice' if any of the preconditions have not been met. The notice must state the reason for the notice, advise the other party of their right to challenge the notice, and be in an approved form. Once an employer receives such a notice, they will have 30 days to make an application to the Industrial Division of the Magistrates' Court of Victoria for an order that the preconditions were met. If an application is not made within 30 days, then the preconditions are taken to have been met and an NDA would not be binding on the complainant.

The breach notice regime reduces the burden on a complainant to issue proceedings in cases of non-compliance, whilst also providing an employer or respondent with the opportunity to challenge a breach notice in the Magistrates' Court.

Commencement

The Act will commence six months after passage of the Bill. This will enable time to prepare supporting regulations, guidance materials, and the mandatory information statement and to communicate the reforms to employers, legal practitioners and workers.

I commend the Bill to the house.

Evan MULHOLLAND (Northern Metropolitan) (19:36): I move:

That debate on this bill be adjourned until 20 November.

Motion agreed to and debate adjourned until 20 November.

Social Services Regulation Amendment (Child Safety, Complaints and Worker Regulation) Bill 2025

Introduction and first reading

The PRESIDENT (19:37): I have received the following message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to amend the **Child Wellbeing and Safety Act 2005**, the **Worker Screening Act 2020**, the **Social Services Regulation Act 2021**, the **Disability Service Safeguards Act 2018**, the **Disability Act 2006**, the **Residential Tenancies Act 1997** and other Acts and for other purposes.'

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:37): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Jaclyn SYMES: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:37): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

> In accordance with s 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Social Services Regulation Amendment (Child Safety, Complaints and Worker Regulation) Bill 2025 (the **Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I have this opinion for the reasons outlined in this statement.
>
> **Overview of the Bill**
>
> The purposes of the Bill, relevant to human rights, are:
>
> - to amend the *Child Wellbeing and Safety Act 2005* (**CWS Act**) to:
> - to transfer the education and guidance functions, and regulatory remit, of the Commission for Children and Young People under the Child Safe Standards to the Social Services Regulator;
> - to transfer the functions of the Commission for Children and Young People in relation to the reportable conduct scheme to the Social Services Regulator including the administration, oversight and monitoring of the reportable conduct scheme;
> - to expand the ability to share information about reportable conduct allegations for the purposes of the WWC check scheme; and
> - to enable recognition of investigations by corresponding reportable conduct schemes in other jurisdictions;
> - to amend the *Worker Screening Act 2020* (**Worker Screening Act**):
> - to transfer the functions of the Secretary to the Department of Justice and Community Safety under that Act to the Social Services Regulator;
> - to enable the Social Services Regulator to assess or re-assess a person's eligibility to hold a Working With Children (**WWC**) clearance on the basis of child safety risk information;
> - to enable a finding of reportable conduct in another jurisdiction to trigger a reassessment of a WWC check in Victoria;

- to require every applicant for a WWC check to undergo training and testing;
- to enable a broader range of information to be considered to assess, refuse, suspend or revoke a WWC check or a WWC clearance;
- to require persons and agencies to verify that any persons they engage or offer for child-related work have applied for or hold a WWC check;
- to enable an interim bar or suspension to be applied to an applicant or clearance holder to prevent the applicant or clearance holder from working with children while a review, check, application or re-assessment is undertaken; and
- to provide for internal review of WWC check decisions by the Social Services Regulator in place of VCAT; and

- to amend the *Social Services Regulation Act 2021* (**SSR Act**) to:
  - to enable the Social Services Regulator to respond to complaints about social services, disability services and providers of those services as regulated under that Act, the Disability Act 2006 and the Disability Service Safeguards Act 2018; and
  - to provide for the appointment of Associate Social Services Regulators to transfer the functions of the Disability Services Commissioner, the Victorian Disability Worker Commission and the Disability Worker Registration Board of Victoria to the Social Services Regulator; and
  - to make child safety related amendments and other miscellaneous and consequential amendments to that Act; and
- to amend the *Disability Service Safeguards Act 2018* (**Disability Service Safeguards Act**)
  - to change the title for that Act; and
  - to abolish the Victorian Disability Worker Commission and the office of the Victorian Disability Worker Commissioner; and
  - to abolish the Disability Worker Registration Board of Victoria; and
  - to provide for the regulation of certain social service and disability providers, workers and carers; and
  - to provide for the registration and regulation of disability workers and students; and
  - to provide for the registration of out of home carers; and
  - to confer functions on the Social Services Regulator; and
- to amend the *Disability Act 2006* –
  - to abolish the Disability Services Commissioner; and
  - to make consequential amendments to that Act; and
  - to amend the Residential Tenancies Act 1997 in relation to specialist disability accommodation including to validate certain SDA residency agreements; and
  - to make consequential and miscellaneous amendments to these and other Acts.

The importance of the Bill

The amendments in this Bill serve two significant purposes:

- bolstering protections, safety and welfare in both disability, social service and child-related work settings, and;
- bringing the functions of Victoria's child safeguarding and disability safeguarding regulatory bodies into the Social Services Regulator, creating one point of entry for risks to be raised across both sectors and complaints to be brought by service users, improving service users' ability to have their voices heard and enforce their rights and improving timely access to information by the Regulator.

To frame the discussion that follows and avoid repetition, I will outline these now.

Improving child safety

The primary purpose of the Bill is to significantly overhaul the existing systems that safeguard child safety in Victoria so that the systems are as robust and effective as possible, in order to ensure that children are protected.

In response to the recent allegations of child sexual abuse in early childhood education and care centres across Melbourne, the Government commissioned a Rapid Review into child safety to identify immediate actions to improve the Working With Children Check (**WWCC**) Scheme and the safety of children in early childhood education and care settings. The Rapid Child Safety Review (**Rapid Review**) identified immediate actions the Victorian Government should take to close existing gaps in the WWCC Scheme (provided for in the *Worker Screening Act 2020*) and the Reportable Conduct Scheme (provided for in the *Child Wellbeing and Safety Act 2005*) to ensure predators are quickly detected and excluded from working with children in the national early childhood education and care system or elsewhere. In short, the Rapid Review found Victoria's laws were no longer fit for purpose and among the least flexible in the country – and needed a fundamental reset.

In response to the Rapid Review's finding that Victoria's current child safeguarding regulatory framework is fragmented, with functions sitting across multiple regulatory bodies, this Bill transfers the WWCC scheme (currently administered by the Department of Government Services) and the Reportable Conduct Scheme and Child Safe Standards (currently administered by the Commission for Children and Young People (**CCYP**)) to the Social Services Regulator. In doing so, all child safety risk information and risk-assessment capability is consolidated with the Social Services Regulator.

In making the Social Services Regulator responsible for administering the WWCC and the Reportable Conduct Schemes, the Regulator will be responsible for rebalancing the schemes in favour of child safety. This will be achieved by amending the Reportable Conduct Scheme so that information relevant to child-safety risk, whether substantiated or not, can be taken into account by the Social Services Regulator. The Bill also removes the discretion not to share findings and provides for the recognition of interstate investigations and findings. These changes to the legislation ensure that the Regulator is able to better assess a person's suitability to work or volunteer with children and to better identify and address risks to children across the more than 12,000 organisations in Victoria that exercise supervision, care or authority over children.

Further, child safety is enhanced by allowing the Social Services Regulator to have regard to unsubstantiated allegations and intelligence when assessing, refusing, temporarily suspending or revoking a WWCC. By lowering the threshold of risk relevant information that may be considered when making decisions whether to grant or revoke clearances to work with children, the Bill moves away from the existing over-reliance on 'formal' charge, conviction or finding of guilt or substantiated disciplinary or regulatory finding to trigger action. In doing so, it ensures that 'breadcrumbs' or 'red flags' can be joined up to provide a more complete picture of risk. This is critical because it is often in the pattern of behaviour or repetition of incidents (which on their own may *not* be considered sufficiently serious or evidence for substantiation) that risks to children become evident.

In order to ensure that persons working with children have a base level of child safety literacy to equip them to recognise, identify and adequately act to protect children from abuse, the Bill also requires all persons applying for a WWCC to complete mandatory online child safety training and testing before being granted a WWCC. The Bill further implements a requirement for all organisations that engage people in child-related work to verify the status of that person's WWCC clearance and to notify the Social Services Regulator of all engagements of WWCC clearance holders so the Social Services Regulator will be aware of the movement of workers and volunteers across organisations. To support compliance with this requirement, a failure to comply with this obligation is an offence under the Bill.

To protect child safety and promote decision-making through a child safety lens, the Bill replaces the external VCAT review pathway with an internal review process wherein the Social Services Regulator is required to establish an expert panel that can provide independent specialist advice as needed in relation to individual cases where review has been sought. To ensure procedural fairness is safeguarded, the Bill imposes a requirement for the provision of reasons for an adverse internal review decision.

In doing the above, the Bill pursues the important and pressing objective of protecting child safety. In doing so, it promotes the protection of a child's best interests in accordance with s 17(2) of the Charter, which seeks to protect important values such as the bodily integrity, mental health, dignity and self-worth of a child. The right recognises the special vulnerability of children and the need for measures to protect them and foster their development and education.

At the same time, the balance of these reforms will necessarily interfere with the right to privacy, which has been interpreted to extend to matters relating to the right to seek employment, and may be interfered with where employment restrictions impact sufficiently upon the personal relationships of the individual and otherwise upon the person's capacity to experience a private life (*ZZ v Secretary, Department of Justice* [2013] VSC 267). While it is recognised that the balance of these amendments will collectively impose more restrictions on a person's ability to engage in child-related work, including extending to preventing a person from continuing to work in the sector to which they may be primarily qualified for, they are necessary to ensure that the protection of children and their best interests are paramount. The changes to the WWCC laws are principally directed at stopping predators from commencing or continuing to engage in child-related work.

Enhancing the rights of service users and children

The Bill consolidates a number of disability oversight bodies – namely, the Victorian Disability Worker Commissioner, the Disability Worker Registration Board and the Disability Services Commissioner – into the Social Services Regulator. By transferring the functions and powers of these entities to the Social Services Regulator, the Bill streamlines and simplifies what is currently a complex safeguarding system, particularly given the number of separate disability oversight bodies. The Bill also establishes a complaints function in the Social Services Regulator, which will be available across all social services in its remit.

In doing the above, the Bill seeks to promote the rights and protection of service users, including their rights to equality, life, privacy, freedom of movement and protection from inhumane and degrading treatment.

Transferring the functions of the Victorian Disability Worker Commissioner and Disability Worker Registration Board to the Social Services Regulator will bring together the worker regulation schemes currently administered by these bodies with the existing worker regulation scheme for the out of home care sector administered by the Social Services Regulator. This, together with the consolidation of disability, child safety and social services provider regulation under the Social Services Regulator, will facilitate expanded access to regulatory intelligence across multiple service sectors, increasing the quality and safety of social services in the Regulator's remit.

The Bill, by consolidating the two worker regulation schemes and broadening the Social Services Regulator's complaints function, creates one clear point of entry for disability service users, children and young people in out of home care and their families and advocates to make a complaint. It simplifies the current fragmented schemes, creating a more accessible pathway for complaints and will enhance protections by, among other things, allowing the Regulator to decide that a worker who is prohibited from working in the disability sector, also be prohibited from working in the out of home care sector.

Human rights

In light of the large scope of this Bill, this Statement of Compatibility continues with an outline of the rights generally engaged by the Bill and then discusses the compatibility of relevant Parts of the Bill with those rights.

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

Right to protection from discrimination (section 8)

Section 8(3) of the Charter relevantly 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. The purpose of this component of the right to equality is to ensure that all 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* on the basis of an attribute in s 6 of that Act. Direct discrimination occurs where a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute. Indirect discrimination occurs where a person imposes a requirement, condition or practice that has, or is likely to have, the effect of disadvantaging persons with a protected attribute, but only where that requirement, condition or practice is not reasonable.

Right to privacy and reputation (section 13)

Section 13(a) of the Charter provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with. An interference will be lawful if it is permitted by a law which is precise and appropriately circumscribed, and will be arbitrary only if it is capricious, unpredictable, unjust or unreasonable, in the sense of being disproportionate to the legitimate aim sought. The right to privacy is broad in scope and encompasses rights to physical and psychological integrity, individual identity, informational privacy and the right to establish and develop meaningful social relations.

Section 13(b) of the Charter relevantly provides that a person has the right not to have their reputation unlawfully attacked. An 'attack' on reputation will be lawful if it is permitted by a precise and appropriately circumscribed law.

Right to freedom of expression (section 15(2))

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. This right has been interpreted as encompassing a right to access information in the possession of government bodies, at least where an individual seeks information on a subject engaging the public interest or in which the individual has a legitimate interest.

However, s 15(3) provides that special duties and responsibilities attach to this right, which may be subject to lawful restrictions reasonably necessary to respect the rights and reputations of others, or for the protection of national security, public order, public health or public morality.

Right to property (section 20)

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

Right to a fair hearing (section 24(1))

Section 24(1) of the Charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The concept of a 'civil proceeding' is not limited to judicial decision makers but may encompass the decision-making procedures of many types of tribunals, boards and other administrative decision-makers with the power to determine private rights and interests. While recognising the broad scope of s 24(1), the term 'proceeding' and 'party' suggest that s 24(1) was intended to apply only to decision-makers who conduct proceedings with parties. As many of the regulatory decisions at issue here do not involve the conduct of proceedings with parties, there is a question as to whether the right to a fair hearing is engaged. In any event, I will proceed to discuss the impact on fair hearing in the event a broad reading of s 24(1) is adopted.

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.

Presumption of innocence (section 25(1))

Section 25(1) of the Charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. The right is relevant where a statutory provision 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.

Right to protection against self-incrimination (section 25(2)(k))

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 applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid.

Human rights issues

Chapter 2 – Social Services Regulator and reportable conduct functions

Part 2.1 – Amendment of *Child Wellbeing and Safety Act 2005*.

Clause 7 deals with the sharing of 'corresponding reportable conduct' information between Victoria and other States and Territories. Clause 7 inserts new s 16ZC(2)(da) in the CWS Act which provides that the Commission, the head of an entity and a regulator may disclose specified information to 'any person or body, including a corresponding reportable conduct regulator, if the information relates to the performance of a function or exercise of a power conferred on that person or body by or under a corresponding reportable conduct law'.

Clause 8 enables the Commission, until the function transfers to the Social Services Regulator, to disclose information relevant but additional to a finding of reportable conduct, for the purposes of a WWCC. This includes any other reportable allegation, any other concern that reportable conduct has been committed, and investigations and findings in relation to either of those things.

While these provisions engage the right to privacy, this interference is neither unlawful nor arbitrary and is therefore compatible with the right to privacy in s 13 of the Charter. The sharing of reportable conduct information with corresponding interstate bodies will assist in ensuring that all information relevant to assessing someone's suitability to work or volunteer with children is provided to, and in the possession of, those regulating child safety interstate. Additionally, the new provisions clearly set out the parameters regarding the sharing of information, and persons working in this highly regulated environment must necessarily have a lesser expectation of privacy in relation to their personal information so far as it is relevant to their employment in this context. It is my view that these provisions do not extend beyond what is reasonably necessary to achieve the legitimate aim of the Bill, such that it is reasonable and proportionate to the Bill's important objectives.

Part 2.4 – Amendment of Worker Screening Act 2020

Part 2.4 of the Bill makes amendments to the Worker Screening Act relating to interstate reportable conduct findings.

Clause 26(b) will amend the definition of *relevant disciplinary or regulatory finding* under the Worker Screening Act to include a finding of reportable conduct made under a corresponding reportable conduct law by a corresponding reportable conduct regulator or another entity responsible for investigating reportable allegations under that law. Clause 26(a) will insert definitions of *corresponding reportable conduct law* and *corresponding reportable conduct regulator* into the Worker Screening Act.

These amendments, when read together with sections 38, 78, 27 and 64 of that Act will have the substantive effect of enabling a finding of reportable conduct in another jurisdiction to trigger a reassessment of a person's eligibility to hold a NDIS clearance or WWC clearance in Victoria.

Fair Hearing right (section 24)

As outlined above, if a broad reading of fair hearing is adopted and the right is taken to encompass the decision-making procedures of a WWC check (which are determinative of legal rights and interests), the changes made under Part 2.4 to the WS Act to enable an interstate reportable conduct finding to trigger a reassessment of an NDIS clearance or WWC clearance in Victoria are likely to engage this right. The fair hearing right is principally concerned with the procedural fairness of a decision, which in the context of these types of administrative decisions, generally requires prior notice of a decision, informing interested parties of the matters that may be relevant to a decision, and giving them a 'reasonable opportunity' to present their case and respond to adverse information. Any reductions in procedural fairness at first instance can be cured on review.

The concept of a 'civil proceeding' in s 24(1) is not limited to judicial decision makers, but may also, adopting a broad reading of s 24(1), encompass the decision-making procedures of other administrative decision-makers. If a broad interpretation is adopted and it is understood that the fair hearing right is engaged by an interstate finding triggering an assessment or reassessment of a NDIS clearance or WWC clearance, I am satisfied that this right would not be limited because of the various procedural fairness safeguards provided in the Bill.

If the Regulator, for example, proposes to refuse to give a WWC clearance under s 65 of the WS Act, the Regulator must, in accordance with s 66, before finally deciding the application, give written notice to the applicant, state the information of which the Regulator is aware, and invite the applicant to make submissions on the matter specified in the notice. New Division 8 also provides for internal review of a decision by the Regulator.

Privacy

Although the right to privacy may be limited by way of information being shared from interstate bodies to the Regulator, I do not consider that this will ultimately limit a person's right to privacy. This is because the terms of the provisions seek to achieve the objectives of promoting child safety and making disclosures where necessary. I consider that the privacy right is not in fact limited, given any interference in privacy would be pursuant to law and is not arbitrary.

Chapter 3 – Transfer of child safety functions to Social Services Regulator

Part 3.1 – Amendment of Child Wellbeing and Safety Act 2005

Division 1 – Child Safe Standards

Information sharing

The Bill amends a number of information-sharing provisions in the CWS Act to transfer the existing powers of the Commission to the Regulator:

- Clause 36 amends s 25D(1) of the Act to omit reference to the Commission and empowers the Regulator to receive information and data from sector regulators in relation to their functions in compliance with the Child Safe Standards;
- Clause 43 amends s 41B(1) of the Act to substitute reference to the Commission with the Regulator, and allows a relevant person to disclose protected information (other than exempt or privileged information) to any person where reasonably necessary, if the relevant person is the Regulator and the disclosure is in the exercise of a function or power under the SSR Act;
- Clause 44 substitutes reference to the Commission with the Regulator in s 41D of the Act, and allows a relevant person to disclose protected information to any of the specified persons in the provision to report concerns about the failure of a relevant entity to promote the safety of children, to prevent child abuse or to properly respond to allegations of child abuse; and

- Clause 45 amends s 41H(2) to substitute reference to the Commission with the Regulator and allows a relevant person to disclose protected information to a person under s 41H(1) if the information is relevant to the functions of the Regulator.

As discussed above, although the right to privacy may be limited by way of protected information being shared to a new body (being the Regulator), I do not consider that this will ultimately limit a person's right to privacy. This is because the terms of the provisions seek to achieve the objectives of promoting child safety and making disclosures where necessary.

Immunity

Clause 38 amends s 32B(1) to provide that the Regulator, including Associate Regulators and those acting in these positions, will not be personally liable for anything done or omitted to be done in good faith for the purposes of Part 6, which may impact property rights where 'property' includes a cause of action.

However, s 32B(2) provides that where any liability would ordinarily attach to the Regulator, it attaches to the Crown. Therefore, the transfer of the property or liability will not limit the property rights of persons holding the interest, as they are not being deprived of their interest in the property or liability, but rather, the property or liability is transferred without altering the substantive content of that property right or liability.

For the same reasons I have discussed above in relation to these types of standard immunity provisions provided to Regulators, I do not consider this clause to limit the right to property, as any deprivation of a claim for personal liability is in accordance with law and not arbitrary for purpose of facilitating the Regulator to maintain the effectiveness of its protective functions without fear of tort liability.

Division 2 – Transitional provisions

Clause 56 inserts, among other things, transitional provision section 63 that sets out that the CCYP must, as soon as practicable after the Amendment Act comes into effect, disclose to the Social Services Regulator any information held by the CCYP that relates to the Child Safe Standards including, but not limited to, information provided to the CCYP by other sector regulators and by integrated sector regulators, and any information held by the CCYP that relates to the oversight of the reportable conduct scheme. The provisions provide that s 55 of the *Commission for Children and Young People Act 2012* (**CCYP Act**) does not apply to a relevant person (within the meaning of s 54 of the CCYP Act) who discloses information for the purposes of that section. New s 64 provides for the continued protection of information following the transfer of functions from the Commission to the Regulator. New section 64(1) provides for section 41HA to continue to apply to a former relevant person. New section 64(2) provides that s 41HA of the CWS Act will not apply to a former relevant person (as defined in new section 64(3)) who disclosures information for the purposes of section 63. This is to protect the Commission from prosecution for disclosure of protected information during the transfer of information to the Social Services Regulator.

The purpose for this transfer of information is to enable the Regulator to exercise their new functions as it relates to Child Safe Standards and the reportable conduct scheme under the Amendment Act.

Privacy right

While these amendments have the potential to interfere with the right to privacy, the interference will be neither unlawful nor arbitrary. This is because the transfer of information is confined to the statutory purpose of enabling the Regulator to exercise their new functions pertaining to Child Safe Standards and reportable conduct scheme, which are currently exercised by the CCYP. The consolidation of information necessary to safeguard child safety with the Regulator remedies the problem of fragmentation identified by the Rapid Review, which give rise to quality and safety risks arising from unused risk information. I consider any interference with informational privacy to be reasonable and proportionate to the Bill's important objectives.

Part 3.2 – Amendment of Worker Screening Act 2020

Division 1 – Own motion assessments and reassessments and consideration of additional information

The Bill transfers and amends functions and powers relating to WWC clearance from the Secretary to the Regulator.

Clause 77 amends s 54 of the Worker Screening Act to insert additional requirements for each WWC application. In addition to the requirement to authorise the conduct of a police record check and consent to enquiries being made of disciplinary bodies, a WWC applicant will be required to consent to enquiries being made of any person for the purposes of obtaining child safety risk information and authorise the disclosure of any relevant information by any person for that purpose when assessing the WWC application and while the clearance is in force (new ss 54(2)(d) and (e)).

If the Regulator is required or proposes to refuse to give a WWC clearance under s 61, 63 or 65 of the WS Act, the Regulator must, in accordance with s 66, before finally deciding the application, give written notice to the applicant, state the information of which the Regulator is aware, and invite the applicant to make

submissions on the matter specified in the notice. Clause 80 amends s 66 by removing the requirement for the Regulator to, in accordance with 66(1)(a)(ii), give written notice to an applicant in respect of a Category C determination that states the information about the applicant of which the Regulator is aware if:

- the Regulator proposes to refuse to give a WWC clearance under s 65, and
- the information of which the Regulator is aware is 'child safety risk information', and
- the Chief Commissioner of Police or the Regulator is satisfied that disclosing that information in the notice would prejudice an investigation, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement, or pose a serious risk to the safety of any person.

Section 69 of the WS Act provides that the Regulator must notify an applicant for a WWC check in writing as to whether the applicant has been given a WWC clearance or a WWC exclusion. Clause 81 amends s 69 by removing the requirement for the Regulator to, in accordance with 69(2)(a), state the reasons for the decision to give the exclusion if the applicant has been refused a WWC clearance under s 65 and the reason for the decision to give the WWC exclusion is 'child safety risk information', and the Chief Commissioner of Police or the Regulator is satisfied that disclosing the 'child safety risk information' would: prejudice an investigation; enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or pose a serious risk to the safety of any person.

Section 88 of the WS Act provides that if the Regulator proposes or is required under sections 83, 85 or 87 to revoke a person's WWC clearance, the Regulator must, before finally deciding the re-assessment, give a written notice to the WWC clearance holder that informs the person of the proposal or requirement, states the information about the person of which the Regulator is aware, and invites the person to make submissions. Clause 87 amends s 88 by removing the requirement for the Regulator to, in accordance with 88(1)(a)(ii), state the information about the person of which the Regulator is aware – if the Regulator proposes to revoke the WWC clearance under s 87 and the information of which the Regulator is aware is 'child safety risk information', and the Chief Commissioner of Police or the Regulator is satisfied that disclosing that information would prejudice an investigation, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement, or pose a serious risk to the safety of any person.

Section 91 of the WS Act provides that if the Regulator revokes a person's WWC clearance under s 83, 85 or 87, the Regulator must give the person a WWC exclusion and further, must give a written notice to the WWC clearance holder that states the reasons for revoking the person's WWC clearance and informs the person of their right of review of the decision. Clause 88 amends s 91 by removing the requirement for the Regulator to, in accordance with 91(2)(a), state the reasons for revoking the person's WWC clearance and giving the person a WWC exclusion if the WWC clearance has been revoked under s 87 and the reasons for the decision to revoke the WWC clearance and give the WWC exclusion is 'child safety risk information', and the Chief Commissioner of Police or the Regulator is satisfied that disclosing that information would prejudice an investigation, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement, or pose a serious risk to the safety of any person.

The amendments to sections 66, 69, 88 and 91, have the effect of removing the Regulator's obligation, in specific circumstances, to provide WWC applicants or WWC clearance holders information that is categorised as 'child safety risk information' on which the Regulator relies when making a decision to refuse an application, revoke a WWC clearance and impose an WWC exclusion. These amendments engage the fair hearing right.

Clause 12 in Part 2.2 inserts new s 19(1)(ab) in the SSR Act, requiring the Regulator, as part of their annual reporting requirements, to report on the number of adverse decisions made on the basis of child safety risk information not disclosed to the applicant or clearance holder in accordance with the above amendments to the WS Act. This will serve the important purpose of providing greater transparency for the public about the number of such decisions being made.

Privacy right

The amendments to s 54 engage the right to privacy and reputation in s 13 of the Charter as it permits the Regulator to obtain broader information about a WWC applicant, not only for the assessment of the initial application but throughout the time the WWC clearance is in force. The provision makes clear that the Regulator will make broad enquiries of other agencies as to regulatory or disciplinary enquiries and investigations. The applicant is given an opportunity to consider whether they will proceed with the WWC check application or not and allowed the chance to provide their informed and free consent. The provision seeks to achieve the objectives of promoting child safety by enabling the Regulator access to relevant and appropriate information that is clearly related to the decision as to whether it is appropriate for a person to

work with children. I consider that the privacy right is not in fact limited, given any interference in privacy would be pursuant to law and is not arbitrary.

Fair Hearing right

Adopting the broad reading of fair hearing, the powers under Chapter 3 of the WS Act to revoke or suspend an existing WWC clearance are likely to engage this right.

The amendments to sections 66, 69, 88 and 91 provide the Regulator with the discretion, in specified circumstances, to not provide the applicant or clearance holder with the 'child safety risk information' held by the Regulator when making a decision, or when a decision has been made, the reasons for that decision. While internal review of an adverse decision is an available option for the applicant (as is the ability to apply for judicial review in the Supreme Court), without awareness of the reasons for the adverse decision, their ability to argue against the Regulator's decision will be impacted.

I accept that not disclosing information to an applicant in these circumstances is a significant limit on the right to fair hearing. However, the limit serves an important purpose. The Rapid Review made clear the need for a shared intelligence and risk assessment capability to uphold child safety. The criteria relating to excludable information is limited to information carrying a risk of adverse public interest outcomes if disclosed, such as prejudicing an investigation, confidential source or enlivening serious safety risks. It is essential that the Regulator be able to have regard to all relevant risk information it holds, including intelligence from confidential sources. It is also essential that those entities sharing confidential information with the Regulator (such as Victoria Police or Child Protection) can be assured that such information will remain confidential in limited necessary circumstances. Without this circle of trust, the ability of the Regulator to take swift decisive action in favour of child safety would be compromised.

In my view, the paramount consideration should be the protection of children and these limits are necessary to fix quality and safety issues identified by the Rapid Review and give effect to one of its key findings that the WWC screening needs to be re-calibrated to better protect child safety. Less restrictive alternatives have not worked. I accordingly consider these changes compatible with the Charter.

Divisions 1 and 2 – Suspension of WWC clearance and Interim bar to engaging in child-related work

Division 1 of Part 3.2 of the Bill, specifically clause 84, empowers the Regulator to suspend a person's WWC clearance whilst a re-assessment of their eligibility to hold the WWC clearance is pending. This can occur if the Regulator receives or becomes aware of child safety risk information and is satisfied that it is in the interests of child safety to suspend the WWC clearance. A suspension will continue in force until the Regulator determines whether or not to revoke the WWC clearance, gives an interim WWC exclusion, withdraws the suspension, or after 24 months (new s 79(7)). The Regulator must review the decision to suspend a person's WWC clearance 6 months after it comes into force and then at least every 3 months after the first review, while the suspension is in force. It is open to the Regulator to withdraw the suspension of a person's WWC clearance at any time by providing them with written notice (new s 79(9)).

In addition to the suspension powers relating to existing WWC clearance holders, Division 2 of Part 3.2 of the Bill inserts new Part 3.1A into the Worker Screening Act 2020. New s 71A empowers the Regulator to place an interim bar on an applicant for a WWCC if, at any time before deciding the application, they receive or become aware of child safety risk information relating to the applicant and are satisfied that an interim bar is in the interests of child safety. An interim bar will continue in force until the Regulator grants a WWC clearance, exclusion or an interim WWC exclusion, or the application for a WWCC is withdrawn, or the Regulator withdraws the interim bar under new s 71D, or after 24 months (new s 71B).

The Regulator must review the interim bar 6 months after it comes into force and then at least once every 3 months after that first review (new s 71C) up to a total permissible time period of 24 months (new s 71B(d)). The Regulator must give an applicant for a WWC check written notice of the interim bar stating that they must not engage in child-related work while the bar is in force, and disclose the child safety risk information on which the interim bar is based (new s 71A(2)(c) unless doing so would prejudice an investigation, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement, or poses a serious risk to the safety of any person (new s 71A(3)).

Privacy right

Given the suspension and interim bar can prevent a person from engaging in child-related work for up to 24 months, this risks interfering with the right to privacy as outlined above, in circumstances where a restriction on employment sufficiently affects an individual's personal relationships at work and capacity to experience a private life. Given the suspension powers and interim bar would prevent a person from pursuing employment for which they are qualified, it may negatively affect their capacity to develop personal relationships and have a private life.

However, I consider that the privacy right is not in fact limited, given any interference in privacy would be pursuant to law and is not arbitrary. In my view, the suspension and interim bar are proportionate, temporary measures to achieve the important purpose of protecting children by closing a gap in the legislation where there is currently no ability to immediately prohibit a person from working with children while the Regulator undertakes an assessment or re-assessment of a person's WWC clearance and where there is information to indicate the person may be a safety risk to children. The suite of interim decisions to be made available to the Regulator, including suspensions and interim bar, will act to ensure the Regulator can act on information that comes to light if it presents a sufficiently serious risk to child safety. The inclusion of a mandatory review period for a suspension and interim bar of 6 months then every 3 months is a further safeguard to ensure that the suspension or interim bar remain appropriate and proportionate. The duration of these interim decisions is to enable law enforcement investigations and ensuing court matters to be fully resolved. The three-monthly reviews included are to ensure that the Regulator regularly liaises with outside bodies as to the progress of investigations and hearings.

Fair hearing

The decision by the Regulator to impose an interim bar or a suspension on a person may engage the right to fair hearing under s 24 of the Charter, given the right extends to civil proceedings, which may include proceedings of an administrative character, and could extend to the decisions of entities such as the Regulator that affect a person's legal rights and interests.

If a broad reading of the Charter's fair hearing right is adopted, I accept an interim bar or suspension is likely to limit the right in that a person is not provided with an opportunity to make submissions to the Regulator before an interim bar or suspension is imposed, and in some cases will not know the exact content of any allegations against them. However, I consider that the limit is reasonably justified under s 7(2) of the Charter, given the power to issue an interim bar or suspension is a crucial protective measure that ensures that persons who may pose a risk to children are prohibited from working with children until their suitability for a WWC clearance is properly investigated. I do note that a person is provided with notice of the decision, and a copy of the information upon which it was based (subject to exceptions relating to investigative integrity, safety of children and confidential sources), and that both the interim bar and suspension must be reviewed by the Regulator 6 months after the day the bar or suspension comes into force, and then on a regular basis every 3 months after that up to a maximum total time period of 24 months. A person is not precluded from being able to provide information to the Regulator in relation to those reviews.

The interim bar and suspension powers improve the WWCC process in Victoria, which was recommended for reform by the Rapid Review to improve its flexibility, make it fit for purpose and to better prioritise the safety of children. It adopts the approach taken in other jurisdictions to ensure immediate action can be taken where there is a real and appreciable risk of harm to children pending a risk assessment or completion of an investigation. It is critical to the protective objectives of the Bill that the Regulator is provided with the ability to access broad child safety risk information, including unsubstantiated information, and act to protect children's safety. The suite of above measures function together to ensure that final decisions on unsubstantiated information would be rare.

I am therefore of the view that Divisions 1 and 2 of Part 3.2 of the Bill are compatible with the right to a fair hearing under s 24 of the Charter.

Division 4 – Child safety training amendments

Clauses 96 and 98 of Division 4 amend the WS Act to require an applicant for a WWCC to provide proof of completion of child safety training, defined to mean training approved by the Minister, with their application. New s 54(6A) makes clear that this training must be completed anew each time an application for a WWCC is made.

This may engage the right to protection from discrimination but does not limit it due to two further amendments made by clause 98. New s 54(4A) enables the Regulator to consider an application that does not include evidence of completion of the training if the Regulator considers that the applicant has made arrangements to complete the training. This will enable a WWCC to be granted swiftly when required, such as when kinship care arrangements are made for a child. New s 54(3A) of the WS Act requires the Regulator to enable reasonable modifications to be made to the training requirement if the applicant has a disability that prevents them from completing the training.

I am therefore of the view that Division 4 of Part 3.2 of the Bill is compatible with the right to protection from discrimination under s 8 of the Charter.

Division 5 – Power to require production of information

Clause 99 inserts an offence into s 128 of the Worker Screening Act, providing that a person must not give information that is false or misleading to the Regulator in relation to an application for, or re-assessment of, a WWC check or in connection with an internal review under Part 3.4A.

Clause 101 inserts new ss 142A and 142B. Section 142A empowers the Regulator to request information and documents for the purpose of carrying out an NDIS check or WWC check, re-assessment of eligibility to hold such checks, and carrying out internal review under Parts 4.1 or 3.4A of the Worker Screening Act 2020. Under s 142A(7), a person who fails to comply with a notice for production without reasonable excuse can be penalised. Section 142A(8) provides protection against self-incrimination for a natural person by allowing that person to refuse or fail to provide information they are required to provide if doing so would incriminate them.

Section 142B provides that nothing in this Act entitles or requires a person to disclose information that is subject to legal professional privilege or client legal privilege and does not affect the law or practice relating to these privileges.

Section 143 (as inserted by Clause 102) protects a person who produces information that is authorised or required under s 142A from liability.

Freedom of expression

These provisions may engage the right to freedom of expression by limiting the kind of information that a person may impart, including through providing documents. However, to the extent that the right is engaged, any limitation imposed would fall within the internal limitations to the right in s 15(3), as reasonably necessary to respect the rights and reputation of other persons, or for the protection of public order. The prohibitions are necessary to ensure the accuracy of the information provided to the Regulator. Further, the restrictions are critical to ensuring the worker screening schemes can effectively assist in protecting children and persons with disability from harm. By reducing the risk that the Regulator's decisions regarding a clearance will be based on false or misleading information, or that a person will provide a misleading clearance document in a work situation, the provision reduces the risk that an inappropriate person will be able to work with children or persons with a disability. Accordingly, I consider these provisions to be compatible with the right to freedom of expression under the Charter.

Division 8 – Internal review and further WWC category A applications

Division 8 of Part 3.2 of the Bill inserts new Part 3.4A into the Worker Screening Act to enable persons who are subject to various WWC exclusion and clearance decisions to apply for an internal review by the Regulator (new s 92A). In the case of a WWC category A exclusion or re-assessment, a person may make a further application to the Regulator (new s 92B). The internal review of a decision or further application must then be conducted by a person at the Regulator who did not make the original decision or to the extent practical was not substantially involved in the original decision, is in a position that is equal or more senior than the original decision maker and is suitably qualified or experienced to deal with the issues raised by the internal review or further application (new s 92D). In conducting an internal review, the Regulator may request advice from an independent expert advisory panel established by new Division 3A of Part 10 of the SSR Act. For the purposes of a further application made under new s 92B, that is by a person after receiving an WWC category A exclusion or re-assessment, the Regulator must request advice from an independent expert advisory panel (new s 92E).

For internal reviews the original decision must be confirmed unless the Regulator is satisfied that the applicant holding the WWC clearance would not pose an unjustifiable risk to the safety of children having regard to various matters, including that they are satisfied that a reasonable person would allow their child to have direct unsupervised contact with the applicant while the applicant was engaged in any type of child-related work. Ultimately, the internal reviewer within the Regulator may decide to confirm the decision to impose a WWC exclusion, revoke a WWC clearance, or withdraw the decision to give a WWC exclusion or revoke a WWC clearance. Notice of the decision must be given to the applicant, and where the outcome is adverse to them, the notice must include a statement of reasons.

Division 9 of Part 3.2 of the Bill contains consequential amendments to the Worker Screening Act. Clause 120 repeals Part 4.3 of the Worker Screening Act which provided a right of review to VCAT for various WWC clearance decisions, including the decision to give a WWC exclusion and the decision to revoke a WWC clearance. Accordingly, the only review pathway for these decisions will now be via the internal review process discussed above, rather than to VCAT.

Fair hearing

The removal of the right to apply to VCAT for review of WWC clearance decisions interferes with the right to fair hearing under s 24(1) of the Charter, which is concerned with the ability of a person affected by a

decision to know the matters relevant to the decision and to have a reasonable opportunity to present their case and respond to adverse information.

While the opportunity to be heard by an independent tribunal has now been removed, the internal review and further application mechanisms do allow an applicant to provide further information they consider relevant (new s 92A(5)(c) and 92B(4)(d)), and the person conducting the internal review may also seek advice from an independent expert advisory panel in considering whether to confirm or withdraw the decision (new s 92E). For further applications made in relation to WWC category A exclusions, advice from an independent expert advisory panel must be sought. Further, where an internal review results in an outcome adverse to the applicant, a statement of reasons must be provided. This mitigates the impact on fair hearing rights to a material degree.

To the extent, however that fair hearing rights are limited, in that an applicant is not afforded a right to review before an independent tribunal, I am satisfied that the limits are reasonable and justified in the circumstances in accordance with s 7(2) of the Charter, in that the replacement of the VCAT review rights with the internal review pathway will ensure more consistent decision making that applies a child safety lens, consistent with the Rapid Review's recommendations that reviews be conducted by persons with specialist expertise in child safety. It is also anticipated that this pathway will be more straightforward and accessible for applicants.

To the extent that fair hearing rights are limited, the limitation is demonstrably justified given the over-arching purpose is protection of children from harm and is also reasonably balanced by the range of safeguards 'built in' to the internal review model – namely:

- Members of the independent expert advisory panel will be appointed by the Minister based on their qualifications or experience. This ensures independence from the Regulator, as does the requirement for the Minister to appoint an independent Convenor of the expert panel.
- The protection of children hinges substantially on worker decisions being informed by specialist knowledge acquired through dedicated training, study or experience (e.g. in fields like child health and wellbeing and criminology). The Bill specifically requires that internal review decision-makers be suitably qualified or experienced to deal with the issues raised by the WWCC determination. In addition, the requirement to establish an independent expert advisory panel that can advise the Regulator on internal review matters will also promote the protective purpose of the child safety reforms, ensuring that decision-making is consistent and grounded on a sound, rational basis.
- The Bill's requirements that there be structural separation between first-instance and review decisions, equivalence (at minimum) in seniority for review decisions, and more robust written notice requirements are also important procedural fairness safeguards.

Importantly, judicial review in the Supreme Court will remain an option for individuals affected by adverse WWCC decisions.

I therefore consider that new Divisions 8 and 9 of Part 3.2 of the Bill are compatible with the right to fair hearing under s 24 of the Charter.

Chapter 4 – Disability legislation amendments

Part 4.1 – Amendment of Disability Service Safeguards Act 2018

New regulatory scheme for unregistered disability workers and regulated social service workers or carers

Part 4.1 of the Bill includes key amendments that streamline and simplify the regulation of workers in the disability and social services sectors. Clause 150 renames the Disability Service Safeguards Act 2018 to the Disability and Social Services Worker Act 2018. In particular, clause 157 inserts a new Part 6 into the Disability Service Safeguards Act which covers matters previously covered by both Part 9 of the Disability Service Safeguards Act and Part 5 of the SSR Act, which is repealed by Part 4.3 of the Bill (noting that matters previously covered by Part 6 of the Disability Service Safeguards Act are moved to the SSR Act by clause 391). This is to ensure that unregistered disability workers and regulated social service workers and carers are regulated in a largely consistent manner by the Regulator.

Many of the provisions in clause 157 already existing, under Part 9 of the Disability Service Safeguards Act and Part 5 of the SSR Act, so their human rights impacts have been discussed in previous Statements of Compatibility. However, as the scope of the worker regulation scheme could be expanded via regulations to apply to a larger class of workers than is currently the case under the SSR Act, the impact on rights is restated or considered afresh as required below.

Preliminary assessments

New s 19 of the Disability Service Safeguards Act enables the Regulator to conduct a preliminary assessment to determine whether to investigate if a regulated social service worker or carer is engaging in or has engaged in various prescribed conduct, or conduct that causes serious harm or is reasonably likely to cause serious

harm or persistent or repeated conduct that results in harm, to a regulated social service user or a person with the characteristics of a regulated social service user.

Investigations

Following the preliminary assessment, new s 20 of the Disability Service Safeguards Act provides that the Regulator may decide to investigate the matter, refer the matter to a regulatory entity, provide information or guidance to the worker or carer, issue a condition notice, make an interim prohibition order and investigate the matter, determine the worker or carer is a registered NDIS provider or person employed or engaged by a registered NDIS provider, or determine that the matter does not require further investigation or action.

New Division 4 of Part 6 of the Disability Service Safeguards Act provides for the investigation the Regulator may conduct following a preliminary assessment into the conduct of unregistered disability workers or a regulated social service worker or carer. Under new s 31, the Regulator is not bound by the rules of evidence in conducting an investigation but is bound by the rules of natural justice. Under new s 13 of the Disability Service Safeguards Act (inserted by clause 156 of the Bill) the Regulator may obtain and use a report from an expert (which may include a registered disability worker) to assist them in conducting an investigation and considering what further action to take.

At the completion of an investigation, an investigation report is completed (new s 39) and the Regulator may confirm recommend actions that the worker or carer must take to address the findings, refer the matter to a regulatory entity, provide information or guidance to the worker or carer, issue a condition notice, make a prohibition order in respect of that worker or carer, or determine not to take any further action (new s 40). The Regulator must give notice to the worker or carer of the outcome of an investigation and a copy of the Regulator's report, or those parts that relate to the worker or carer (new s 41). The Regulator may also disclose the report to other entities such as the Australian Health Practitioner Regulation Agency in certain circumstances (new s 44).

Information gathering powers

The Bill includes several information gathering powers in a range of circumstances.

New s 16 of the Disability Service Safeguards Act provides that a regulated social service provider and its employees must provide the Regulator, an authorised officer or independent investigator with reasonable assistance and access to records and employees, as required.

New s 19(3)(b) of the Disability Service Safeguards Act gives the Regulator the power to request information from any person or body about the conduct of the unregistered disability worker or regulated social service worker or carer.

Information sharing

Under new s 17, the Regulator must report to the Chief Commissioner of Police if they become aware that an unregistered disability worker or a regulated social service worker or carer may be, or have been, involved in criminal conduct. New s 18 provides that the Regulator may obtain information from the Chief Commissioner of Police as to whether Victoria Police is investigating an unregistered disability worker or regulated social service worker or carer, and the result of that investigation, if the Regulator reasonably believes that the worker or carer is engaging or has engaged in conduct that may be the subject of a preliminary assessment or investigation.

New s 291E of the SSR Act also provides that the independent expert advisory panel can consider any document or information provided to the panel by the Regulator for the purpose of any requests for advice.

Referral of matters

New s 20(1)(a)(ii) of the Disability Services Safeguards Act provides that at the completion of a preliminary assessment, the Regulator may refer the matter to another regulatory entity, with s 25 setting this power out in full. New s 24 also provides that the Regulator must refer the matter to the NDIS Quality and Safeguards Commission if the carer or worker is a registered NDIS provider or is employed or engaged by a registered NDIS provider.

Notification to employer

New s 22 of the Disability Service Safeguards Act provides that a worker or carer's employer is to be notified of a determination by the Regulator to conduct an investigation following a preliminary assessment, and new s 23 provides that the Regulator must notify a worker or carer's employer of a determination after a preliminary assessment to provide information or guidance to the worker or carer.

A carer or worker's employer may be notified of the final outcome of an investigation under new s 42(1). Any other person that had been notified that an investigation was to be carried out must be notified of the

outcome (new s 42(2)). The Regulator may also provide a worker or carer's employer with a copy of the investigation report under new s 42(4) in certain circumstances.

Privacy right

The scope of the right in s 13(a) of the Charter not to have a person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with is broad and protects persons from unjustified interference with their personal and social sphere.

The information gathering, information sharing and referral powers discussed above allow or require potentially sensitive and personal information to be shared with the Regulator, persons from whom expert assistance is sought or independent expert advisory panellists (where advice is sought), and with agencies such as Victoria Police. Notice of a preliminary assessment, investigation and provision of a copy of the investigation report must be provided to a worker or carer's employer. These actions may constitute an interference with privacy rights under the Charter.

However, I consider that any such interference is lawful and not arbitrary. This is because the provision of, or sharing of, information would be pursuant to properly circumscribed legislation which is appropriately confined to facilitate the legitimate purpose of the Bill, being promoting the quality, safety and sustainability of the disability and regulated social services workforce and ultimately to protect the vulnerable users of these services. It is important that employers of these workers and carers are informed of the actions taken by the Regulator in respect of their employees, so that they can implement measures to ensure the safety of service users. As I discussed above, persons working in this highly regulated environment must necessarily have a lesser expectation of privacy in relation to their personal information so far as it is relevant to their employment in this context.

Further, safeguards have been included in the Bill, including new s 26 which makes it an offence to publish information relating to a preliminary assessment that would enable the identification of a disability service user or a regulated social service user who is affected by the conduct of the carer or worker, or a notifier or complainant in relation to the preliminary assessment. There are also carve outs that provide that disclosure of a report must not be made in circumstances where this would identify a child, young person or disability service user, regulated social service user or primary family carer to whom the services were provided, or their family member.

I therefore consider that the powers conferred on the Regulator in respect of preliminary assessments, investigations and the gathering and sharing of information and referral of matters in clause 157 of the Bill do not limit the right to privacy.

Freedom of Expression

The information-gathering powers of the Regulator to compel persons to provide information or assistance may also interfere with the right to freedom of expression, to the extent that the right extends to a right not to express or impart information. However, these powers are required to ensure the effective regulation and investigation of persons providing services to vulnerable people in the disability and regulated social services sectors. Accordingly, I am of the view that to the extent the right is limited, that limit is reasonably justified in the circumstances pursuant to s 7(2) of the Charter, in that such powers are necessary to facilitate the regulation of these sectors and the protection of vulnerable people. I am therefore satisfied that the information gathering provisions in clause 157 of the Bill are compatible with the right to freedom of expression.

Condition notices

New Division 5 of the Disability Service Safeguards Act provides for the Regulator to issue condition notices to an unregistered disability worker or a regulated social service worker or carer after conducting a preliminary investigation or at the completion of an investigation. New s 45(5) provides that the Regulator may consult the provider on the proposed conditions, where the worker or carer is employed or engaged by a registered disability service provider or regulated social service provider. New s 45A sets out the conditions that can be imposed on a worker or carer, which include undertaking a period of supervised practice, further training, refraining from or doing something in relation to their practice, or to practice in a certain way or any other appropriate condition.

New s 45C provides that the condition notice is to be served on the carer or worker. A copy of the condition notice must also be given to their employer (new s 45D). New s 45F provides that details of the condition notice for an unregistered disability worker are to be published in the Government Gazette including the worker's name and the conditions imposed upon them, while new s 45G provides that the Register of Prohibition Orders must be updated to include details of the condition notice. Condition notices may be varied upon application by the person under the notice under new s 45H, and any variations must also be published and recorded in the Register of Prohibition Orders.

Condition notices can be revoked following an application under new s 45J and, if granted, the revocation will be published (if it relates to a disability worker), the notice provided to both the carer or worker and their employer, and the relevant Register of Prohibition Orders updated under new s 45K. Condition notices will also be subject to the new internal review pathway set out in new Division 8 of the Disability Services Safeguards Act.

Privacy and reputation

The publication of condition notices and their variation and revocation in the Government Gazette and in the Prohibition Order Register, and their provision to employers and other entities, engages the right to privacy and reputation, given it would reveal the names of workers and carers who have been subject to preliminary assessment or investigation by the Regulator, and details of the conditions imposed upon them.

However, I consider that the right to privacy and reputation is not limited, because the interferences would be pursuant to law, and are proportionate to the legitimate purpose of ensuring proper regulation of unregistered disability workers and regulated social services carers and workers in order to protect the vulnerable users of these services. Conditions are only imposed on workers or carers when they are considered necessary to prevent a risk to disability service users or regulated social services users, or to address a failure to comply with an approved code of conduct (new s 45(3)(a) and (b)), and it is necessary that employers of carers and workers are advised of the imposition of condition notices to ensure they can be properly implemented and enforced and that service users are protected.

I am therefore satisfied that the right to privacy and reputation is not limited by new Division 5 of the Disability Service Safeguards Act.

Right to freedom from forced work

The compulsion to undertake an activity or to 'do' something as required by a condition notice may interfere with the right to freedom from forced work, specifically the prohibition on compulsory labour in s 11(2) of the Charter. I am of the view, however, that the right is not engaged as any work required by a condition would fall within the scope of the exception to the prohibition in s 11(3) of the Charter, namely work or service that 'forms part of normal civil obligations,' as the conditions are imposed on workers or carers who are engaged in the regulated disability and social services sectors and have voluntarily assumed associated responsibilities and obligations. Additionally, the condition notices serve an important preventative purpose, being to prevent a risk to disability service and regulated social service users.

Fair hearing

The concept of a 'civil proceeding' in s 24(1) is not limited to judicial decision makers, but may also, adopting a broad reading of s 24(1), encompass the decision-making procedures of other administrative decision-makers. If a broad interpretation is adopted and it is understood that the fair hearing right is engaged by the decision of the Regulator to issue a condition notice to a worker or carer, I am satisfied that this right would not be limited because there are various procedural fairness safeguards provided in the Bill, including notice requirements to the carer or worker, the right to apply for a variation or revocation of the condition notice, and the right to apply for an internal review by the Regulator (new Division 8).

Interim prohibition orders and prohibition orders

New Division 6 of the Disability Service Safeguards Act empowers the Regulator to impose an interim prohibition order on an unregistered disability worker or regulated social services carer or worker following a preliminary assessment or during an investigation, which prohibits the worker or carer from providing relevant disability services or regulated social services. New Division 7 then empowers the Regulator to impose a prohibition order upon completion of an investigation. These divisions replace parts of Part 9 of the Disability Service Safeguards Act and Part 5 of the SSR Act.

There are similar notice and publication requirements for both interim prohibition orders and prohibition orders as with condition notices, with publication in the Government Gazette where the order applies to a disability worker, and in the Prohibition Order Register, and a copy of the order must be provided to the worker or carer's employers and may be given to past employers and other entities such as the Health Complaints Commissioner where relevant.

An interim prohibition or prohibition order may be varied or revoked upon an application by the carer or worker that is subject to it.

Prohibition orders will be issued after a show cause process, whereby the carer or worker will be given notice of the proposed order and invited to provide a written or oral submission to the Regulator (new s 47 of the Disability Service Safeguards Act). The Regulator must not make a prohibition order against a worker or carer unless they reasonably believe the worker or carer poses an unjustifiable risk to a disability or regulated social service user and various factors are outlined in the Bill that will guide them in considering whether the

worker or carer poses such a risk (new s 47A). These include whether a reasonable person would allow a disability or regulated social service user to have direct unsupervised contact with the worker or carer, and whether it is in the public interest that the worker or carer continues to be able to provide disability or regulated social services.

Fair hearing

Clauses 277 and 387 of the Bill repeal parts of the Disability Services Safeguards Act and SSR Act that provided that certain decisions relating to prohibition orders or interim prohibition orders were reviewable by VCAT. New Division 6 contains regular periodic review requirements for interim prohibition orders by the Regulator (new s 46H) which also allows the carer or worker to make written submissions to the Regulator and receive reasons for the decision if the interim prohibition order is confirmed. Further, new Division 8 provides a right of internal review to the Regulator for both an interim prohibition order and a prohibition order (see new s 48) during which process the Regulator may obtain advice from an independent expert advisory panel (see new s 48D). New s 48G provides that the Regulator must provide notice of the outcome of the internal review to the applicant and provide a statement of reasons in the event of an outcome adverse to the applicant. Finally, the worker or carer would also have a right of judicial review of a decision to issue an interim prohibition order or prohibition order.

As discussed above in respect of condition notices, if a broad interpretation of s 24 of the Charter is adopted and it is considered that the fair hearing right is engaged by the decision of the Regulator to issue an interim prohibition order or prohibition order, this right would, in my view, not be limited because there are various procedural fairness safeguards provided in the Bill, including: notice requirements to the carer or worker; the right to apply for a variation or revocation of the order; the show cause process for prohibition orders outlined in new s 47 which provides the carer or worker with the opportunity to make submissions; the right to make submissions to the Regulator at any time in relation to an interim prohibition order, which new s 46H requires must be considered at the next review, and; the right of internal review under new Division 8 (which may involve advice from an independent expert advisory panel).

As such, I am of the view that the right to a fair hearing is not limited by new Divisions 6 and 7 inserted into the Disability Service Safeguards Act by clause 157 of the Bill. In the event that it is considered that this constitutes a limit on the right, for instance by not providing for VCAT review of a decision to make an interim prohibition order or prohibition order, I am satisfied that any such limit is reasonable and justified in the circumstances where internal review is available. The threshold for imposition of an interim prohibition order or prohibition order is quite high – an unjustifiable risk to disability or social service users – and is necessary for the regulation of the disability and social services sectors, and the protection of people that use them. I draw on my above reasoning that effective protection of disability service users hinges on decisions being informed by specialist knowledge acquired through dedicated training, study or experience.

Privacy right

I am also satisfied that the publication and notice provisions pertaining to interim prohibition orders and prohibition orders do not limit the right to privacy for similar reasons as above – they are lawful and not arbitrary in that they are necessary to ensure the orders are complied with and vulnerable disability and regulated social services users are protected. Insofar as the orders interfere with the right to privacy in that they prevent a person from working in their chosen field, I also consider there to be no limit on the right for the same reasons.

Double punishment

I am also of the view that interim prohibition orders or prohibition orders do not limit the right not to be tried or punished more than once. While these orders may be applied to persons who have previously been found guilty of prescribed criminal offences, disciplinary or regulatory action such as this does not fall within the scope of the right, given they are not criminal sanctions. Interim prohibition orders and prohibition orders, rather than being sanctions designed to punish, are effectively protective tools which are aimed at preventing harm to disability and regulated social service users by preventing workers or carers who have engaged in harmful or even criminal conduct in the past, from providing these services. They are made on a criteria directed at avoiding risk to disability and regulated social service users. Accordingly, I do not consider that these orders constitute punishment within the meaning of this right.

<u>'Reasonable excuse' offence provisions</u>

Presumption of innocence (section 25(1))

Clause 157 of this Bill introduces two offence provisions that contain 'reverse onus' elements (new ss 26 and 43 of the Disability Service Safeguards Act). The right to presumption of innocence in s 25(1) of the Charter is relevant to provisions which shift 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 he or she is not guilty of an offence. The identified offences all require the proof of a 'reasonable excuse'.

As these offences are summary offences, s 72 of the *Criminal Procedure Act 2009* will apply to require an accused who wishes to rely on the 'lawful authority or excuse' defence to present or point to evidence that suggests a reasonable possibility of the existence of facts that, if they existed, would establish the excuse. In other words, the provision imposes an evidential onus on an accused when seeking to rely on the defence. Case law has held that an evidential onus imposed on establishing an excuse or exception does not limit the Charter's right to a presumption of innocence, as such an evidential onus falls short of imposing any burden of persuasion on an accused. Once the accused has pointed to evidence of a reasonable excuse, the burden shifts back to the prosecution who must prove the elements of the offence. Accordingly, I do not consider that the 'reasonable excuse' offence provisions in clause 157 limit the right to be presumed innocent in s 25(1) of the Charter.

Registers of Prohibition Orders

Clause 291 of the Bill substitutes Division 4 of Part 15 of the Disability Service Safeguards Act with a new Division 4 (Registers of Prohibition Orders). Subdivision 1 relates to disability services, subdivision 2 relates to regulated social services and subdivision 3 concerns the update of personal information.

Under subdivision 1 of new Division 4, the amendments remake existing s 251 and provide that the Regulator, rather than the Commission, has responsibility for maintaining the Register of Prohibition Orders – Disability Services. New s 251 provides that the Regulator must keep a public register of persons (other than registered disability workers) who are issued with a prohibition order, an interim prohibition order or a condition notice in relation to the provision of disability services. The section outlines the information that must be included in the Register of Prohibition Orders – Disability Services and includes the name of the person, the type of order or notice, details of the disability services that the worker is prohibited from providing or which are subject to conditions, the period for which the order or notice is in force and the reasons for the decision to make the order or issue the notice.

New s 251A provides that the Regulator must ensure that the Register of Prohibition Orders – Disability Services is accessible on the Regulator's website, may be inspected at the office of the Regulator and that a person may obtain a copy of an extract from this Register without charge. Consequently, this Register will continue to be publicly available.

Subdivision 2 creates the Register of Prohibition Orders – Regulated Social Services. This replaces the worker and carer exclusion scheme (WCES) database established under s 83 of the *Social Services Regulation Act 2021*. Under new s 251B the Regulator must keep a register of all persons issued with a prohibition order, interim prohibition order or a condition notice in relation to the provision of a regulated social service. This register must include certain details against the name of the person issued with the order or notice, namely, the type of order or notice issued, details of the regulated social services that the person is prohibited or excluded from providing or which are subject to conditions, the period and the reasons for the decision to make the order or issue the notice. The Register of Prohibition Orders – Regulated Social Services will not be publicly available.

New s 251C requires that, before employing or engaging a person as a regulated social service worker or carer, a regulated social service provider must request the Regulator disclose certain information about the person. The Regulator may provide any information recorded on the Register of Prohibition Orders – Regulated Social Services to a regulated social service provider for the purpose of responding to the request.

New s 251D in subdivision 3 inserts a requirement that a person who is subject to a prohibition order, an interim prohibition order or a condition notice, must notify the Regulator, as soon as practicable, of any change to their name or place of residence.

Privacy and reputation

The right to privacy and reputation is relevant to these provisions. Inclusion of a person's personal information on these Registers may interfere with a person's privacy and reputation, to the extent that it provides they have been subject to an order or notice in relation to the provision of disability services or the provision of a regulated social service and the details of excludable conduct.

In respect of the Register of Prohibition Orders – Disability Services, this Register is already publicly available. It records a range of personal information and will engage the right to privacy and reputation under the Charter. The purpose of this Register is to make relevant information about disability workers available to the public, particularly disability service users who may directly engage a disability worker, which serves an important purpose of promoting transparency and assisting users of disability services to make informed decisions. To the extent that the right to privacy and reputation is relevant to the information required to be listed on this Register, I believe that any interference with that right is lawful and not arbitrary. The particulars

which are to be listed on this Register are clearly set out, and their listing is a known condition of any person seeking to work as a disability worker. The collection and publication of information on this Register is necessary for and tailored to ensuring compliance with the regulatory scheme and promoting transparency and public safety, and accordingly does not constitute an arbitrary interference with privacy or an unlawful attack on a person's reputation.

In respect of the Register of Prohibition Orders – Regulated Social Services, in addition to the observations above, any interference will be authorised under legislation and is subject to appropriate safeguards, including that the Register be kept private and information on it only shared with regulated social service providers upon their request in relation to a particular person.

Further, the Registers must be kept in a way that ensures they are up to date and accurate. I therefore consider that these clauses are compatible with the right to privacy and reputation.

Information sharing

Clause 297 amends s 257 of the Disability Service Safeguards Act to expand the scope of the provision to capture 'regulated social services workers or carers' in addition to unregistered disability workers. This section provides that the Regulator may request information from a worker screening unit for the purposes of determining whether to make an interim prohibition order or a prohibition order and may give the worker screening unit any information concerning the worker that is necessary to conduct a worker screening check on the worker. I consider this amendment compatible with the right to privacy for the reasons above, relating to the necessity of the Regulator being able to access, and make decisions in regard to, all relevant risk information.

Amendments to certain offences in Division 1 of Part 16 of the Disability Service Safeguards Act

Clauses 299 to 306 of the Bill amend various offence provisions in Division 1 of Part 16 of the Disability Service Safeguards Act. The amendments add a 'without reasonable excuse' exception to a number of offences in that Division.

Right to be presumed innocent

As discussed above, s 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 s 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 amendments in clauses 299 to 306 of the Bill either amend existing offence provisions or add new offence provisions. These amendments add or include a 'without reasonable excuse' exception in a number of offences.

For the same reasons as discussed above, I do not consider that an evidential onus such as these provisions limits the right to be presumed innocent, in accordance with the case law on this question.

New sections 266A to 266G

Clause 304 of the Bill introduces new ss 266A to 266G into the Disability Service Safeguards Act. These sections include an offence for where a person applies for employment or engagement providing a disability service or a regulated social service if prohibited (new s 266A), an offence for where a person applies for employment if they are under investigation (new s 266B), and an offence to apply for employment or engagement without disclosing details of a condition notice, without reasonable excuse (new s 266C). New s 266D adds an offence for a disability worker or regulated social service worker or carer who is given an interim prohibition order, condition notice or notice of investigation under the Disability Service Safeguards Act for failing to disclose certain details to the Regulator within a specified time, without reasonable excuse. Clause 304 of the Bill also adds offences of failing to notify an employer of an investigation (new s 266E) or a condition notice (new s 266F) for unregistered disability workers or a regulated social service worker or carer, without reasonable excuse. New s 266G adds an offence for failing to notify an employer of a prohibition or exclusion.

These offence provisions can be construed as prohibiting conduct that is protected by the Charter, namely freedom of expression and freedom not to impart information (s 15) and the right to privacy (s 13). As stated above, the right to privacy has been interpreted to extend to matters relating to the right to seek employment, and may be interfered with where employment restrictions impart sufficiently upon the personal relationships of the individual and otherwise upon the person's capacity to experience a private life. The requirement to notify an employer of an investigation may also have follow-on implications if the person is treated adversely on the basis of this information. Nevertheless, I consider that these prohibitions are necessary to ensure the implementation of the reforms and increased protection for disability service and regulated social service

users. They give necessary effect to the prohibition and exclusion schemes and criminalise behaviour that is intended to undermine the efficacy of these protective schemes and associated investigations.

Criminal liability of officers of a body corporate

Clause 306 of the Bill substitutes ss 268 to 272 of the Disability Service Safeguards Act. New s 272 provides that if a body corporate commits certain specified offences, then an officer of the body corporate also commits an offence against the provision if the officer authorised or permitted the commission of the offence by the body corporate or was knowingly concerned in any way in the commission of the offence by the body corporate. The offences covered by this provision are listed in new s 272(2) and include:

- New s 26(1) (Offence to publish identifying information);
- Section 258(3) and (4) (Restrictions on use or protected titles);
- Section 259(4) and (5) (Claims about type of registration or endorsement or qualification to hold type of registration or endorsement);
- Section 260(3) (Claims about division of the Register);
- Section 261 (Restriction to provide prescribed disability service);
- Section 262 (Directing or inciting unprofessional conduct or professional misconduct);
- Section 267(2) (Advertising offences);
- New s 268 (Regulated social service provider employing or engaging a person without a Register check);
- New s 269(1),(2), (3) and (4) (Regulated social service provider employing or engaging a prohibited person);
- New s 270 (Registered disability provider employing or engaging a prohibited person).

Right to be presumed innocent

New s 272 is relevant to the presumption of innocence as it may operate to deem as 'fact' that an individual has committed an offence based on the actions of the body corporate. New s 272(3) provides that an officer may rely on a defence available to the body corporate but bears the same onus of proof to establish the defence as the body corporate.

Further, new s 272(3) provides that the officer, in relying on the same defence as that is available to the body corporate, bears the same burden of proof that the body corporate would bear in order to establish a relevant defence.

I consider that new s 272 of the Disability Service Safeguards Act does not limit the right to the presumption of innocence. Firstly, new s 272 requires the prosecution to prove the accessorial elements of the offence – that is that the officer authorised or permitted the offence or was knowingly concerned in the commission of the offence by the body corporate. Further, the provision only places an evidential burden on an accused to establish a defence, and the prosecution is still required to prove the main elements of the offence. Finally, the evidence required to establish a relevant defence will likely be peculiarly within the personal knowledge of the officer and would be difficult for the prosecution to establish.

In my view, it is appropriate to extend the criminal liability of bodies corporate, and to make officers liable for the conduct of the body corporate and its employees and agents, in order to ensure proper compliance with the regulatory regime. A person who elects to undertake a position as an officer of a body corporate accepts that they will be subject to certain requirements and duties, including a duty to ensure that the body corporate complies with its legal obligations, and does not commit offences. Affected persons should be well aware of the regulatory requirements and, as such, should have the necessary processes and systems in place to effectively meet these requirements and not incur accessorial liability. Finally, the offences are not punishable by a term of imprisonment.

Should the right to the presumption of innocence in fact be limited by these provisions, I am of the view that any limitation is reasonable and demonstrably justified, in that it is a proportionate measure to the legitimate purpose of the offences, which are to ensure the compliance of bodies corporate with the regulatory regime and to protect people accessing disability services and regulated social services. Courts in other jurisdictions have held that the presumption of innocence may be subject to reasonable limits in the context of regulatory compliance, particularly where regulatory offences may cause harm to the public.

Compensation for acts done in exercise of powers under the Disability Service Safeguards Act

Clause 316 of the Bill proposes to repeal s 283 of the Disability Service Safeguards Act, which allows compensation to be claimed from the Commission if loss or expense is incurred because of a power exercised or purported to be exercised under the Disability Service Safeguards Act by an authorised officer. The

provision also allowed compensation in other circumstances, such as a result of a person complying with the requirements of the Act, where compensation is ordered to be paid in a proceeding in a court with jurisdiction for the recovery of the amount of compensation claimed, and where the court orders compensation to be paid if it is satisfied that it is fair to do so in the circumstances in a particular case. This is relevant to property rights, as it may affect a person's right to be compensated by the Commission in circumstances prescribed by the Act.

New Part 19 contains a proposed provision that allows persons who were entitled to compensation from the Commission to claim that compensation from the Regulator (new s 298 of Part 19 in clause 319). This preserves the rights of any person with a claim under s 283 despite its repeal.

As s 283 is repealed, compensation will no longer be provided for under the Disability Service Safeguards Act. This may engage the right to property, insofar as a cause of action may be considered 'property'. A deprivation in this context is unlikely, as a person will retain their right to seek a remedy for any loss or damage at common law.

Liability for acts done in exercise of powers under the Disability Service Safeguards Act

Similarly, clause 317 proposes to amend s 285 to transfer protection of a 'protected person' from personal liability for acts done under the Disability Service Safeguards Act from the Commissioner to the Regulator. It also grants similar protection from liability to a person appointed as the acting Regulator under the Social Services Regulation Act, an Associate Regulator or a person appointed as an acting Associate Regulator under the Social Services Regulation Act, and a member of a panel. Under this section, a person is not personally liable for anything done or omitted to be done in good faith in the exercise of a power or the performance of a function under the Disability Service Safeguards Act or in the reasonable belief that the act or omission was pursuant to a power or a function under the Disability Service Safeguards Act.

This may engage the right to property, insofar as a cause of action may be considered 'property'. The Bill transfers protection from one statutory body to another, but in doing so it removes the immunity for staff, authorised officers and investigative officers. Any liability resulting from an act or omission of a protected person – now meaning the Regulator, an Associate Regulator or a person appointed as an acting Associate Regulator under the Social Services Regulations Act, and a member of a panel – attaches instead to the State, meaning that a plaintiff is not deprived of access to the court to seek a remedy for any loss or damage.

As for the substantive effect of the immunity, any deprivation of a claim for personal liability is in accordance with law and not arbitrary, as it is reasonably necessary to achieve the important objective of ensuring that the Regulator can exercise their statutory functions and powers in good faith without exposure to the prospect of personal liability. These immunity provisions are commonly afforded to Regulators in order to maintain the effectiveness of its protective functions without fear of tort liability. Without at least some degree of protection from litigation, a Regulator may be reluctant to exercise powers or conduct duties essential to upholding the protective aim of the scheme, notwithstanding their statutory authorisation to do so. The immunities will ultimately facilitate the proper exercise of powers which are directed at safeguarding the rights of disability and regulated social service users.

The removal of staff, authorised officers and investigative officers is in accordance with government policy, noting that for many years Victorian Public Service (VPS) agreements have provided for VPS employees to be indemnified for legal costs in these circumstances. The current VPS agreement (2024) provides that where legal proceedings are initiated against an Employee as a direct consequence of the Employee legitimately and properly performing their duties, the Employer will not unreasonably withhold agreement to meet the Employee's reasonable legal costs relating to the defence of such proceedings. Although the amendment removes the immunity, it therefore does not deprive a plaintiff access to the court to seek a remedy for any loss or damage alleged to have been caused by staff, authorised officers and investigative officers employed by the Regulator.

New Part 19 (Transitional and savings provisions)

Clause 319 inserts a proposed Part 19, which contains new transitional and savings provisions into the Disability Service Safeguards Act to transfer the powers of the Board, Commissioner and Commission to the Regulator.

<u>Removal of the roles of the Disability Registration Board, Victorian Disability Worker Commission and Victorian Disability Worker Commissioner</u>

Part 19 includes proposed ss 293, 294 and 296, which remove the Disability Registration Board, Victorian Disability Worker Commission and Victorian Disability Worker Commissioner, respectively. These roles will be dissolved, and their functions will be absorbed by the Regulator to provide a flexible scheme that is responsive to risk and prioritises service user safety.

As I discussed above, the removal of these offices may engage the right to equality under s 8(3) of the Charter for people with disability, to the degree that it could affect the protection against discrimination afforded to people.

I consider that the removal of these bodies will not limit the right to equality under s 8(3) of the Charter, as the Regulator will absorb functions to conduct investigations and receive complaints provided under the Disability Service Safeguards Act.

As such, there will be no reduction in safeguards for people with disability who continue to use disability workers. Various new sections inserted by the Bill will empower the Regulator to receive complaints and conduct investigations about registered and unregistered disability workers.

Disclosure of information held by the former bodies transferred to the Regulator

Sections 293(2), 294(2), and 296(2) of new Part 19 propose to transfer all information and records from the Board, the Commission, and the Commissioner, respectively, to the Regulator. Further, Part 19 includes a number of provisions which empower the Regulator to continue the functions of the former bodies before the commencement of the Bill:

- New s 305 allows the Regulator to be able to deal with notifications in the case of an unregistered disability worker or registered disability worker;
- New s 306 allows the Regulator to have all the functions of the Board, Commission and Commissioner in relation to a complaint made but not finally determined under Parts 3, 4, 5 or 6 of the old Act;
- New s 307 will allow the Regulator to continue and complete any investigation under Part 9 that was commenced but not completed by the Disability Worker Commission by the repeal day, and s 307(3)(b) will further allow the Regulator to have regard to any evidence, submission or report obtained by the Commission in relation to an investigation under the old Act;
- New sections 308, 309 and 310 will allow the Regulator to complete the processes in relation to the making, variation or revocation of any interim prohibition order or prohibition order that was commenced but not been determined by the Victorian Disability Worker Commissioner before the repeal of Part 9.

New sections 318 and 319 will also allow the Regulator to continue and complete under the Disability Service Safeguards Act any assessment or investigation that was commenced under the old Social Services Regulation Act and before the commencement of the Bill.

While these provisions may interfere with the right to privacy to the extent that they allow information, evidence or reports to be shared for the purpose of carrying out pending investigations and complaints, the interference will be neither unlawful nor arbitrary. This is because these amendments are carefully confined to their statutory purpose, to enable the transfer of information to the Regulator to carry out certain functions currently administered by the Board, Commission, and Commissioner. Therefore, the proposed disclosure of information does not extend beyond what is reasonably necessary to achieve the legitimate aim of the Bill, such that it is reasonable and proportionate to the Bill's important objectives. Further, existing privacy protections will apply in the Disability Service Safeguards Act concerning further use or disclosure of this information.

Internal review

Clause 319 inserts a new transitional provision – s 320(5)(e) – which provides that when the Panel issues a WCES interim exclusion after the commencement day of the Bill, due to a matter having been referred to the Panel before the commencement day, the Panel is required to state in its notice that a person may apply to the Regulator for an internal review of the decision to issue the interim exclusion as if it were an interim prohibition order under the Disability Service Safeguards Act (substituting applications for review by VCAT). As discussed above in relation to Divisions 8 and 10 of Part 3.2 of the Bill, I consider that a transitional provision allowing for internal review of interim exclusions is compatible with the right to fair hearing under s 24 of the Charter, as I am of the view that, in order to achieve the important safety objectives of this Bill, proceedings that are on foot at the commencement of this Bill should not be treated differently.

Transfer of assets, liabilities, debts, etc. held by the former bodies transferred to the Regulator

New sections 293, 294, and 296 will also transfer all rights, property, assets, debts, liabilities and obligations of the Board, Commission, and Commissioner to the Regulator. Similarly, the sections will also substitute the Regulator as a party to any proceedings, arrangements, memoranda of understanding or contracts in which the former bodies were parties to. These amendments may be relevant to the property rights of a natural person who holds an interest in the property, liability, debt or obligations of the former bodies being transferred to a new body.

I consider that the right to property is not limited by this amendment as the person is not being deprived of their property interest. Rather, the property, rights, assets, debts, liabilities and obligations are being transferred from one statutory office to another without altering the substantive content of that property right. Accordingly, the provisions to transfer the assets, debts, liabilities and obligations of the Commissioner to the Regulator do not limit this Charter right.

Right to a fair hearing

For the purposes of conducting a review under s 308(2), new s 308(3) in clause 319 requires the Regulator to invite the person who is subject to the interim prohibition order to make submissions about the order to the Regulator.

In my view, this requirement promotes the right to a fair hearing, as the opportunity to provide submissions affords procedural fairness to a person who is subject to a potential interim prohibition order, and can allow them to refute any allegations made against them.

Part 4.2 – Carers Register

Clause 324 adds Division 3A of Part 15 of the Disability Services Safeguards Act which provides for the Carers Register. New s 250A provides that the Regulator must keep the Carers Register that includes the names of specified out of home carers who are employed or engaged by an out of home care service or a secure welfare service. New s 250A(2) provides that this register is not open for inspection by the public.

New s 250B outlines the other information that must be included in the Carers Register, including the person's address, date of birth, the name of each out of home care service and secure welfare service provider employing or engaging the person the date of that employment or engagement and details of any investigation, regulatory action or orders imposed by the Regulator in relation to the person. New s 250C enables the Regulator to disclose information in the Carers Register to a regulatory entity, an out of home care service, a secure welfare service and any other prescribed person or entity. Such disclosure can be made if the Regulator considers it necessary to do so to promote the safe delivery of services or reduce regulatory burden.

New s 250D will require an out of home care service and a secure welfare service to provide information to the Regulator about the out of home carer employed or engaged by that service as well as prescribed information. Failure to comply with this requirement to provide the Regulator with information without a reasonable excuse carries a penalty.

Privacy right

The right to privacy and reputation is relevant to these provisions. Inclusion of a person's personal information on the Carers Register may interfere with a person's privacy.

In addition to the observations above in respect of the other registers, any interference in this case will be authorised under legislation and is subject to appropriate safeguards, including that the Register be kept private and information on it only disclosed to certain other entities or persons where it is necessary to promote the safe delivery of services and reduce regulatory burden. Further, the Registers must be kept in a way that ensures they are up to date and accurate.

Part 4.3 – Amendment of the SSR Act

Part 4.3 of the Bill amends the SSR Act to:

- provide for the investigation and resolution of complaints relating to social services, regulated disability services, disability workers and disability students (clause 329);
- expand the objects of the Social Services Regulator (**Regulator**) to include (clause 331):
    - make registered social service providers accountable to persons accessing those social services;
    - promote the quality, safety and sustainability of the disability workforce by strengthening the safeguards for those persons with a disability who access disability services provided by disability workers; and
    - provide a process for complaints for persons with a disability in relation to disability services provided by disability workers; and
- provide for further functions for the Regulator for the purposes of dealing with complaints and accountability investigations (clause 334).

Part 4.3, Division 1 – Complaints about social and disability services

Application of investigation and monitoring powers, and information disclosure powers, to accountability investigations

Clauses 345, 346 and 350 to 355 expand the application of the existing investigation and monitoring powers of the Regulator, authorised officers and independent investigators, provided for in Part 6 of the SSR Act, to the conduct of accountability investigations, investigations under the Disability Services Safeguards Act and regulating and monitoring compliance with that Act. Accountability investigations include those undertaken by the Regulator into complaints, those initiated by the Regulator in relation to regulated disability services, those into matters referred to the Regulator by the Minister, and follow up investigations. These expanded powers are designed to facilitate the operation of the expanded complaints and investigation functions of the Regulator.

Clause 347 of the Bill inserts new ss 109A and 109B, which provide for, respectively, powers in relation to documents produced in accordance with a notice issued under s 109 of the SSR Act and the Regulator to require a person to give evidence or answer questions on oath or affirmation.

Clauses 371 and 377 expand the scope of existing information disclosure powers, provided for in Part 8 of the SSR Act, to include complaints made under new Part 9A, including accountability investigations and matters that could form the basis of issuing a condition notice or prohibition order to a disability worker or disability student.

Right to privacy and freedom of expression

Each of the clauses listed in the above paragraphs engage the right to privacy in s 13(a) of the Charter, which protects against unlawful and arbitrary interferences with a person's privacy, family, home or correspondence. While the powers, as expanded by the clauses listed above, may involve some interference with a person's privacy and home, these powers are necessary to ensure the Regulator is able to conduct an effective investigation into complaints, systemic or individual issues of abuse or neglect of people with disability, investigations referred by the Minister, or follow-up investigations. The powers are also subject to various safeguards such as requiring consent (e.g., s 113 of the SSR Act, amended by clause 351), and not abrogating legal professional privilege, client legal privilege or the protection against self-incrimination (sections 123 and 124 of the SSR Act, amended by clauses 358 and 359). Further, the personal information of service users will continue to be subject to the protections afforded under the *Privacy and Data Protection Act 2014* (**PDP Act**) and the *Health Records Act 2001*. Accordingly, I consider that any interference with privacy is neither unlawful nor arbitrary. Finally, the Regulator (as a public authority) would be required to act compatibly with the right to privacy in s 13 of the Charter.

Although the entry powers, as expanded by clauses 350, 351 and 352, involve some interference with the privacy of the residents and occupiers of premises, I consider that the interference is compatible with the right to privacy in s 13(a) of the Charter because it is in accordance with law (as detailed in the below descriptions of the relevant clauses) and proportionate to the legitimate aim of ensuring that the Regulator is able to effectively fulfil its complaints and investigation functions:

- clause 350 expands the power under s 112 of the SSR Act to provide that an authorised officer may enter premises without a warrant:
  - to investigate a contravention of this Act or the Disability Service Safeguards Act;
  - for the purposes of conducting an accountability investigation, however, residential premises are excluded; and
- clause 351 expands the power under s 113 of the SSR Act to provide that an authorised officer or independent investigator may enter residential premises without a warrant for the purposes of:
  - monitoring compliance with this Act or the Disability Service Safeguards Act or investigating a possible contravention of either Act; or
  - conducting an accountability investigation however, the occupier's consent is required.

By compelling a person to impart information, clauses 345, 346, 355, 371 and 377 also engage the right to freedom of expression in s 15(2) of the Charter. However, I consider any interference on the right to freedom of expression to come within the internal limitation at 15(3), in that it is reasonably necessary to ensure the Regulator, authorised officers and independent investigators can conduct effective accountability investigations, to protect the rights of others.

Property rights

The expanded seizure powers under a search warrant, provided for in clause 354 which authorises the seizure of any document or thing not named or described in the warrant if relevant to an accountability investigation,

may engage property rights under s 20 of the Charter. Similarly, the expanded power of authorised officers to seize any document or thing if they believe on reasonable grounds that the seized document or thing is relevant to an accountability investigation, provided for in clause 355 may also engage s 20.

However, the provisions empowering the removal of documents or things do not limit property rights, as any interference with property through such removal would be undertaken in accordance with the provisions of the Bill, which are accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct. In addition, any deprivation of property is reasonably necessary to achieve the important objective of protecting the rights of disability and social service users.

For the same reasons, the expanded scope of the Regulator's, authorised officer's or independent investigator's power to obtain information, documents and evidence for the purposes of regulation of disability workers and regulated social service workers and carers under the Disability Service Safeguards Act, conducting an accountability investigation or monitoring compliance with a provision under the Disability Service Safeguards Act, provided for in clause 346 , and the expanded powers to retain documents under new s 109A, inserted by clause 347 do not limit s 20 of the Charter.

Complaints and accountability investigations: new Part 9A of the SSR Act

Clause 391 inserts into the SSR Act new Part 9A, which provides for:

- an independent and accessible process for dealing with complaints about the provision of services by registered and regulated disability service providers and specified social service providers, and the conduct of disability workers and disability students – Division 1 of new Part 9A;
- initiated investigations – Division 2;
- referral investigations – Division 3;
- following up on investigations – Division 4;
- conduct of accountability investigations – Division 5;
- protections relating to complaints and investigations – Division 6; and
- reporting requirements – Division 7.

Rights to privacy and freedom of expression

The following provisions of new Part 9A engage the rights to privacy and freedom of expression:

- new s 283E(5) requires a person who complains to the Regulator to give their name and any other information relating to their identity that the Regulator may require, however, the Regulator may keep the information confidential (subject to new s 283E(6)) and the Regulator may still deal with a complaint made by a person who has not provided the required information, if the Regulator is satisfied that the complaint requires investigation (new s 283E(7));
- in respect of referral investigations, although the Regulator must publish details of any referral investigation on the Regulator's Internet site, the Minister may require the Regulator not to publish identifying details of any person (new s 283ZH);
- in respect of follow-up investigations, under new s 283ZP, the Regulator may give notice in writing to the service provider, requiring the service provider to report in writing about any action taken to comply with a notice to take action; and
- in respect of accountability investigations:
    - if the Regulator decides not to conduct a hearing in an accountability investigation, under new s 283ZX, the Regulator may take oral or written submissions, keep a record of all submissions and decisions made, and send for persons, documents or other things;
    - if the Regulator decides to conduct a hearing in an accountability investigation, the Regulator may require a person by written notice to produce a specified document or thing, or to attend the hearing (new s 283ZZ); and
    - new s 283ZV provides for principles applying to all accountability investigations, including that the Regulator is bound by the rules of natural justice; and that, before making a decision affecting a person, the Regulator must give the person an opportunity to make submissions to the Regulator about the decision.

While the above provisions engage the right to privacy, any interference is neither unlawful nor arbitrary and the provisions are therefore compatible with the right to privacy in s 13(a) of the Charter. In addition to the protections listed above, privacy and self-incrimination are also protected through the following provisions, which are necessary to protect the privacy of individuals and to ensure the Regulator can conduct effective

investigations, by enabling persons to provide information to the Regulator in the knowledge that it will be kept confidential:

- in respect of reporting, new s 283ZZG(2) precludes the Regulator from giving a report of a systemic initiated investigation to the clerk of each House of the Parliament if the report identifies or names an individual, or contains information which enables an individual to be identified; and
- finally, in respect of conciliations:
  - new sections 283O(1) and (2) provide for the confidentiality of the conciliation process and, by providing that evidence of anything said or admitted in a conciliation is not admissible in a hearing or court or tribunal proceeding (new s 283O(3)); and
  - new s 283P prohibits the disclosure of information obtained during a conciliation except in specified circumstances.

Property and fair hearing rights

New s 283G provides that a person who makes a complaint in good faith, or who produces a document or gives any information or evidence to the Regulator in making a complaint, is not subject to any personal liability because of, respectively, the making of the complaint, or the production of the document or the giving of the information or evidence. While the Victorian courts have not determined whether the right to bring a claim constitutes 'property' for the purposes of s 20 of the Charter, the Supreme Court has indicated that the term should be 'interpreted liberally and beneficially to encompass economic interests'.

This could include accrued causes of action. However, if new s 283G could be considered to deprive a person of property, by altering or extinguishing an accrued cause of action, any such deprivation will be 'in accordance with law' and will therefore not limit s 20 of the Charter. In particular, the provision is drafted in clear and precise terms. In addition, any deprivation of property would be reasonably necessary to achieve the important objective of ensuring that the Regulator can conduct effective investigations, by enabling persons to provide information to the Regulator without exposure to the prospect of personal liability.

By altering or extinguishing an accrued cause of action, new s 283G may also engage the right to a fair hearing in s 24(1) of the Charter, which protects the common law right to unimpeded access to the courts. For the reasons explained in the paragraph above, I consider that any limit on access to a court would be reasonably justified.

New s 283ZZB provides for powers in relation to documents and things produced at an accountability investigation hearing, or at the request of the Regulator, including retaining the document or thing for any period reasonably necessary for the purposes of the hearing. Any deprivation pursuant to s 283ZZB will be 'in accordance with law' and will therefore not limit s 20 of the Charter. Further, the retention of documents and things can only occur if reasonably necessary for the purposes of an accountability investigation, and new s 283ZZB(2) requires that they be delivered to the person, who appears to be entitled to them, when they cease to be reasonably necessary and at the person's request.

Publishing certain matters, including adverse comments or opinions

Clause 391 of the Bill includes provisions to ensure that those persons with a legitimate interest can access information about an investigation or decision of the Regulator. In particular, the Bill provides that:

- The Regulator is required to give written notice of the decision on a systemic initiated investigation to any person with disability (or their guardian or next of kin as relevant) who was the subject of the investigation and, if the notice makes adverse comment on or gives an adverse opinion of an individual, the Regulator must give the individual a reasonable opportunity to comment on the proposal to give the notice (see new s 283ZD).
- Similarly, if a report to the Minister or Secretary of a systemic initiated investigation, an individual initiated investigation, or a referral investigation makes an adverse comment on or gives an adverse opinion of an individual, at least 14 days before giving the report, the Regulator must give to the individual a copy of the relevant part of the report and give the individual a reasonable opportunity to comment on the adverse comment or opinion (see new s 283ZZF).

Rights to privacy and freedom of expression

These powers engage:

- the right to privacy in s 13(a) of the Charter, and the right not to have a person's reputation unlawfully attacked in s 13(b), by publishing an adverse comment on or an adverse opinion of an individual; and
- the right to freedom of expression in s 15(2) of the Charter, by compelling the Regulator to impart information.

To the extent that the rights in sections 13 and 15(2) are limited, I consider any limitations to be justified. The reporting requirements in Division 7 of new Part 9A of the SSR Act serve the important purpose of seeking to promote accountability in the disability and social services sector and to protect the rights of people with disability. Accordingly, as any interference with privacy and reputation will be authorised under legislation and is subject to the safeguards of allowing individuals a reasonable opportunity to comment on the proposal to give the notice, or the adverse comment or opinion, I consider the Bill does not amount to an arbitrary interference with these rights.

Complaints and promotion of rights

Clause 391 of the Bill includes protections in relation to complaints and investigations that promote a person's right to equality before the law (s 8(3) of the Charter) and right to life (s 9).

In respect of the right to equality before the law, the following provisions inserted by clause 391 seek to ensure that complainants and persons with disability have the equal protection of the law without discrimination:

- new s 283F requires the Regulator to give appropriate assistance to a person who wishes to make a complaint if the person requires assistance to formulate their complaint; and
- new s 283ZZ(2) provides that the Regulator may agree to a person giving evidence by different means (e.g., video link) if they are unable to attend the hearing, because of their disability or health.

The following provisions inserted by clause 391 seek to promote complaints' right to life:

- new s 283H(3)(a) provides that the Regulator may continue to deal with a complaint that has been withdrawn if the Regulator considers that the subject matter of the complaint should be dealt with as it could pose a serious risk to the life, health, safety or welfare of a person;
- new s 283I(3)(b)(i) provides that the Regulator may conciliate or investigate a complaint if it considers that, unless it does so, the subject matter of the complaint could pose a serious risk to the life, health, safety or welfare of a person; and
- new s 283P(2)(a)(i) provides for disclosure of information in circumstances where the person believes on reasonable grounds that the disclosure is necessary to avoid a serious risk to the life, health, safety or welfare of a person.

Division 2 – Transitional and repeal provisions

Removal of the office of the Disability Services Commissioner and the appointment of Associate Social Services Regulators

Clause 397 of the Bill inserts new Part 11B, which provides that the office of the Disability Services Commissioner (**Commissioner**) is removed, and the Commissioner goes out of office (new s 348D). The Office of the Commissioner is being dissolved because, given the shift in services from the State to the National Disability Insurance Scheme (**NDIS**), its remit is now small (covering forensic disability services, services to Victorians ineligible for the NDIS and some Transport Accident Commission services) and it is no longer viable as a standalone entity. Accordingly, the Commissioner's complaint and investigation function for people accessing Victorian Government funded disability services will be absorbed by the Regulator.

Right to equality

The removal of the Office of the Commissioner could engage the right to equality under s 8(3) of the Charter for people with disability. This is because every person has the right to effective and equal protection from discrimination, including on the basis of disability. The removal of the entity that was designed to support the oversight of the Victorian disability services sector, including relevant complaints and investigation processes, is relevant to an assessment of the efficacy of legislated protections against disability-based discrimination.

However, I consider that the removal of the Commissioner would not in fact affect any erosion in protections so as to constitute a limit the right to equality under s 8(3) of the Charter, as the Bill's amendments to the SSR Act provide that the Regulator absorb the complaint handling and investigation functions of the Commissioner. Further, the creation of the new offices of Associate Social Services Regulator (in new Division 2A of Part 2 of the SSR Act, inserted by clause 11 of the Bill) provides for dedicated Governor-in-Council appointed roles to assist in performing functions of the Regulator, in accordance with the Bill.

As such, there will be no reduction in safeguards for people with disability who continue to receive State-funded disability services. New Part 9A, inserted by clause 391 of the Bill, empowers the Regulator to resolve complaints, to conduct and follow up on initiated investigations, referral investigations and accountability investigations into the provision of disability and social services, and protect the rights of people with disability. Clause 10 of the Bill amends s 15 of the SSR Act to enable the Regulator to delegate functions to an Associate Regulator as needed, including the functions relating to complaints and investigations into the

provision of disability and social services (the exercise of which can be informed by expert assistance (see clause 156) and advice from an independent expert advisory panel (see clause 157)).

Therefore, the amendments do not propose to treat people with disability unfavourably and are not likely to have the effect of unreasonably disadvantaging those people, so as to constitute direct or indirect discrimination.

Right to take part in public life, property rights and fair hearing

First, clause 397 of the Bill inserts new s 348D(1)(a) of Division 1 of new Part 11B, which provides that, on commencement day, the Disability Services Commissioner goes out of office. Under s 14 of the *Disability Act 2006*, the Disability Services Commissioner holds office for a term (not exceeding five years) that is specified in the instrument of appointment and is entitled to receive any remuneration or allowances from time to time fixed by the Governor in Council. On ceasing to hold office – as a result of the provisions introduced by clause 397 – the current Disability Services Commissioner would not be paid any remuneration or allowances.

Although not defined in the Charter, 'property' in s 20 would encompass remuneration and allowances. For deprivation of a person's property to be in accordance with law, as required by s 20 of the Charter, the legal authorisation for the deprivation must be publicly accessible, clear and certain, and it must not operate arbitrarily. The deprivation of the remuneration or allowances of the current Disability Services Commissioner is a statutory consequence of the individual ceasing to hold office by the operation of new s 348D(1)(a). This provision is public, clear, certain and would not operate arbitrarily. Accordingly, I consider that it would not limit s 20 of the Charter.

Further, the Disability Services Commissioner may hold public office for the purposes of s 18(2)(b) of the Charter. However, I do not consider that the right to take part in public life in s 18(2)(b) would be limited by clause 397 of the Bill. This is because the operation of new s 348D(1)(a) in relation to the Disability Services Commissioner going out of office would not, in my view, constitute discrimination within the meaning of the Charter and the *Equal Opportunity Act 2010*.

For completeness, because the Disability Services Commissioner ceasing to hold office is a statutory consequence, I do not consider that this involves a civil proceeding or a decision-making exercise that would engage the fair hearing right in s 24(1) of the Charter.

Second, clause 397 of the Bill inserts new s 348D(1)(b) to (e) of Division 1 of new Part 11B, which provides for the Regulator to take on certain rights and obligations of the Disability Services Commissioner, including in relation to legal proceedings. Part of the right to a fair hearing, protected in s 24(1) of the Charter, is the common law right to unimpeded access to the courts. Further, while the Victorian courts have not determined whether the right to bring a claim against the State constitutes 'property' for the purposes of s 20 of the Charter, the Supreme Court has indicated that the term should be 'interpreted liberally and beneficially to encompass economic interests'. This could include accrued causes of action and contractual rights.

Clause 397 of the Bill provides that:

- all rights, property and assets, and all debts, liabilities and obligations, of the office of the Disability Services Commissioner, vest in the Regulator (new ss 348D(1)(b) and (c));
- the Regulator is substituted as a party to any pending court or tribunal proceeding to which the Disability Services Commissioner was a party (new s 348D(1)(d)); and
- the Regulator is substituted as a party to any arrangement, memorandum of understanding or contract entered into by or on behalf of the Disability Services Commissioner (new s 348D(1)(e)).

I do not consider that there would be any deprivation of a person's accrued cause of action against the Disability Services Commissioner by the operation of clause 397 of the Bill, given:

- the Regulator would be substituted as a party to any pending court or tribunal proceeding; and
- the transfer of the Disability Services Commissioner's property and assets, and liabilities and obligations, to the Regulator would not affect the Regulator's ability to compensate a person in a legal proceeding.

Further, there would not be any deprivation of a person's contractual rights against the Disability Services Commissioner by the operation of clause 397 of the Bill, given the Regulator would be substituted as a party to any arrangement, memorandum of understanding or contract. In any case, any deprivation would occur in accordance with law, as required by s 20 of the Charter.

For the reasons outlined above, I also do not consider that clause 397 of the Bill would limit the fair hearing right in s 24(1) of the Charter, because the clause would not operate to preclude people from bringing a legal action against the Regulator in place of the Disability Services Commissioner.

Part 4.3 – Amendment of Social Services Regulation Act 2021

Division 1 – Complaints about social and disability services and other matters

Division 1 of Part 4.3 provides for amendments to the SSR Act that are consequential to the proposed amendments to the Disability Service Safeguards Act and includes provision for the repeal of Part 5 of the SSR Act.

Power to enter public place without consent

Clause 353 of the Bill adds new s 114A to the SSR Act which provides that an authorised officer or independent investigator may enter public premises without the consent of the owner or occupier if:

- the entry is for the purposes of monitoring compliance with or investigating a possible contravention of the SSR Act or the Disability Service Safeguards Act, including for the purpose of conducting an accountability investigation; and
- it is a public place, and entry is made when the place is open to the public.

Right to privacy

Although this new entry power may involve some interference with the privacy of the owner or occupier of the premises, I consider that the interference is neither unlawful nor arbitrary. While the power does not require consent of the owner or occupier for entry, the exercise of the power is limited to circumstances where entry is for a specified purpose linked to an investigation or monitoring compliance with the regulatory regime, and at a time when the place is open to the public. Given this entry power is limited to circumstances where the premises is a public place and connected to the monitoring compliance with or investigating a possible contravention of the regulatory regime (and all other criteria are satisfied), I consider the power to be compatible with the right to privacy.

Powers after entry under warrant

Clause 357 of the Bill adds new s 122A to the SSR Act which outlines the powers of an authorised officer or independent investigator who enters a premises subject to a warrant under s 115 of that Act. These powers include directing a person to produce a document or part of a document located at the premises, providing reasonable assistance, operating equipment or providing access to equipment or complying with any lawful direction. In such circumstances, the authorised officer or independent investigator must inform the person that it is an offence to fail to comply without reasonable excuse, that under s 124 it is a reasonable excuse to refuse or fail to comply if complying would tend to incriminate the individual, and state the maximum penalty for failing or refusing to comply.

Clause 357 also adds new s 122B which provides that it is an offence for a person to fail to comply with a requirement made by an authorised officer or independent investigator under s 122A. This does not apply if the authorised officer or independent investigator failed to inform the person that it is a reasonable excuse under s 124 to fail to comply if complying would tend to incriminate the individual.

Right to privacy and freedom of expression

These powers engage the right to privacy in s 13(a) of the Charter, which protects against unlawful and arbitrary interferences with a person's privacy, family, home or correspondence. S 15 of the Charter also protects a person's right to freedom of expression, which has been interpreted to include a right not to impart information. This right may be subject to lawful restrictions reasonably necessary for the protection of public order (s 15(3) of the Charter).

While these powers may involve some interference with a person's right to privacy and expression, they are necessary to ensure that the authorised officers or independent investigators entering a premises under a search warrant can undertake certain actions for the purpose of executing the warrant relevant to an investigation. The powers are limited to being used for the purposes of executing the warrant. Accordingly, I consider that the interference is neither unlawful nor arbitrary and is therefore compatible with the right to privacy in s 13 of the Charter. I also consider it compatible with the right to freedom of expression because the limitation of this right is lawful and reasonably necessary for the effective execution of warrants under the regulatory regime. Finally, I observe that these powers are only excisable following judicial authorisation in the form of the warrant, protecting against any arbitrary exercise.

Confidentiality notice

Clause 380 amends s 201(1) of the SSR Act to update the bases upon which a confidentiality notice may be issued. This clause provides that the Regulator may issue a confidentiality notice to a person (other than an authorised officer, an independent investigator or a relevant agency) specifying a restricted matter (which is defined in s 200 of the SSR Act). A confidentiality notice may be issued if the Regulator considers on reasonable grounds that the disclosure of that restricted matter would be likely to prejudice: the investigation

of a contravention of the SSR Act or the Disability Service Safeguards Act; the investigation of a contravention of the Child Safe Standards; the investigation of conduct of a disability worker, disability student or a regulated social service worker or carer under the Disability Service Safeguards Act; the safety or reputation of a person; or the fair trial of a person who has been or may be charged with an offence.

Right to freedom of expression

The confidentiality notice regime restricts the right to freedom of expression. However, in my view, any restriction is reasonably necessary for the protection of the rights and reputations of others, and for public order. The amendments ensure that the existing regime aligns with the updated monitoring and enforcement functions of the Regulator and the rights of other persons to personal safety, reputation, or a fair trial, are not compromised by inappropriate disclosures concerning the exercise of powers under the Bill. The range of circumstances where a notice may be issued remain limited and appropriately tailored with a number of exceptions, which ensures that the limit on expression goes no further than reasonably necessary. I therefore consider that amended s 201(1) is compatible with the right to freedom of expression.

Part 4.4 – Disability legislation consequential amendment of other Acts

Subdivision 2 – Disability Act 2006

Following the removal of the Board, Commission, and Commissioner, clause 401 of the Bill amends s 202AB(4) of the Disability Act to remove the Board, Commission, and Commissioner as bodies that may receive the disclosure, use or transfer of protected information. Similarly, clause 402 amends s 202AD(1) to also remove the Board, Commission, and Commissioner as bodies which can receive information about worker screening from the Secretary.

As the Board, Commission, and Commissioner has statutory responsibilities under the Disability Act to receive and use information gathered in the course of provision of disability services, the reduction of the scope of the bodies' functions and powers could engage the right to equality under s 8(3) of the Charter for people with disability.

However, I consider that the above right is not limited by the repeal of the bodies' functions to receive and use relevant information as these functions will be assumed by the Regulator (which is already a prescribed body for the purpose of these sections), ensuring that there will be no reduction in the ways information related to the provision of disability services and worker screening can be received. On the contrary, the approach will clarify the Regulator's role to receive relevant information, enhancing the exercise of its functions.

Subdivision 7 – Spent Convictions Act 2021

Clause 415 amends s 22 of the Spent Convictions Act to remove the Board and the Commission as prescribed bodies or persons in which a law enforcement agency may disclose a spent conviction to, and transfers powers to the Regulator as a prescribed body. The amendment will specify that the Regulator, in accordance with its functions under the Disability Service Safeguards Act, can receive disclosures in relation to the registration and regulation of registered disability workers and disability students, and the regulation of unregistered disability workers.

Privacy right

The transfer of powers to receive disclosures to the Regulator may engage the right to privacy insofar that it will allow information to be shared. However, I consider that privacy is protected through this clause, which prohibits the disclosure of information to entities other than as authorised in s 22 of the Spent Convictions Act.

Right to equality

'Discrimination' under the Charter is defined by reference to the definition in the EO Act on the basis of an attribute in s 6 of that Act. Relevantly, 'spent convictions' is a protected attribute under ss 6(pb) of the EO Act. As such, the Regulator's power to receive disclosures of spent convictions from a law enforcement agency in relation to the registration and regulation of registered and unregistered disability workers, and disability students, may constitute direct or indirect discrimination. This is on the basis that information about a person's protected attribute is being shared between two bodies, which may affect, and discriminate against, a person's employment as a disability worker or disability student.

However, I consider that if such a limitation arises, it is justified in these circumstances. The Bill seeks to strengthen the regulatory systems that apply to disability workers, such that a more effective safeguarding framework can ensure that people with disability can access safe services without fear of abuse, harm or neglect from workers. There is a strong public interest in achieving this purpose and, accordingly, any limitations on the rights to equality are necessary to prevent potential risks of harm from disability workers and disability students towards people with disability, which may not be achieved by less rights-limiting means.

Subdivision 8 – Worker Screening Act 2020 and Schedule 2 – Further consequential amendments relating to the Worker Screening Act 2020

The Bill makes a number of amendments to remove references to the Board, the Commission, and Commissioner in information sharing provisions in the Worker Screening Act and transfers the existing powers to the Regulator as the case requires through consequential amendments in Schedule 2 to the Act to update references to the Secretary to the Regulator. These changes are implemented by the following provisions:

- Clause 417 amends s 18(2) of the Act in relation to consideration of an application for an NDIS check and Items 1.21 and 1.22 of Schedule 2 update references in s 18 from Secretary to Regulator;
- Clause 419 amends s 40(1) of the Act in relation to re-assessment of a person's eligibility to hold an NDIS clearance and Items 1.53 and 1.54 of Schedule 2 update references in s 40 from Secretary to Regulator;
- Clause 420 amends s 97(2) of the Act in relation to an applicant for internal review of a decision related to an NDIS clearance providing further information and Items 1.155 and 1.156 of Schedule 2 update references in s 97 from Secretary to Regulator;
- Clause 421 amends s 104(c),(d), (e) and (f), which removes the Board, Commission, and the Commissioner as bodies in which enquiries can be made and from which information can be sought from for the purposes of assisting VCAT in relation to the determination of an application in relation to NDIS clearances and Items 1.164 and 1.165 update references in s 104 from Secretary to Regulator; and
- Clause 422 repeals s 141, which currently empowers the Secretary to the Department of Justice and Community Safety to notify entities of certain matters relating to disability-related work, and to notify relevant entities (being the Board, Commission, and Commissioner) of matters relating to screening checks and clearances.

While these provisions may interfere with the right to privacy as they allow information to be shared between the Regulator and other bodies, the interference will be neither unlawful nor arbitrary. As discussed above, this is because these amendments are confined to their statutory purpose to enable the transfer to the Regulator of functions currently administered by the Board, Commission, and Commissioner under the Worker Screening Act. Disclosure of information in these circumstances does not extend beyond what is reasonably necessary to achieve the legitimate aim of the Bill and is reasonable and proportionate to the Bill's important objectives. Further, existing privacy protections will apply in the Worker Screening Act concerning further use or disclosure of this information.

Chapter 5 – Amendment of *Residential Tenancies Act 1997*

Part 5.1 – Specialist disability accommodation amendments

Application to the Tribunal to enter or establish agreement with SDA resident in occupation

Clause 456 of the Bill adds ss 498LAA, 498LAAB and 498LAAC to Part 12A of the *Residential Tenancies Act 1997*. These amendments provide the ability for a specialist disability accommodation (**SDA**) resident and SDA provider to apply to VCAT for an exceptional agreement order permitting an SDA residency agreement to be formed notwithstanding that the SDA resident is already in occupation of the SDA dwelling. New s 498LAAB permits VCAT to make such an order if it is satisfied that it is appropriate in the circumstances and having regard to the conduct of the parties. Further, new s 498LAAC requires that an SDA provider gives an SDA resident in respect of whom an exceptional agreement order is made, an information statement within 7 days after the order is made.

These provisions promote the rights of people with a disability in specialist disability accommodation and the right not to have their home arbitrarily interfered with by giving them the opportunity to have a valid SDA residency agreement in circumstances where they may not have been able to form an SDA residency agreement before occupying the SDA dwelling. It ensures that people with a disability can remain living in their home and have the same protections and rights as those who formed an SDA residency agreement before moving into their SDA dwelling.

Part 5.2 – Validation of certain SDA residency agreements

Clause 464 of the Bill adds Schedule 4 into the *Residential Tenancies Act 1997*. These amendments resolve potential validity issues with specialist disability accommodation agreements made with residents who transitioned from the group home protections under the *Disability Act 2006* to the *Residential Tenancies Act 1997* between 1 January 2020 and commencement of the protections. These amendments will provide certainty for affected residents and providers by deeming the agreements to have been validly formed in accordance with Part 12A of the *Residential Tenancies Act 1997*.

These provisions promote and ensure the rights of people with a disability in specialist disability accommodation are upheld, namely the right to equality and the right not to have their privacy or home arbitrarily interfered with. The amendments do this by ensuring that affected residents are not disadvantaged and are offered the choice to continue with their validated agreement or form a new agreement.

Conclusion

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

Hon Lizzie Blandthorn MP
Deputy Leader of the Government in the Legislative Council
Minister for Children
Minister for Disability

Second reading

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:38): I move:

That the bill be now read a second time.

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

Overhaul of Child Safety

Nothing is more important than the safety, welfare and wellbeing of children. The distressing allegations of child abuse in early childhood settings earlier this year demonstrate the need to ensure that we have the most robust and effective systems in place to protect all children in Victoria.

On 2 July 2025, the Victorian Government commissioned the Rapid Review of Child Safety (Rapid Review), led by Jay Weatherill AO and Pam White PSM. The Review made 22 recommendations to drive improvements in child safety. The Victorian Government accepted, and has committed to implementing, all 22 recommendations.

On 27 August 2025, the first tranche of urgent reforms that the government introduced to strengthen Victoria's Working with Children Clearance laws was enacted. Key changes included ensuring that anyone banned from child-related work interstate will be banned in Victoria, and requiring a Working with Children clearance to be immediately suspended while it is under re-assessment for intended revocation, with no exceptions.

The Social Services Regulation Amendment (Child Safety, Complaints and Worker Regulation) Bill 2025 (the Bill) is the next step in the government's child safety overhaul. The reforms in this Bill will bring together several child safeguarding schemes under the single roof of the Social Services Regulator and enhance the Working with Children Clearance, as recommended by the Rapid Review, to create a flexible scheme that is responsive to risk and prioritises child safety.

More effective protections for children across all settings

These reforms, in combination with the government's reforms to the oversight of Early Childhood services, will better protect children across the different settings where they play, learn and receive support and care.

In addition to consolidating the Working With Children Clearance scheme and other child safety schemes within the Social Services Regulator, the Bill also brings the regulation of disability workers into the Social Services Regulator, where it will be aligned with the existing regulation of out of home carer workers and carers. Safeguards will be significantly enhanced across these schemes.

Children use social services, and some of the social services registered by the Regulator are specifically aimed at supporting children – including child protection, statutory care and community-based child and family services. Children with a disability are a particularly vulnerable cohort – both in registered social services and in schools and early education.

While the totality of these initiatives will benefit service users in all settings, the combination of child safeguarding reforms and enhanced protections for service users with disability will particularly benefit children and young people with a disability – whatever service they are accessing.

While regulation of early childhood, teachers and schools will remain with the dedicated schemes in the new Victorian Early Childhood Regulation Authority and the Victorian Institute of Teaching, the strengthened information sharing arrangements between the Social Services Regulator and other regulators will allow information to flow between regulators so that problems are identified and addressed by the appropriate regulator.

The Working with Children clearance, which is used in so many areas of child-related work, provides a strong basis to keep children safe across all the services, activities and settings that children engage in. The Social Services Regulator will make the decisions about who should hold a Working with Children clearance, and who should have their clearance suspended or cancelled. The information that will flow into the Regulator from its own activities and from other sources including the education regulators, will be used to inform those decisions and to help keep children safe from predators in a broad range of settings.

I will now discuss each of the key reforms in this Bill in turn.

The foundation of the child safety overhaul is consolidation of regulatory responsibilities

The Rapid Review found that Victoria's child safeguarding regulatory framework is fragmented, with functions sitting across multiple regulatory bodies. This approach has meant that 'breadcrumbs' of information would often be viewed in isolation, only providing a partial picture of risk. Bringing safeguarding functions together into a single entity – with expanded powers and a broader remit – allows relevant information to be joined up across services, giving a more accurate picture of risk that goes directly to assessing whether someone is suitable to work with children.

The Rapid Review recommended that the Working with Children Clearance, the Reportable Conduct Scheme and the Child Safe Standards be consolidated in one place and that the Social Services Regulator is the appropriate entity to administer all these schemes. This was in recognition of the need to bring 'breadcrumbs' of information (including across disability and social services) into the one entity to ensure consistent safeguards for all Victorian children.

The Regulator is an independent statutory authority established under the *Social Services Regulation Act 2021* to safeguard social services users from harm, abuse and neglect. As an independent regulator with existing responsibilities relating to children in out of home care, and with an existing role under the Child Safe Standards as an integrated sector regulator, the Regulator is ideally placed to take on this new responsibility.

The Reportable Conduct Scheme, which exists to improve how organisations respond to allegations of child abuse and misconduct by their employees, is currently administered by the Commission for Children and Young People (CCYP). The CCYP oversees some providers' compliance with the Child Safe Standards and has a State-wide education and guidance function for the Standards. These functions will move from the CCYP to the Regulator.

The changes will focus the CCYP's critical functions on children and young people in child protection, out of home care and youth justice. The CCYP will continue to promote the rights, safety and wellbeing of children and young people, and provide independent scrutiny of services provided to children and young people, particularly those in the child protection system and in youth justice.

The Bill brings the Reportable Conduct Scheme and the CCYP's remit for the Child Safe Standards scheme under the roof of the Regulator, locating multiple sources of information about child safety together in one place. Additionally, the Working with Children Clearance, which is administered by the Department of Government Services, will move to the Regulator, who will become the decision maker under the scheme. The Minister for Government Services remains jointly responsible for the *Worker Screening Act* and the Department of Government Services will continue to run the substantial databases that support both the Clearance and the NDIS worker screening check. The public interface with the scheme will continue to be through Services Victoria, so Victorians will continue to use the same system to apply for a Clearance or to check the status of people they engage to work with children.

Enhancements to the Working with Children Clearance framework

The Rapid Review found that Victoria's Working with Children Clearance framework under the *Worker Screening Act 2020* was not fit for purpose and needed to be rebalanced in favour of child safety. This Bill enacts all of the Rapid Review's Working with Children Clearance recommendations and ensures that Victoria's Working with Children Clearance leads the way nationally in better protecting the safety, welfare and wellbeing of children.

The Bill introduces a series of reforms to Victoria's Working with Children Clearance laws that will improve the Regulator's ability to act swiftly and decisively to prevent harm to children.

Unsubstantiated information may trigger and inform Working with Children assessments

Currently, only criminal charges or substantiated disciplinary findings can be used as a basis to assess, refuse, temporarily suspend or revoke a Working with Children clearance. Information that falls below this, for example, unsubstantiated allegations or intelligence from police or received through the Reportable Conduct Scheme, can be highly pertinent to forming a holistic picture of risk.

The Rapid Review found that limitations on the use of such information are problematic as they can lead to an incomplete view of the child safety risks posed by a Working with Children clearance holder or applicant.

In response to the Rapid Review recommendations, this Bill ensures that the Regulator will have the power to act swiftly and decisively when it receives any information that puts children's safety in doubt, rather than having to wait until a matter is finalised.

A new Intelligence and Risk Assessment Unit

To support the appropriate use of information that is yet to be substantiated for the purposes of determining someone's suitability to work with children, a new Intelligence and Risk Assessment unit is being established within the Regulator, consistent with the recommendations of the Rapid Review.

Evidence-based risk assessment tools will be developed with input from child safety experts, ensuring staff are well trained and equipped to exercise consistent and sound professional judgement when weighing up risk information.

A new 'interim bar' power to immediately prohibit or suspend someone from Working with Children

The expanded ability to assess risks to children's safety based on information that is yet to be substantiated will be supported by the introduction of a new 'interim bar' power.

Currently, the Regulator must immediately suspend someone's Working with Children clearance when a person is found guilty of serious offending.

The new standalone 'interim bar' power in the Bill will allow the Regulator to act on the basis of serious intelligence or information that is yet to be substantiated, but that suggests a risk to children is present, and immediately prohibit or suspend someone from working with children while the Regulator undertakes a risk assessment.

The 'interim bar' can be imposed for six months initially, with an ability for the Regulator to extend this up to a total maximum duration of 24 months. The 24-month upper time limit will ensure the Regulator has time to complete an assessment or re-assessment, and importantly will allow completion of investigative processes – for example, by police or child protection. While it is a substantial period for an interim decision to stand, it means a person will not be subject to a Working with Children exclusion, which prevents a person from reapplying for five years without a change in circumstances.

Because 'interim bar' decisions are not a final determination, they are not subject to the internal review process. However, for any 'interim bar' that extends beyond six months, the Bill imposes a requirement on the Regulator to re-assess its continued necessity every three months.

An internal review process for Working with Children decisions

The Rapid Review recommended that Victorian Civil and Administrative Tribunal (VCAT) review of a Working with Children decision be removed and replaced with an internal review process. The Review identified the need for review decision makers to possess specialist skills and knowledge relevant to the assessment of risks to child safety.

The Bill enacts this recommendation by preserving review rights but replacing the review pathway to VCAT with an internal review process. This and the following changes importantly ensure natural justice for people who have been refused a Working with Children clearance or have had their Working with Children clearance revoked.

The Bill requires that an application for internal review be dealt with by a person who did not make the reviewable decision and who is in a position equal to or more senior than the original decision maker. This will support a structural separation of first instance and review decision making within the Regulator. It will safeguard against conflicts in the internal review process and ensure the original decision is properly considered afresh.

To ensure that these decisions draw on specialist expertise in child safety, as recommended by the Rapid Review, the Bill will require the Regulator to establish an expert panel that can provide independent specialist advice as needed in relation to individual reviews. The expert panel will be established as a list of appropriately qualified members, a convener, and (at the Minister's discretion) one or more deputy conveners. The office of convener ensures independence by allowing the expert panel to manage its own processes in response to the Regulator's requests for advice on individual cases.

Judicial review in the Supreme Court is of course not affected. The Bill's requirements for the Regulator to provide reasons for an adverse review decision will support applicants to make an informed decision about whether to make such an application.

Mandatory online safety training for all Working with Children applicants

The Rapid Review found that the broader community lacks the required knowledge to act to protect children from abuse and neglect. The Bill requires mandatory child safety training and testing for people applying for

a Working with Children Clearance to support applicants to have a base level of child safety literacy. This will equip them to recognise, identify and adequately act to protect children from abuse.

This requirement will apply to all new and renewal applications but will not start until government has ensured the training materials are fit for purpose and integrated with the on-line application system. There will be flexibility to accommodate applicants who require reasonable modifications to be made to the process, as well as flexibility for the Regulator to make alternative arrangements for proof of completion of training to be provided at a later date.

Organisations to verify that employees and volunteers have Working with Children Clearance

The Rapid Review found that there is currently no effective method of ensuring a link between a person with a Working with Children Clearance and every organisation where they work or volunteer. Organisations are not required to verify that persons they engage in child-related work have a Working with Children Clearance. Although the person engaged is required to notify the screening authority that they are working or volunteering with an organisation, and this will create a link on the system between a clearance holder and an organisation, there is a risk a person may fail to link every organisation with which they have worked.

The Bill addresses this risk by requiring anyone engaging a person in child-related work to verify that the person has a Working with Children clearance. Employers and volunteer organisations must also notify the Regulator when they engage or cease to engage a person in child-related work and provide details of the person's name, address and phone number, and update the Regulator with any changes. This will apply to new and existing workers but will not commence until government has ensured that the requirement can be integrated in the current Working with Children Clearance user interface, and that the burden on organisations will be manageable.

The Bill introduces new offences for failing to update this information, to help ensure compliance. The Bill also ensures that the new requirements are appropriately targeted by providing an exception for parents entering a private arrangement for their own children. These parents will however be able, if they choose, to notify the screening authority that they have engaged a Working with Children clearance holder in child-related work.

These changes will allow the Regulator to properly track the movement of workers and volunteers across organisations, further expanding and strengthening the safety net around children.

National harmonisation

The Victorian Government is also working with the Commonwealth Government and other States and Territories to develop a national approach to the Working with Children Clearance laws and advocate for an improved national database to support real-time monitoring of who holds a Working with Children clearance.

Bringing together information from different parts of the child safeguarding system

The new Victorian Early Childhood Regulatory Authority, VECRA, will be the primary place parents concerned about the quality or safety of care can go for assistance and advice. Any concern about an immediate risk to child safety outside the home, or that a crime may have been committed, should be reported to police. However, government recognises that not all risk to children will end in a criminal prosecution, and child safety cannot wait where unacceptable risks are seen.

These reforms recognise that information about risk to children can come from many different places, and from different stages of an investigation. The Regulator will receive information from investigatory authorities as soon as is appropriate and will be able to act on it quickly to stop someone from working with children if needed.

The Social Services Regulator will also be able to collect up information from other places that consider risks to child safety, including the Victorian Institute of Teaching and VECRA. No matter which agency gets a complaint and investigates it, information from those investigations can flow into the Regulator.

The new shared intelligence and risk assessment function will allow the Regulator to piece this information together, so it gets a holistic picture of whether someone is a risk to children and so that it can make quicker and robust decisions about whether people are safe to work with children.

These reforms are building a system that enables different agencies to work together, to get a complaint or concern to the right place to be investigated and then get the information from that investigation into the right place for it to be acted on. **In the words of the Rapid Review, over time there should be 'no wrong door'.**

Working with the new Early Childhood Regulator

The expanded Social Services Regulator will work closely with the proposed new independent Victorian Early Childhood Regulatory Authority, introduced in the Victorian Early Childhood Regulatory Authority Bill 2025, to strengthen regulation and child safety.

Early childhood workers (who are not also qualified teachers) need a Working with Children Clearance to work in early childhood. The Social Service Regulator will tell VECRA when it suspends or cancels an early childhood worker's Working with Children Clearance, so that VECRA is aware that a person can no longer work in early childhood.

The Regulator will also tell any organisation that it is aware of that employs that person. While an individual is required to stop performing child related work, ensuring that employers know when a clearance is suspended or cancelled protects against workers failing to remove themselves from the workplace.

In addition to sharing these outcomes, the Regulator is also empowered to share information with other regulators. Where the Regulator receives a complaint or intelligence that would fall within VECRA's remit, the Regulator will be able to refer the complaint or intelligence to VECRA and vice versa, ensuring a 'no wrong door' approach to child safety matters.

The *Social Services Regulation Act 2021* includes broad information sharing powers, that will allow the Regulator to share relevant information with VECRA. Similarly, the VECRA will be empowered to share information that is required under any other law – providing information to the Social Services Regulator that will be able to be added to the other pieces of information gathered through the new intelligence and risk assessment function.

Where that information raises a question of whether a person is suitable to work with children, the Regulator's expanded powers under the Working with Children Clearance will allow it to combine this information with other 'breadcrumbs' from sources including social services regulation, Reportable Conduct Scheme and its Child Safe Standards work, and reassess or suspend an individual's Working with Children clearance where necessary. As I noted earlier, the Regulator will notify VECRA of these outcomes. As these reforms commence, the regulatory authorities will build the protocols and pathways to ensure this information is shared quickly to enable each regulator to play their part.

Both the Social Services Regulator and the Victorian Early Childhood Regulatory Authority will be prescribed under the Child Information Sharing Scheme, further enhancing the information that can be shared between them. The scheme allows prescribed organisations to share confidential information about children when doing so will promote a child's wellbeing or safety – including to assess or manage risk, plan services, or support investigations.

This will enable the Social Services Regulator and the Victorian Early Childhood Regulatory Authority to receive and share relevant information to:

- identify and respond to risks to children
- inform workforce screening and exclusion decisions
- coordinate regulatory responses with other oversight bodies.

In practice, if a worried parent contacted the Social Services Regulator with concerns about the behaviour of an early childhood educator, that information will reach the right place for any investigation or other follow action required.

If the complaint raises concerns about criminal conduct, the Regulator would contact Victoria Police to enable the allegation to be investigated. The proposed new Victorian Early Childhood Regulatory Authority (VECRA) will be the central regulator for early childhood, so the Regulator would also provide any information about risk to a child to VECRA.

Criminal investigation by Victoria Police will always take precedence. Depending on the circumstances, this information could also be responded to by a combination of regulatory measures. These include information gathering across multiple sources, risk assessment, and the use of new Working with Children Clearance suspension powers designed to protect children from harm across all settings involving child-related work.

The Regulator could gather information as part of its own investigation of the worker's suitability to continue to hold a Working with Children clearance. This could involve gathering information from police and VECRA, as well as other sources such as allegations or investigations under the reportable conduct scheme and the worker and carer exclusion scheme for out of home care workers. Importantly, the Regulator is no longer required to wait, for example, for police to charge the worker before taking protective action. The Regulator may suspend the worker's Working with Children clearance if it considers that it is in the interests of child safety to do so. The Regulator must then notify the worker of the suspension in writing, stating that they must not engage in child-related work while the suspension is in force. The Regulator would also be required to notify the centre and/or agency who employs the worker. The suspension would affect the worker's right to work with children in other settings, including early childhood education and teaching, and would also prohibit the worker from engaging in any volunteer activity involving child-related work such as sports coaching.

Consolidating disability oversight functions in the Social Service Regulator.

Similar to the early childhood sector, the location of different responsibilities and different sources of information in the disability oversight area leads to the risk that no one agency has a holistic focus on consistent protections and safeguards for children and adults in higher-risk settings. Disability oversight in Victoria is currently fragmented and confusing for people with disability to navigate. The Victorian Disability Worker Commission regulates disability workers, while the Disability Services Commission receives complaints about State-funded disability services. The Social Service Regulator regulates state-funded disability services and ensures that providers meet the social service standards.

This Bill will bring all the current Victorian disability oversight functions under the roof of the Social Services Regulator, creating a more efficient and effective system that is easier for people with a disability to navigate. It will also better enable breadcrumbs of information and risk to be shared, to inform collective action across different sectors, including higher-risk settings, to protect children.

The rights of children and adults with disability are a key priority for the Victorian Government. The reforms will ensure that people with disability continue to be protected from harm, abuse and neglect, and receive safe and high-quality services. Many reforms in this Bill, which I will outline below, enhance protections and safeguards for disability service users.

The changes in the Bill will enable better information sharing and a stronger independent regulator that has the powers it needs to keep our communities safe. It will deliver a strengthened and more efficient safeguarding framework to ensure that children and adults with disability – and people accessing social services more broadly – can access safe, high-quality services, and can do so without fear of abuse, harm, or neglect from providers or workers.

More effective safeguarding of children and adults accessing disability services

The Rapid Review acknowledged that predators exploit system loopholes and administrative gaps to target vulnerable people. The reforms in this Bill will strengthen Victoria's regulatory systems recognising that children with disability may be at higher risk of abuse. As the Rapid Review noted, for too long too many separate pieces of relevant information about an individual have not been pieced together to create the full picture of risk. We need a better understanding of child safety to protect all children – including those at risk due to disability, neglect, family violence and other forms of abuse. This Bill also reflects the need to protect children and adults accessing disability services in Victoria, particularly to ensure that predators are prevented by the Social Services Regulator from moving between sectors.

Safeguarding all children including those with disability cannot wait and we must act. An effective and efficient safeguarding framework is vital to ensure that all Victorian children and adults living with disability can access high-quality services, and can do so without fear of abuse, harm and neglect from providers.

This Bill addresses regulatory fragmentation raised by the Rapid Review by bringing together a range of related regulatory and oversight functions within the one agency to create a system that is easier for everyone to navigate. Amongst other things, this provides that breadcrumbs of information across any of the Social Services Regulator's functions can be used to prevent high-risk individuals from working with children with disability and builds on improvements already made to the Working with Children Clearance to include prohibitions of disability workers by regulatory bodies as a trigger for an NDIS worker screen or Working with Children re-assessment.

An expanded complaints scheme

The number of different entities involved in regulation and complaints for social services can be confusing for service users. For example, of the 62 complaints made to the Disability Services Commissioner in 2024–25, 58 were outside of its legislated scope. Where those complaints never reach the right place, this can lead to essential safeguarding information being missed or trends of poor conduct by workers going unchecked, reducing the safeguards for children and adults in high-risk settings.

The Review of the National Disability Insurance Scheme noted that people with disability frequently struggle to identify which service they should approach to have their concerns addressed.

The Disability Royal Commission also noted in its final report that accessing the existing complaints landscape is difficult without appropriate assistance and support. The report highlighted stakeholder feedback calling to remove the burden on individuals to navigate where to complain whilst respecting and empowering them to participate.

Disability Services Commissioner

The Disability Services Commissioner currently receives and resolves complaints about disability service providers (not individual workers) and promotes the rights of people with a disability to be free from abuse and neglect. However, with the shift in services from the State to the National Disability Insurance Scheme,

the remit of the Victorian Office of the Disability Services Commissioner is now very small, covering forensic disability services, services to Victorians ineligible for the NDIS and some Transport Accident Commission services.

But, while the scope of the Office has reduced in size, its function of regulating State funded and delivered disability service providers continues to be an important safeguard. The function will be moved into the Social Services Regulator, where complaints about a disability service that is funded by Victoria will continue to be able to be dealt with, and where the information that a complaint provides can also inform the Regulator's broader regulatory activity.

A new complaints pathway for all social service users, covering all social service providers

It is not only users of a disability service who, from time to time, will wish to complain about the service they are receiving. However, currently users of disability services are the only social service users that have a dedicated pathway for their complaint to be heard.

The Bill introduces a new, dedicated and accessible pathway for service users and their advocates to raise concerns about social services with the Social Services Regulator. This not only provides critical new safeguards for service users that do not currently have access to a dedicated complaints function but also supports the Regulator to gain information across sectors and address risks in a timely way.

The complaints scheme will be rolled out progressively – starting with disability services and disability workers and eventually covering all social services within the scope of the Regulator. This will allow for complaints in a social service, to be made to the one Regulator. This will allow action to be taken to safeguard children and adults in disability services, out of home care or the broader social services and to provide the same level of consistent safeguards and protection across all the social services.

The Regulator will be able to resolve complaints through agreement with the relevant parties, or through investigation. It will have access to its full range of existing powers to conduct investigations about complaints it receives.

As in the child safety space, it is important to be able to bring together disparate pieces of information from different sources in order to fully identify risk to users of social services. A complaints function will allow the Regulator to receive a broad picture of risk, from multiple sources, and to consider this information holistically, and determine the most appropriate response.

Where the Regulator receives information through its complaints function (including about disability services and/or workers) which raises a question about whether a person is suitable to work with children, the Regulator's expanded powers under the Working with Children Clearance will allow it to combine this information with other 'breadcrumbs' from sources including the Reportable Conduct Scheme and re-assess or suspend an individual's Working with Children clearance. This builds on recent changes to Victoria's Worker Screening laws which ensure a decision by other regulators to prohibit a disability worker, triggers a re-assessment of the worker's NDIS worker screen or WWC clearance. This will better protect Victorian children, as a potential predator located in one service type will be more easily stopped from working across any other settings where children play, learn or receive support and care.

Worker regulation

Currently, the Victorian Disability Worker Commission and Disability Worker Registration Board are jointly responsible for regulating disability workers in Victoria. The Commission can investigate complaints and notifications about disability workers and the Commissioner can prohibit disability workers from providing disability services in certain circumstances. The Disability Worker Registration Board sets standards for and administers the voluntary registration system for disability workers.

The Bill will mean the Regulator takes on these functions, in addition to its current role of regulating out of home care workers and carers under the Worker and Carer Exclusion Scheme. The Disability Worker Registration Board will dissolve once these functions transition to the Regulator.

The worker regulation and prohibition scheme will continue under the Regulator, with the Bill aligning, where practical, existing regulation of out of home care workers and carers with regulation of disability workers so that they are regulated consistently.

Importantly, the changes will also increase protections for people with a disability and children in out of home care. The Bill will introduce additional regulatory tools for the out of home care sector, to align with those currently available in the disability sector. The current Worker and Carer Exclusion Scheme can only result in a decision to prohibit or not prohibit a worker or carer, while the disability worker regulation scheme allows for a range of interventions that are appropriate when a worker's conduct needs to be addressed, but does not warrant prohibition.

These include providing information and guidance to a worker, or placing conditions on a worker such as requiring them to undertake specified training. These interventions will be available for lower-level conduct, aiming to address concerning worker conduct before it risks harm to service users and warrants the worker being prohibited.

Currently a disability or out of home care worker who is prohibited under one scheme is still able to work in the other. Bringing the schemes together under one roof will enable the Regulator to prohibit a worker or carer from being employed or engaged in one sector, if they have a prohibition order against them in the other. This will enable the Regulator to limit mobility of excluded workers between the disability and out of home care sectors, further protecting Victorian children and Victorians with disability.

There will be increased penalties for offences that apply in the disability sector, ensuring greater uniformity of penalties across the two regulated workforces. Offences that exist in the Worker and Carer Exclusion Scheme will be expanded to also apply in the disability sector, including offences for applying for employment if prohibited and for failing to notify an employer if placed under investigation, or subject to a condition or a prohibition order. There will also be a new offence that will apply to any registered disability provider that engages a disability worker, while that worker is listed on the public register as being prohibited. The new offences and changes to penalties ensure consistency across the two workforces and will strengthen protections for service users.

Consistent with the new internal review process for the Working with Children Clearance scheme noted earlier, the Bill creates an internal decision making and review pathway for both out of home care and disability worker regulation. This replaces first instance prohibition decisions about out of home care workers and carers that are currently made by the Worker and Carer Exclusion Scheme Panel. It also replaces review of worker prohibition decisions for disability and out of home care workers which are currently reviewable by VCAT. These internal review processes will be supported by the same expert advisory panel arrangements being established in connection with the Working with Children Clearance scheme, ensuring that independent specialist advice can be provided to the Regulator for particular internal review decisions. The expert panel will include specialist disability expertise as well as child safety expertise to ensure decisions by the Regulator are appropriately informed.

Worker and Carer Register

Currently, the Regulator is required to record information on workers and carers who are prohibited from working in the out of home care sector, and this information is used to ensure that out of home care services do not engage prohibited workers. The information is not publicly available.

The reforms will establish a requirement for the Regulator to maintain a register of workers and carers in the out of home care sector, including details of their employment or engagement, covering the same scope of workers and carers as the previous Victorian Carer Register.

Providers will be required to provide the Regulator with the required information on the people they employ or engage, and it will be an offence not to provide this information. Providers will have adequate time to provide this information as the register is being established.

If a worker or carer is under investigation, or is excluded from the out of home care sector, this register will enable the Regulator to identify where the individual is employed or engaged, or may have previously worked or been engaged, and to swiftly notify relevant providers. This will prevent prohibited workers or carers from working with Victorians with vulnerabilities, providing critical additional protection for service users.

I am conscious that we do not yet have a similar database of disability workers in Victoria, who may be working across State and or NDIS funded roles. I know that the Commonwealth raised concerns about the risks the number of unregistered NDIS service providers pose, and the NDIS Provider and Worker Registration Taskforce recommended registration of disability workers. As Disability Minister, I will continue to advocate for a strong regulatory system to protect the rights of people with disability to receive safe and high-quality services they deserve, including a register of disability workers.

Maintaining disability specialisation

We have heard that there needs to be a continued focus on disability sector specialisation throughout these reforms. In response, the Bill includes reforms to ensure that the Regulator retains disability focus and expertise, including:

- establishing Associate Regulator roles. These key leadership roles will be Governor in Council appointments. There is flexibility in how these roles can be used, but it is intended that at least one Associate Regulator will have an understanding of, and expertise in, disability, and another will have child safety expertise.

- staff from impacted entities such as the Victorian Disability Worker Commission will transfer to the Regulator.
- enabling the Regulator to establish expert committees or expand existing committees to provide advice on the registration and regulation of Victoria's registered and unregistered disability workers.
- as noted above, the ability to include specialist disability expertise on the Expert Advisory Panel, ensuring that the Regulator is informed by expertise in this area when reviewing prohibition decisions.

Procedural fairness safeguards

The common objectives that cut across all these reforms are the paramountcy of the safety of vulnerable cohorts and the prevention of individuals posing an unjustifiable risk from gaining access to sector specific employment or volunteering opportunities.

Consequently, the Bill empowers the Regulator to make decisions that have significant consequences for the rights of individuals, including prohibiting individuals from working in the out of home care and disability sectors and in child-related work, where appropriate and necessary.

However, the Bill includes safeguards to ensure any decision to prohibit an individual from working in a relevant sector is proportionate and justified in the interests of safeguarding vulnerable individuals.

In relation to disability and out of home care worker and carer regulation and Working with Children Clearance functions, the following procedural safeguards will apply or continue to apply:

- a requirement for the Regulator to provide reasons for decisions (subject to exceptions where disclosure would prejudice an investigation, identify a confidential law enforcement source of information or pose a serious safety risk).
- the ability to respond to evidence relied upon by the Regulator in making a final Working with Children Clearance decision.
- structural separation of first-instance and review decision making in the new internal review process, and the requirement for the Regulator to establish an independent expert panel from which the Regulator can seek specialist advice on complex review applications. There will also be requirements to provide written reasons for an adverse internal review decision.
- judicial review to the Supreme Court is retained, noting that the requirements for the provision of reasons in the Bill will support applicants to make an informed decision about whether to make such an application to the Supreme Court.
- a requirement for regular re-assessment of interim bar decisions, and interim out of home care and disability worker prohibitions.

In relation to allowing unsubstantiated intelligence or information to inform Working with Children Clearance assessments, in addition to the above procedural safeguards:

- the implementation of more sophisticated risk assessment capabilities through an enhanced risk assessment tool will enable greater use and interrogation of information. It will also ensure the Regulator has evidence-based tools to fully assess the risk posed to children by the new types of information.
- an offence of providing false or misleading information will mitigate against the risk of vexatious or malicious action in relation to allegations.
- the Regulator will be required to report annually on the number of adverse decisions made that involve consideration of information that is not able to be shared with the individual who is the subject of that decision.

Review

This is a significant package of reforms, which will affect many Victorians. Over 2 million Victorians hold a Working with Children Clearance, and up to half a million applications and renewals are processed every year. We are striking a balance between the paramount consideration of ensuring Victorian children are safe and the need to preserve a fair and efficient system that enables many Victorians to work and volunteer in their communities.

To ensure that we have struck the right balance, we are committing to review the reforms made in this Bill in response to the Rapid Review, five years after the commencement of those reforms. That review will be tabled in Parliament.

Implementation

The reforms in this Bill are significant and urgently required. In particular, the Government is seeking to make changes in response to the child safety review as a matter of urgent priority.

Given the scale and complexity of the reforms, they will be phased in progressively, commencing with numerous reforms to the Reportable Conduct Scheme, most of which will start on Royal Assent.

Given the urgent nature of this reform package, I intend that the other reforms will commence as soon as the required arrangements can be put in place.

Specialist disability accommodation and other minor amendments

The Bill makes targeted amendments to Part 12A of the *Residential Tenancies Act 1997* to ensure that the rights of people with disability in specialist disability accommodation are upheld, and that the law operates as intended.

The amendments will resolve potential validity issues with specialist disability accommodation agreements made with residents who transitioned from the group home protections under the *Disability Act 2006* to the *Residential Tenancies Act 1997* between 1 January 2020 and commencement of the protections. In some cases, these agreements could be found to be invalid due to technical defects in how they were formed.

The amendments will provide certainty for affected residents and providers by deeming the agreements to have been validly formed in accordance with Part 12A. To ensure residents are not disadvantaged, providers will be required to offer residents the choice to continue with their validated agreement or to form a new agreement.

The Bill will further improve and enhance Part 12A by:

- empowering the Victorian Civil and Administrative Tribunal to waive the requirement that an agreement be made before the resident moves into the accommodation
- aligning rent collection provisions for specialist disability accommodation with the rest of the *Residential Tenancies Act 1997*, reducing confusion for residents and providers
- streamlining residential notice requirements to reduce duplication, while preserving the Public Advocate's safeguarding role in respect of notices issued under Part 12A.

The Bill also makes minor and clarifying amendments to the *Residential Tenancies Act 1997*, *Social Services Regulation Act 2021* and other Acts. The changes are needed to ensure alignment of those Acts with amendments made by the *Disability and Social Services Regulation Amendment Act 2023*.

Conclusion

The Government has acknowledged the need for an overhaul of the child safety system to keep Victorian children safe and rebuild confidence in the early childhood education and care sector. The reforms in this Bill are a crucial step in the Government's response to distressing allegations of abuse in childcare centres.

Likewise, the Government is committed to ensuring that the safeguarding framework for people accessing social services is effective, efficient, and fit for purpose. The Bill will make the safeguarding system simpler for people to navigate and provide additional avenues for people accessing social services to have their voices heard.

The Bill reflects the Government's commitments to streamline, strengthen, and enhance regulation of social service providers, disability and out of home care workers and carers, and workers and volunteers working with children and young people.

This Bill will ensure that Victoria's regulatory frameworks for child safety and social services are as strong as possible to promote and protect the safety and wellbeing of our most vulnerable Victorians.

I commend the Bill to the house.

Evan MULHOLLAND (Northern Metropolitan) (19:38): I move:

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

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

Victorian Early Childhood Regulatory Authority Bill 2025

Introduction and first reading

The PRESIDENT (19:38): I have received the following message from the Legislative Assembly:

> The Legislative Assembly presents for the agreement of the Legislative Council 'A Bill for an Act to establish the Victorian Early Childhood Regulatory Authority, to provide for the Victorian Early Childhood Worker Register, to make related consequential amendments to other Acts and for other purposes.'

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:38): I move:

> That the bill be now read a first time.

Motion agreed to.

Read first time.

Jaclyn SYMES: I move, by leave:

> That the second reading be taken forthwith.

Motion agreed to.

Statement of compatibility

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:39): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

> **Opening paragraphs**
>
> In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006* (the **Charter**), I make this statement of compatibility with respect to the Victorian Early Childhood Regulatory Authority Bill 2025 (the **Bill**).
>
> In my opinion, the Bill, as introduced to the Legislative Council, is compatible with the human rights protected by the Charter. I have this opinion for the reasons outlined in this statement.
>
> **Overview of the Bill**
>
> The main purposes of the Bill are:
>
> - to establish the Victorian Early Childhood Regulatory Authority (**Regulatory Authority**), a new independent authority with responsibility for regulating early childhood education and care services under the Education and Care Services National Law in the Schedule to the *Education and Care Service National Law Act 2010* (**National Law**) and children's services under the *Children's Services Act 1996* (**CS Act**);
> - to provide for the Victorian Early Childhood Worker Register; and
> - to make related consequential amendments to other Acts.
>
> **Human rights**
>
> The human rights protected by the Charter that are engaged by this Bill are:
>
> - the right to privacy (section 13);
> - the right to participate in public life (section 18);
> - the right to a fair hearing (section 24); and
> - the right not to be punished more than once for the same offence (section 26). I will discuss these human rights in turn.
>
> **Appointment and removal of Early Childhood Regulator**
>
> Clause 10 establishes the role of the Early Childhood Regulator. The Governor in Council, on the recommendation of the Minister, may appoint a person as the Early Childhood Regulator (**Regulator**). Clause 12(1) provides that the Governor in Council, on the recommendation of the Minister, may appoint a person to act in the office of the Regulator for a period not exceeding 6 months if the Regulator is absent or,

for any other reason, is unable to perform the duties of office, or if there is a vacancy in the office of the Regulator, during such period. Clause 12(2) provides that the Minister may appoint a person to act in the office of the Early Childhood Regulator for a period not exceeding 6 months if the Early Childhood Regulator is absent.

Clauses 10(2) and 12(3) provide that the Minister must not appoint or recommend a person for appointment as the Regulator or acting Regulator if that person is, among other things, insolvent or been convicted, or found guilty, of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence. These criteria will, in effect, require any person seeking appointment as Regulator to disclose to the Minister personal information – including sensitive information such as their criminal record. By implementing such criteria section 13 of the Charter is engaged.

Right to privacy (section 13)

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

I consider any impacts on the right to privacy are not unlawful or arbitrary. The interference with privacy is authorised under the legislation and is for the purpose of assuring the appropriateness of the person to be appointed the Regulator responsible for regulating early childhood services under the National Law and the CS Act. Further, information relating to criminal convictions and insolvency, while personally sensitive, is generally information that is publicly ascertainable and commonly provided when satisfying statutory tests that person is fit and proper for a regulatory role. Additionally, a person seeking appointment as a Regulator is doing so voluntary and consequently is choosing to undertake a process which requires their personal information to be considered.

I therefore consider that clauses 10 and 12 are compatible with the right to privacy in section 13 of the Charter.

Right not to be punished more than once for the same offence (section 26)

Section 26 of the Charter provides that a person must not be tried or punished more than once for an offence in respect of which they have already been finally convicted or acquitted in accordance with law. This right is engaged by clauses 10 and 12 which provide that a person who has been convicted, or found guilty, of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence, cannot be recommended by the Minister for appointment as Regulator. This right is also engaged by clause 14 which provides, among other things, that the Regulator ceases to hold office if the Regulator is convicted, or found guilty, of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence.

However, in my view, the right against double punishment is not limited by the Bill because where eligibility to hold the office of Regulator is refused or removed on the basis of a person's criminal history, that refusal or removal will have a protective purpose, rather than a punitive one. That is, the aim of the provisions is clearly to safeguard the integrity of the office, rather than to impose secondary punishment for an offence. I also note this type of protective provision is commonly attached to regulatory roles. As the refusal to appoint, or the act of removing, does not constitute punishment in the sense of a criminal sanction, it does not amount to double punishment for the purpose of section 26, and the right is therefore not limited.

Right to a fair hearing (section 24(1))

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' in section 24 is not limited to judicial decision makers, but possibly encompasses the decision-making procedures of many types of tribunals, boards and other administrative decision-makers. The right to a fair hearing is concerned with the procedural fairness of a decision and the right may be limited if a person faces a procedural barrier to bringing their case before a court, or where procedural fairness is not provided.

Clause 13(1)(c) provides that the Regulator ceases to hold office if the regulator is convicted, or found guilty, of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence. Cessation of appointment in these circumstances does not, in my view, engage the fair hearing right in section 24(1) of the Charter. Where a legislative provision mandates that a person automatically ceases to hold an office where certain events have occurred, then no decision-making exercise is engaged in, and the fair hearing right is therefore not ordinarily engaged.

I therefore consider that clause 13 is compatible with the fair hearing right in section 24(1) of the Charter.

Victorian Early Childhood Worker Register

Part 3 of the Bill deals with the Victorian Early Childhood Worker Register (Register). Clause 23 provides that the Regulatory Authority must maintain the Register and record the date on which information about workers is entered into the Register. Clause 24 provides that the Register must include the following information about all workers, which includes personal information:

- full name;
- date of birth;
- gender;
- personal contact details;
- role of the worker at the service;
- the name of any service where the worker has been employed, engaged or appointed;
- dates of employment, engagement or appointment at the service;
- if applicable, WWCC identifying number and expiry date;
- if applicable, teacher registration number issued by the Victorian Institute of Teaching;
- any other prescribed information.

Clause 25 provides that the Regulatory Authority may issue a notice to approved providers requiring the provision of information in clause 24 of the Bill, about workers employed, appointed or engaged by providers in a specified historical reporting period, for the Register. The notice must specify a timeframe for response that is not less than 45 days after the end of the specified historical reporting period. A failure by the approved provider to provide the stipulated information within this timeframe is a criminal offence with penalty for the approved provider. Clause 304 and provides that the Regulator and members of staff employed or engaged by the Regulator Authority are authorised to access the Register for the purposes of performing the functions or exercising the powers of the Regulatory Authority.

Clauses 29 provides that the Regulatory Authority may disclose information on the Register to the Social Services Regulator for the purposes of the Social Services Regulator performing the functions or exercising the powers of the Social Services Regulator. Clause 30 provides that the Regulatory Authority may disclose information on the Register to persons or bodies specified in this provision if the disclosure is reasonably necessary to promote the objectives of National Law or the CS Act, or the disclosure is for the purposes of enabling or assisting the other entity to perform or exercise any of its functions or powers under the National Law or the CS Act, or where the disclosure is for the purposes of research or development of National, State or Territory policy with respect to education and care services or children's services.

Right to privacy (section 13)

The establishment of the Register – and the holding of the personal information of workers in the Register – engages the right to privacy. The ability of the Regulatory Authority to disclose the personal information held in the Register to the Social Services Regulator and other authorities specified in clause 30 may also engage the right to privacy. However, any impacts on the right to privacy are not unlawful or arbitrary. The personal information to be included in the Register is clearly stipulated in the legislation and primarily limited to basic personal information (e.g. does not include criminal records). Access to the information is limited to the Regulator and staff of the Regulatory Authority for the purposes of performing the functions or exercising the powers of Regulatory Authority. Any disclosure of the information contained in the Register is strictly limited to the persons and bodies, and for the purposes, listed in clauses 29 and 30 of the Bill. Further, these persons and bodies are all public authorities under the Charter and thereby obliged to act compatibly with information privacy rights, and are subject to obligations under the *Privacy and Data Protection Act 2014*.

Moreover, the Register is established in response to recommendation 4 of the recent urgent review into child safety in early childhood education and care (ECEC) settings, which identified an urgent need to create a national register of ECEC educators and staff. The establishment of the Victorian Register is a nation-leading step towards a national register, to be hosted by the Australian Government, to protect against predatory and unsafe individuals moving between jurisdictions. Accordingly, any impacts on the right to privacy are appropriate and proportionate to the legitimate aim of protecting children across the ECEC sector in Australia. Further, safeguards have been included in the Bill, including clauses 31–33 which make it an offence to access, use or disclose information in the Register without the authority to do so. I therefore consider that the Register established by the Bill is compatible with the privacy right in section 13 of the Charter.

Offence provisions pertaining to the Victorian Early Childhood Worker Register

Freedom of expression (section 15)

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. This right has been interpreted as encompassing a right to access information in the possession of government bodies, at least where an individual seeks information on a subject engaging the public interest or in which the individual has a legitimate interest. Pursuant to section 15(3), special duties and responsibilities attach to this right, which may be subject to lawful restrictions reasonably necessary to respect the rights and reputations of others, or for the protection of national security, public order, public health or public morality.

Clauses 31 to 33 create offences relating to unauthorised access to the Register, unauthorised use of information on the Register and unauthorised disclosure of information on the Register. While these offence provisions can be construed as prohibiting conduct that is protected by the Charter, namely freedom of expression and freedom to impart information, these prohibitions are necessary to ensure the privacy of the persons whose personal information is included in the Register. Further, the prohibition on accessing, using and/or disclosing information on the Register without authorisation ensures that the information is not used other than for the primary purpose for which it was collected. As such, I consider that any limit on freedom of expression imposed by these offence provisions comes within the internal exception to protect the rights of others.

Provision of information for the Victorian Early Childhood Worker Register

Clause 25 provides that the Regulatory Authority may issue a notice to approved providers requiring the provision of information in clause 24 of the Bill, about workers employed, appointed or engaged by providers, for the Register within a specified timeframe that is not less than 45 days after the end of the historical reporting period specified in the notice. A failure by the approved provider to provide the stipulated information within this timeframe is a criminal offence with penalty for the approved provider.

The purpose for the provision of this information from approved providers to the Regulatory Authority is to enable the Regulator to exercise their new functions and maintain the Registers in accordance with their obligations under Part 3 of the Bill. While the transfer of this information to the Regulatory Authority has the potential of interfering with the right to privacy in section 13 of the Charter, the interference will be neither unlawful nor arbitrary. This is because the information to be provided to the Regulatory Authority is carefully confined to the statutory purpose of enabling the Regulatory Authority to maintain the Registers. Therefore, the proposed disclosure of information does not extend beyond what is reasonably necessary to achieve the legitimate aim of the Bill, such that it is reasonable and proportionate to the Bill's important objectives, being the protection of children. It is essential that such information be provided to the Register to allow the Regulatory Authority to track and trace persons employed, engaged or appointed by providers in the sector, and help protect against unsafe persons working in ECEC.

Conclusion

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

The Hon. Lizzie Blandthorn
Deputy Leader of the Government in the Legislative Council
Minister for Children
Minister for Disability

Second reading

Jaclyn SYMES (Northern Victoria – Treasurer, Minister for Industrial Relations, Minister for Regional Development) (19:39): I move:

That the bill be now read a second time.

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

The Victorian Early Childhood Regulatory Authority (VECRA) Bill is a critical component of this government's overhaul of child safety regulation in the state, in line with our commitment to act urgently to accept all 22 recommendations of the Rapid Child Safety Review handed down by Mr Jay Wetherill AO and Ms Pam White PSM in August.

The safety of children in early childhood education and care (ECEC) settings is fundamental to ensuring they can turn up to childcare or any other ECEC service and immerse themselves in play, play-based learning and the full, rich developmental experience most workers and services strive to provide for every child in their care.

ECEC plays a vitally important role in children's lives across Victoria, providing them with the best start in life and richly educational experiences, and families deserve peace of mind when their children attend these settings.

Children deserve to be safe wherever they learn, play and grow. We recognise it is critical that we work to ensure the safety of all children who attend ECEC.

Summary of the Bill

This Bill meets the commitment in our response to the Rapid Review to introduce legislation establishing an independent regulator for ECEC services and a register of workers in the sector.

By establishing the register, the Bill brings together in a single system the details of all staff working with children in the ECEC sector. This will enable VECRA to quickly track and trace individuals working in the sector if required – a nation-leading reform.

The Bill also makes explicit provision for VECRA to share information on the register with the Social Services Regulator for the purposes of the SSR performing its functions or exercising its powers.

The Bill creates an offence and penalty for approved providers who fail to submit the required information to VECRA. There will also be offences and penalties for unauthorised access to the register, and inappropriately using or disclosing information from the register, to protect the privacy of the ECEC workforce. The maximum penalties for these offences are 60 penalty units for a natural person and 300 penalty units for a body corporate.

The Bill amends the *Education and Care Services National Law Act 2010*, which is the Victorian Application Act for the Education and Care Services National Law (National Law), to declare VECRA to be the Regulatory Authority for the purposes of the National Law, and amends the definition of Regulatory Authority in the *Children's Services Act 1996* (CS Act) to make VECRA the Regulatory Authority for the purposes of the CS Act.

The regulation of ECEC services, children's services and Child Safe Standards for the sector will be brought together with visibility of the employment of every worker in the sector, under the responsibility of the newly created office of Early Childhood Regulator.

The Early Childhood Regulator will head VECRA and report directly to the Minister for Children. This will strengthen oversight of and accountability for the safety of children while in ECEC settings.

I commend the Bill to the house.

Evan MULHOLLAND (Northern Metropolitan) (19:39): I move:

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

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

Consumer Legislation Amendment Bill 2025

Second reading

Debate resumed on motion of Gayle Tierney:

That the bill be now read a second time.

David LIMBRICK (South-Eastern Metropolitan) (19:39): I am honoured to be the final speaker on this bill. I have seen some dumb stuff come through this Parliament in my time here. This is not the most stupid thing I have seen, but it is right up there. This government is really good at selling the sizzle. You can hear the steak sizzling in the kitchen and you can smell it and it is really tempting and really nice, but when they serve it up it is tough as an old boot and no-one can eat it. A good example is the government saying they were going to get machetes off our streets – 'We're going to ban machetes.' Of course everyone wants to ban machetes, don't they? No-one wants machetes on the street. What did we get? Machete bins. Everyone laughs at this. It is absolutely ridiculous.

I thought the government had sort of come to their senses. Now, many times we have seen stupid socialist ideas from the Greens, like price controls and rent controls and this sort of thing. To their credit the government has resisted these things. The government have shown some sort of sense about economics and said, 'We don't really want to end up like Venezuela. Well, not yet anyway. So we're not going to go out and have citizens go and kill pets in the streets for food and stuff because we're

not that desperate just yet.' But for some reason they have decided that they want to get involved in petrol prices. They think they are smarter than the big evil petrol companies that give us the energy that we need to travel to work, for goodness sake, and go on holidays and stuff and that by interfering in the market they are going to somehow make it cheaper for motorists. I am going to tell you for a start it is not going to work. In fact the Commonwealth Treasury issued caution against this. They said that the states should be cautious about going down this path, as it is more likely to distort a competitive market, and indeed it will.

Let us have a think about how this works. What the government is proposing is that at 6 o'clock in the morning, every day, petrol stations have to declare a price, and this price has to be the maximum price that they have throughout the day. They are only allowed to reduce prices during the day; they are not allowed to raise them. I remember years ago someone was talking to me about the stock market. They said, 'If only we could just ban people from selling at a lower price, if only everyone only sold at a higher price, everyone would make money.' This is just as stupid as that idea.

What will happen is the petrol stations will set their prices at 6 in the morning. They are only allowed to lower them during the day and then the price will reset at 5:59 the next morning. What do we think will happen when this works? I know because I have spoken with a few people who run petrol stations. In fact they run chains of petrol stations. Here is what will happen. They will need to incorporate risk because they are only allowed to set their maximum price once during the day. They cannot act in a competitive free market. They will have a restricted market where they can only reduce prices. Of course everyone will go in with a really, really high price at 6 in the morning. Who are going to be the poor schmucks that buy petrol at 6 in the morning? Only the people that are really desperate.

Harriet Shing: I am that poor schmuck.

David LIMBRICK: You are going to get ripped off, Ms Shing, because anyone that buys petrol at 6 in the morning is going to be ripped off basically. What they will do is throughout the day they will watch their competitors and they may or may not reduce. But because they are all going to have this fat built in, overall prices will be higher for much of the day. If you are thinking about this, everyone knows when the cheapest time of day is to buy the petrol. We all should know: 5:59 in the morning. Everyone knows that every day 5:59 in the morning is when you will get the cheapest petrol. What will happen is petrol stations will set their prices much higher than they normally would in the morning because they know they can only reduce the prices. Then no-one who is paying attention to the market will be buying petrol in the morning. In fact the only people that will be buying petrol in the morning are people who are desperate because they have let their car run down to empty and they will know that they are getting ripped off. In fact I have spoken to some petrol stations. They said they are even considering closing in the morning because it will be so dumb.

They will need to report these prices through to the government, as if the government monitoring it will somehow make it cheaper for everyone. But this sort of interference in the market we know is stupid. We already know the way to get the cheapest prices is to have a highly efficient market – this is creating a more inefficient market – and a highly competitive market. If the government want to have cheaper prices, they should make things more competitive, not disrupt with market controls like they are trying to do here. Of course petrol stations will be able to deal with this; they will have to price it into their initial price that they have to do at the start of the day. But I am very disappointed that the government would resort to this. I know that there are some people in the government who have some understanding of economics, and I am very surprised that they would go down this route of trying to control prices like this. I look forward to seeing the machete bin of the petrol market produced by this government, because this steak is going to be as tough as a boot, I can tell you that.

The other thing that the government wants to do is interfere in the rental market. Of course the sizzle on this is great. They are going to make things great for renters, they are going to make things better for renters and all this sort of stuff. Well, the biggest problem that renters have is that there are not enough rentals available, and the reason that there are not enough rentals available is because the

government keeps interfering in the market. Landlords do not want to be in the business of being a landlord. In fact I have spoken to a number of accountants, and a large part of their business is from people who used to be in the landlord business getting out of the landlord business because they hate it; they do not want to be landlords anymore.

We actually know how to make rentals available and rents cheaper – and that is through deregulating the market. We have good evidence of that, because another country, which I watch very closely because they have an awesome president in President Milei, Argentina, had a problem with rentals as well. Unfortunately, they suffered under a socialist government for many years. They were not quite eating their pets, but they were very poor and they had very large problems with rentals, with availability and no-one could afford them. Of course they had price controls. They had price controls on food, and they had price controls on rentals and everything like that. What President Milei – the first libertarian president in the world – did was he went in and totally deregulated the rental market. Rental availability absolutely soared overnight and prices dropped by 20-odd per cent, because all of a sudden people felt like they wanted to be part of that market and they were not deterred from participating in that market. They solved a large part of their housing problem almost overnight by deregulating rentals.

But of course the government think that they can control everything and that if they can twist the knobs and pull the levers, they will make everything better. Rarely is that the case, especially when you are interfering with markets. What we see in this bill are two market interventions, with wonderful sizzle. I am sure they smelt great when they were marketed out to people, but when the reality hits, when motorists go to buy their petrol in the morning at 6 am and realise that they are getting ripped off – and they will realise that, because lots of people will be telling them that they are getting ripped off, including me; we will be pointing out how the government is ripping them off – and when they cannot find a rental and the government and the Greens try to blame the evil landlords, we will be pointing out that it is the government interfering in the market that has caused the rental shortages. That is why you have got the queues; that is why you have got the high prices.

The Greens want to institute price controls here. They saw people eating pets on the streets in Venezuela and thought, 'We should be doing that too. We want to eat pets in Victoria.' Well, we are not that bad yet, but I do not know. If the government keeps trying to implement policies reminiscent of the Greens, maybe we will end up there. Look, I have seen some sparks of economic prowess from the government. I have seen it here and there; I can see it historically. You might be surprised, but lots of libertarians actually have a lot of respect for the Hawke–Keating governments and what they did in deregulation. They actually did some of the best free market reforms in Australian history. You might be surprised to hear that. Unfortunately, modern Labor does not seem to be really doing much of that and seems to be more interested in listening to Greens policies.

I will tell you this: this steak is going to be tough. Despite whatever sizzle you have been telling the public about it, once it gets served up, they are not going to like it. They are not going to like their expensive petrol. They are not going to like their queues for rentals and high rental prices. The Greens want to do an amendment here to limit rent increases. Iron law of economics: everyone knows that what happens when you limit prices is you end up with shortages. What the Greens are trying to do here is create more homeless. That is not their intent of course but you should never judge economic policy by its intent, you should judge it by its consequences. Greens policy on housing is to create more homeless people. Labor's policy here on petrol is to make travelling for motorists more expensive.

Harriet SHING (Eastern Victoria – Minister for the Suburban Rail Loop, Minister for Housing and Building, Minister for Development Victoria and Precincts) (19:50): Well, you know what, I am not the member for Nepean, but I am going to return serve. I wish I could say I am going to be here all week, but hopefully I am not going to inflict that on anybody, and the good staff here at Parliament will be able to go and discover a world beyond our mahogany-panelled walls. There have been a few things in this evening's wideranging debate that I do want to cover off before we get into what I hope will be a mercifully expeditious committee stage, noting, I think, that there is one amendment being

proposed – not by you, Mr Limbrick, which is a shame. I would have thought that perhaps, were you to really embrace full throttle – excuse the petrol pun – the level of enthusiasm that you brought to your speech tonight here, you might have actually committed something to writing as far as what you would like to see by way of changes to this legislation. But never mind.

What I want to touch on this evening in terms of the sizzle, as you have put it, is the fact that information is really important in helping people to make informed decisions about when and how to spend their money, and here in this place we talk a lot about the importance of accurate and timely and objective information in helping people to exercise the power of the spend. That goes as much to managing a household budget as it does to anything else – and Mr Limbrick, you did refer to the suckers. I think you said 'schmuck'. I do take that as a bit of a badge of honour, because in my trusty 2015 Ford Territory – I note that it is not the most efficient vehicle in the universe, but having said that, it will be taken from my cold, dead hands. I would like to say that it is important to make sure that when you are filling up at the bowser, you are doing so in a way that means you are not incurring any bigger cost at the end of it all because of the type of information that might enable you to make more informed choices.

So we have already had phase 1 of the fair fuel plan, and we launched the Servo Saver on 15 October. There is now a requirement for reporting of that information in real time. Not reporting within 30 minutes is now an offence. Those prices go straight into the Servo Saver so that motorists like you, Mr Limbrick, can actually see –

David Limbrick interjected.

Harriet SHING: You are a motorist; that is good to know. So this will –

David Limbrick interjected.

Harriet SHING: You do drive a Territory? See, I thought we had nothing in common, Mr Limbrick, but we are finding more and more things to agree on as the evening goes on.

One of the things that we do know is really important is that real-time information is actually going to be a significant factor in helping people to decide when and how they might fill up. Until now, we have actually seen a really patchy approach to fuel reporting in Victoria, and this is about making sure that through Servo Saver we have got that total coverage – that it applies to every fuel provider, that it is not advertiser funded. This is where, again, that stands in contradistinction to a number of the other apps or groups that are not necessarily an accurate reflection of what is happening in the market. And that then in turn helps people to manage their budgets, helps people to work out how and where they will spend their money. Whether you are going to spend 20 bucks on one fill-up or you are going to get a full tank because it is 20 cents a litre cheaper will be something that you can make an informed decision on based on the information that you have available to you.

The next phase is the fuel cap. This is about capping the maximum fuel price once a day for 24 hours. Now, as you quite rightly pointed out, Mr Limbrick, this is about making sure that the cap is set at an upper threshold. If people want to reduce the cost of petrol, then that is fantastic. That then means there is nothing stopping you in a competitive environment with market tension, with the opportunity for people in those market settings to be able to attract a volume of consumer that in fact gets a better return on their investment as a consequence of being able to drive prices down. We do see that happen in any number of different settings, Mr Limbrick, and you would know that whether it is buying an ice cream or buying a couch there are certain ways in which competition can be encouraged. Therefore market forces can be at play in a way that is of benefit to consumers rather than placing upward pressure, whether it is on commodities or whether it is on something as luxurious as a steak with some sizzle.

One of the things that we are also doing is making sure that people have advance notice when it comes to the surprise factor at the pump, and that then means that in addition to being able to make decisions in time we are also in a position to be able to say that there are penalty units that will be in force where

people do not register, where they do not report their prices, where they sell above that cap or where they increase prices during the 24-hour period. The cap is intended to start next year, and Mr Limbrick, I will be looking forward to seeing you take full advantage of that cap. I know that you do value accurate information, and I am looking forward again to hearing from you about how your Territory and mine are the beneficiaries of better decision-making. For the record, we do not co-own a Territory; we have two distinct Territorys.

David Limbrick: Mine is an older one.

Harriet SHING: Yours is an older one, Mr Limbrick, and older cars are greater guzzlers of petrol, so therefore you would know that filling up more frequently costs more money. So again, these are the sorts of initiatives that are intended to benefit people just like you, Mr Limbrick.

One of the other tranches to this legislation is the portable bond scheme. I do not want to give you all of the spotlight and the refracted spotlight on your contribution, Mr Limbrick. When we talk about renters rights, though, we have overhauled the Residential Tenancies Act 1997. I think we are now at about 150 changes to the Residential Tenancies Act, which absolutely is a lot, Mr Limbrick, and that has been done for a very specific purpose: to create an opportunity for rental relationships to be established, to operate, to be preserved and to be equitable; to have a framework in place that also creates the setting for a meaningful landscape that encourages people to be renters; to provide people with a ban on underquoting or rental bidding; to provide people with services and support around access to changes; pet ownership; and in addition to that, the sorts of services that are being facilitated through Rental Dispute Resolution Victoria.

David Limbrick interjected.

Harriet SHING: I am going to pick you up on that interjection there, Mr Limbrick, because you did just talk about people eating their pets. You referred to that on, I think, four or five different occasions in your speech this evening. I know that you are a rabbit owner, so cacciatore notwithstanding –

David Limbrick interjected.

Harriet SHING: You have just said you do not eat rabbits. One of the things that our Residential Tenancies Act reforms do is actually enable people to have a pet, whether it is a rabbit or whether it is a dog or a cat or any other form of domestic animal, within the bylaws that apply. And I know that it has been a really long sitting week, but these are the things that make a meaningful difference for people who want to call a rental property home. This is where the portable bond scheme comes in, and it is a really, really important part of the work that we are doing to make sure that we are helping with cost-of-living measures as part of the housing statement but also as part of making sure that we have got incentives for people to be good tenants, to be good landlords and to be able to have stability of homes that are fit for purpose, that are modern and that meet the terms of the contract as part of minimum standards.

Mr Limbrick, you have been here as well for the debates that we have had on everything from no-fault evictions through to the way in which the Rental Dispute Resolution Victoria framework operates. These are all, as a landscape, intended to make sure that we are doing better by people who are not in home ownership. Speaking of which, you referred in your contribution, Mr Limbrick, to diminishing numbers of rental properties around the state. The Residential Tenancies Bond Authority's latest figures do show that those figures are actually increasing, so that is actually really important. Rental yields have never been higher. You look at the Real Estate Institute of Victoria's figures and statistics – that means a return for investors. But in addition to that, you look at the most recent assessments by Saul Eslake, who has indicated that the first home owner opportunities in the landscape here in Victoria are actually a good example of what can be done where those policy levers and those settings are put in place to create incentives and opportunities for people to get into home ownership. There is that, plus the homebuyers equity fund – again, here in Victoria we have assisted well over 11,000 people

to get into home ownership – and the sorts of things that we have around other incentives, whether they are stamp duty concessions and exemptions for buying off the plan an apartment, a unit or a townhouse or whether they are the opportunities for first home owners grants or other assistance that is being provided to people. Wherever you sit on the housing continuum, we want to make sure – and this is set out very, very clearly in the housing statement – that there are supports and opportunities for everybody, whether it is private rental assistance, whether it is access to this portable bond scheme set up by this legislation or whether it is part of making sure that we have affordable housing built into the space in which we provide housing for people most in need.

When we deliver on the portable bond scheme, it is about making sure that we are providing that cost-of-living support, including for people most vulnerable who otherwise will not be able to afford to do anything other than play catch-up in a market where they can ill afford to pay the rent because of their lessened bargaining position. This is, for example, going to be the case for women, for victim-survivors of family violence, for people in situations of high need. These – I hate the term 'cohort' but I am going to use it – cohorts are the specific focus of initiatives just like this. This is a process that has been developed really carefully. Minister Staikos in the other place has been working really hard alongside consumer groups, alongside Consumer Affairs Victoria and a range of other stakeholders to make sure that we do understand that the levers that we are activating are actually working in the ways that are going to confer the best benefit to people or alleviate the sorts of challenges that people have identified.

I do not intend to go through all of the detail of the bill; it has been canvassed really extensively. I think that save for a Greens' amendment, we do not have anything else to cover off in the course of this particular second-reading debate, but I do want to thank everybody for their contributions. Mr Limbrick, your wit aside, you do have a keen desire to make sure that there is value and that there is consistency and that there is transparency. I think they are three concepts that do inform the way in which you go about your work. What we would say here on the government benches is that these reforms deliver exactly that. You will disagree as to the extent to which they achieve those ends, but having said that, this is an incremental process which continues to deliver for Victorians, whether it is at the bowser, whether it is through a rental agreement or indeed whether it is through ending one arrangement and seeking to get into another tenancy for any number of different circumstances. On that basis, I will leave my remarks there, and may we be blessed by a mercifully pithy committee stage.

Council divided on motion:

Ayes (38): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Katherine Copsey, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, David Ettershank, Michael Galea, Anasina Gray-Barberio, Renee Heath, Ann-Marie Hermans, Shaun Leane, Wendy Lovell, Trung Luu, Sarah Mansfield, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Rachel Payne, Aiv Puglielli, Georgie Purcell, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Noes (1): David Limbrick

Motion agreed to.

Read second time.

Instruction to committee

The PRESIDENT (20:08): I have considered the amendments AP58C circulated by Mr Puglielli, and it is my view they are not within the scope of the bill. Therefore an instruction motion pursuant to standing order 14.11 is required.

Aiv PUGLIELLI (North-Eastern Metropolitan) (20:09): I move:

That it be an instruction to the committee that they have the power to consider an amendment and new clauses to amend the Residential Tenancies Act 1997 to provide for a limit of rent increases in accordance with the wage price index for Victoria published by the Australian Bureau of Statistics.

Motion agreed to.

Committed.

Committee

Clause 1 (20:10)

Aiv PUGLIELLI: I canvassed this at length in the second-reading debate. For the benefit of the house, I move:

1. Clause 1, page 2, after line 7 insert –

"(vi) to provide for a limit on rent increases in accordance with the wage price index for Victoria published by the Australian Bureau of Statistics; and".

Harriet SHING: The government will not be supporting the amendment moved by the Greens. International examples have shown us that rent control and caps worsen the housing crisis by discouraging investment in housing. They also reduce the quality of rentals, and they distort the housing market. In San Francisco – we have covered this on a number of occasions in this place – we have seen studies from Stanford University economists that show that over time rent control ultimately took crucial housing stock out of the market and drove rents up across the city, resulting in a drop in rental supply of about 15 per cent. As I said to Mr Limbrick in my commentary earlier, we are seeing rental stock increasing across Victoria. We do need to make sure that that continues as a trend.

AHURI, the Australian Housing and Urban Research Institute, recently released a report finding that rent freezes are likely to negatively impact the supply of rental housing, and the rental affordability index released by SGS Economics & Planning in November last year confirms that since 2021 rental affordability has steadily declined across all Australia, including Victoria. However, we are seeing that affordability is less of a challenge here in Victoria than it is in other states and that it is less of a challenge in Melbourne than it is in other major cities. That is not to say that it is not a challenge, but it is a less acute challenge because of a range of factors that I covered off in my summing-up. The main driver of high rents is a lack of supply of rentals, as has been pointed out. That is where there are a broad range of initiatives being implemented to tackle the issue through the landmark housing statement. As you would know, we continue to build more homes than other states, including Queensland and New South Wales in particular.

We do want to continue to protect renters. We do want to make sure that we do go on with that work. In March this year the renter protection reforms announced as part of the housing statement were passed in Parliament. These will provide cost-of-living relief to renters and better housing certainty. There are a couple of examples I spoke to in my summing-up: banning all forms of rental bidding; only allowing evictions for a genuine reason, so getting rid of no-fault eviction – we covered this; you and I, Mr Puglielli, had a number of exchanges on this over the course of the committee stage on that bill – such as where a renter has caused serious damage to the property or has failed to pay rent; extending the notice of rent increase and notice to vacate periods from 60 to 90 days; making rental applications easier and protecting renters' personal information; and also introducing tougher penalties for real estate agents and sellers who break the law. There are a range of initiatives already in place – 150 amendments to the Residential Tenancies Act 1997.

On that basis, and for the reasons that we have indicated around our ongoing commitment to assist people in the rental market and with housing affordability and availability more generally, we will not be supporting the amendment that has been moved.

David LIMBRICK: I am delighted to hear the minister's response. It is interesting that at the limits of socialist policy is where Labor and I agree apparently. The government rightfully acknowledges that price caps create shortages and that what the Greens are proposing here will in fact create homelessness. The government has in a way acknowledged that it will create shortages, and I am delighted to hear that the government will not be supporting this – long may it stay that way.

Renee HEATH: The coalition also will not be supporting this. To quote Mr Limbrick, 'at the limits of socialist policy' is where we also agree today.

Aiv PUGLIELLI: I might just respond. I thank the members for their contributions just now. I will begin by saying that, in Australia, the Labor–Greens coalition that recently was in government in the ACT successfully implemented modest caps on rent increases. Those measures were even accepted by the Real Estate Institute of the ACT, whose president conceded in the *Sydney Morning Herald* in 2023 that:

> Rental caps were fine … because it provides some structure and keeps cowboys out of the market.

Perhaps, Minister, we may be reading different documentation. On my end I have noted international examples in comparable contexts, such as France, Germany and parts of the US, which demonstrate that rent controls can and do coexist with healthy housing markets which work fairly and in line with the public interests, especially when combined with strong tenant protections – like some of which we see in this bill – and community housing construction. I note as a third point that just this week we have seen Los Angeles City Council voting on Wednesday to lower the cap on rent increases for rent-stabilised apartments to 4 per cent – amazing for them, if only we could do it here.

This proposal that has been put forward to the chamber just now is to set a maximum allowable rent increase to be no more than the annual wage price index for Victoria, published by the Australian Bureau of Statistics for the previous financial year. This is a principle that I and my Greens colleagues believe in. You can call it socialist – call it whatever you like – but we think it is fair for people of Victoria. We are bringing a solution to what is a very specific problem that we all know surely exists. Rents are too high; people are being pushed too far by unlimited rent increases. If members of this chamber think that situation can continue as is, then you are welcome to vote against this proposal for limiting unlimited rent increases.

Harriet SHING: Just a couple of things: there are not unlimited rent increases here in Victoria. They are capped at once per annum. In addition to that, we have a range of initiatives that are intended to assist people with the proportion of their income that they pay on rent. That is defined within the Planning and Environment Act 1987, with affordable housing for low-, very low and moderate-income households, whether they are singles or families in metropolitan Melbourne or in Victoria. We also have a range of other initiatives that are intended to provide support to people.

Just on the international examples that you have cited – again, you did refer to Germany and France – there are so many distinctions and differences in the property markets that exist there, including as they relate to the extension of a tenancy beyond the point of sale, which occurs in Germany, for example; the duration of leases; and long-held systems of occupancy that are universes away from the systems that we have here in Victoria. The closest comparable system that we do have, which is why I referred to it, is the US in terms of the studies that I have referred to there from Stanford. Again, there are always going to be examples as to why it is that we can and should do things differently. We have done things in a way that does recognise the importance of consistency, of stability and of fairness for the purpose of that interaction between renters and landlords. The things that we are doing are working, because we have more homes being built, we have more people being able to access rental properties, we have more people being able to get into the home buyers market and therefore more choice for people whether they want to rent, whether they want to own or whether they want to work towards one or the other over the course of their lives.

Council divided on amendment:

Ayes (7): Katherine Copsey, David Ettershank, Anasina Gray-Barberio, Sarah Mansfield, Rachel Payne, Aiv Puglielli, Georgie Purcell

Noes (32): Ryan Batchelor, Melina Bath, John Berger, Lizzie Blandthorn, Jeff Bourman, Gaelle Broad, Georgie Crozier, David Davis, Moira Deeming, Enver Erdogan, Jacinta Ermacora, Michael Galea, Renee Heath, Ann-Marie Hermans, Shaun Leane, David Limbrick, Wendy Lovell, Trung Luu, Bev McArthur, Joe McCracken, Nick McGowan, Tom McIntosh, Evan Mulholland, Harriet Shing, Ingrid Stitt, Jaclyn Symes, Lee Tarlamis, Sonja Terpstra, Gayle Tierney, Rikkie-Lee Tyrrell, Sheena Watt, Richard Welch

Amendment negatived.

Clause agreed to; clauses 2 to 35 agreed to.

Reported to house without amendment.

Harriet SHING (Eastern Victoria – Minister for the Suburban Rail Loop, Minister for Housing and Building, Minister for Development Victoria and Precincts) (20:26): I move:

That the report be now adopted.

Motion agreed to.

Report adopted.

Third reading

Harriet SHING (Eastern Victoria – Minister for the Suburban Rail Loop, Minister for Housing and Building, Minister for Development Victoria and Precincts) (20:26): I move:

That the bill be now read a third time.

Motion agreed.

Read third time.

The PRESIDENT: Pursuant to standing order 14.28, the bill will be returned to the Assembly with a message informing them that the Council have agreed to the bill without amendment.

Parks and Public Land Legislation Amendment (Central West and Other Matters) Bill 2025

Second reading

Debate resumed on motion of Harriet Shing:

That the bill be now read a second time.

Melina BATH (Eastern Victoria) (20:26): It is the end of a long week and this is a very important bill, and the government really could not give a toss. Rather than providing a platform –

Members interjecting.

The ACTING PRESIDENT (Jeff Bourman): Order!

A member: She said we couldn't give a toss, and we're all here.

The ACTING PRESIDENT (Jeff Bourman): Yes, I understand that; that is fabulous. Maybe it was not the most parliamentary thing, but we do not all have to yell at each other. Ms Bath to continue in silence, please.

Melina BATH: As I rise to speak on the Parks and Public Land Legislation Amendment (Central West and Other Matters) Bill 2025, I do so with our position that the Liberals and Nationals will

oppose this bill. This is an omnibus bill. What the government does when it wants to put a little bit from column A and column B together and wedge communities, it provides these omnibus bills and puts them at the end of a sitting week rather than giving them their due deference.

From the other side – across there, from both the Labor Party and the Greens – we are going to hear about protection. In fact if I take a running bet on this, we are going to hear everybody from that side talk about 'We are protecting the land. This land is so precious that we're going to reclassify it and we're going to protect it.' Well, reclassifying 'state forest' to 'national park' is putting a name on a piece of paper. It does not protect the forest, it does not protect the land; it is simply a reclassification. Reclassification does not equal conservation – but we are going to hear that from the other side for the whole of their debate.

There are some elements in this bill that we support. There are some very reasonable and actually called-for elements in this bill. I have called for them on behalf of the Liberals and Nationals in the past. I have called for extended deer hunting in national parks. It has been a platform that we have had on behalf of many community members – law-abiding deer hunters, those people who appreciate going out into the forest, out into the bush – and we support the initiatives of the extension of deer hunting in the Errinundra and the Snowy River national parks.

I could say also that there is going to be deer hunting in the three new national parks that are going to be created with this bill, which we oppose, but there has already been deer hunting in those state forests as they exist now. So this is not new territory, even though we will hear that it is. As I have said, we oppose this bill, and we will seek to make some substantial amendments to stop that division that exists in this bill. In doing so I will outline our amendments that I will declare in a little while. There are also some other technical amendments that are either rats and mice or reasonably innocuous. Now, this bill amends various acts. It amends the National Parks Act 1975, it amends the Crown Land (Reserves) Act 1978, the Forests Act 1958, and the Great Ocean Road and Environs Protection Act 2020. It also makes consequential amendments to the Carlton (Recreation Ground) Land Act 1966, the Heritage Rivers Act 1992, the Mineral Resources (Sustainable Development) Act 1990, the St. Kilda Land Act 1965, and it repeals the National Parks (Amendment) Act 1989.

As I have said, there are some reasonable parts to this, and then there are some quite egregious parts to it. What this government will say – I know the minister now, Minister Dimopoulos, inherited this legacy or historic commitment from Lily D'Ambrosio. Minister D'Ambrosio, who was the then Minister for Energy, Environment and Climate Change, has said that there was a VEAC, Victorian Environmental Assessment Council, inquiry back in 2019, and that provided a compelling case whereby we need to lock up – we need to shut up these state forests into national parks, and the other side will say 'protection'.

What we also know from that inquiry is that many people in the community, in fact, 66 per cent of the people that wrote in submissions to the Central West investigation – of 3000 submissions that were delivered as part of the consultation process, 66 per cent of those – said that they oppose the establishment of new national parks. However, glowingly and overwhelmingly, Minister D'Ambrosio said 'We will commit to this'. Well, it has taken them quite some time to get there. Indeed, from our perspective, it could take them to the never-never because this does not need to happen.

The prospectors and miners – and they are a tremendous group of people. In fact 90,000 registered prospectors and miners are out there from diverse backgrounds and right across the state. They at the time, in 2019 – and I am being very transparent about this – asked and employed Dr Alan Moran of Regulation Economics to do a study on this. The VEAC will give you a whole range of things that it did. It said that the reclassification would yield non-use values of $270 million, and that was based on surveys asking respondents what they would hypothetically pay to preserve these forests. This method is known as contingent valuation, and it is widely unreliable and inflated because it is not based on actual market behaviour. Back at the time, VEAC said that the land valuation there per hectare in this Central West investigation would be $4615 per hectare, which was much, much higher than the value

of farmland at that time. Now, by contrast, Dr Alan Moran said that the projected net present value loss would be in the magnitude of $2.8 billion and more than a thousand jobs gone, citing mining, forestry, firewood and recreation, and that flows on to all of those towns and communities around there. So there has been a significant disparity between what a government bureaucracy says and what an economic investigator has said. Clearly, there is a disparity. Potentially the reality lies in between those two.

What we also know is that people have pushed back on this whole national parks agenda. I will speak to this in a moment, but I will put on record: the Liberals and Nationals value national parks. We care about them. We want to see them actively managed. We want to see them better managed. But what this government has done over the decade – I will tell you what it has done. Analysis of the Parks Victoria annual reports over the past decade shows Victoria has increased its public land estate, its national parks estate, by 20 per cent, while operational funding for Parks Victoria has plummeted by 35 per cent. Even ranger numbers – the government is talking about this new initiative that is coming out: 'We are going to fund more rangers.' Well, it has cut the ranger population – those people out in the field with their boots on, doing the work, looking after the land, the forests, pulling out weeds, doing maintenance – by 28 per cent in the last year. When we hear the government say, 'We've got a new initiative. We're going to fund more rangers,' they have cut them. They have successively cut them over time, and what we know is that Parks Victoria is top-heavy with suits in Melbourne and sincerely insufficient with boots-on-the-ground rangers. Of Parks Victoria's employment funding costs to pay wages, 73 per cent goes to executives and managers. Isn't that the wrong way around? This government has got it upside down.

Now let me go back to what I was speaking about in relation to petitions. I was very proud to support a petition that was, until only this week, the largest petition in the history of this place, an e-petition with over 40,000 signatures from Victorians saying no to new national parks and that we should better manage the ones that we have got. If we add that up between the lower house and the upper house, it is up to 80,000 people who have said no to new national parks, and that is what we are saying here: it is better to manage the ones that we have got; do not create more.

This is the thing about national parks. We hear this again and again from the minister and in their media releases, that you can continue to do all the things that you have done in the past. Well, that is just not the case. State parks and national parks differ very sharply in their purpose, in their access and in their management. State forests are under the Forests Act, are managed by the Department of Energy, Environment and Climate Action (DEECA) and operate as multi-use public land, balancing conservation, community access, recreation and local economic activity. In state forests you can hunt and you can go dispersed camping. We will hear from over there that you can camp in the national parks. Well, you can, but you cannot take your dog, you cannot go off the main track, you cannot set a fire safely – you cannot light that fire – and you cannot camp in a dispersed fashion with your family in a national park. That is a taboo, and it is not allowed. It will not be allowed in these new national parks. I will get to this very important point in a moment, but you are not allowed to go prospecting and mining. You can in some national parks, but this government has failed to introduce that piece into this legislation. You cannot ride your horse unless it is on the main track; I think they will say that. You cannot go off-road four-wheel driving or off-road trail bike riding – many of the things that so many Victorians do to celebrate the outdoors, experience it, feel better about themselves physically, mentally and emotionally and spend time with their family.

National parks are governed by the National Parks Act 1975, are managed by Parks Victoria, prioritise environmental preservation – apparently – and restrict public use. You cannot collect firewood; you cannot go off road; you cannot prospect and mine unless you have got the exemption, which this bill does not include; you cannot go horseriding; you are not allowed to fish unless you are in a designated area; you cannot walk your dog; you cannot, as I have said, use drone extraction; and you cannot use resource extraction.

There are some parts in this bill that are reasonably, I will say, innocuous. Some of them are about amendments to existing land acts. Princes Park land is made leasable. Wandong Regional Park is created. Bendigo Regional Park is updated. But get this: in Bendigo park this government is about to, in making these national parks, stop firewood, period. Stop firewood, period, unless that park happens to be in the Premier's seat, and then it is going to continue firewood collection up until 2029. Firewood, as I am about to allude to, is such an important aspect of heating people's homes. There is an amendment to the Great Ocean Road and Environs Protection Act. There are the heritage and mineral resources amendments. It is going to expand the Wimmera heritage area. It is going to declare a Wandong park. It is going to make other smaller conservation parks at Cobaw, at Hepburn and at Mirboo North totalling 5600 hectares. The Yellingbo conservation area is going to be renamed and expanded into there. It is also going to amend the St. Kilda Land Act to allow long-term leases, which we do not feel is a problem; this is reasonable. And it is going to sunset by 2027. One of the things that this bill certainly does is keep dam licenses going, but only for a very short time. As I have said, it extends hunting, and the Nationals and the Liberals very much support recreational hunting. It changes to some gender-neutral language, which of course is now appropriate – 'he' just becomes 'minister' and the like. These things are all reasonable.

I had a good conversation with my colleague the member for Polwarth, and I will be asking, certainly, some important questions in committee of the whole on this. The bill introduces amendments to the Great Ocean Road and Environs Protection Act, addressing several concerns raised by the Liberals and Nationals when it actually came in in 2020. At the time we opposed the creation of the Great Ocean Road Coast and Parks Authority, warning it would duplicate the responsibilities of Parks Victoria and local governments and create confusion over land boundaries. Indeed some of the amendments that we have in this bill now actually tidy up some of our concerns. It expands the definition of a scenic landscape area. It provides strategic framework improvements. The land management authority must prepare a long-term strategy, and it must be approved by the minister and published in the gazette. It incorporates planning and oversight and annual plans, and the minister has the power to approve or amend or reject these plans. One of my concerns is – and I do want to flesh this out in committee of the whole – that from 1 November, Parks Victoria formally transferred the management responsibilities, the assets and the funding of the area to GORCAPA. We raised those concerns in the bill briefing, and we still did not get any clarity around how the operational costs will be managed post the transfer. I put on record that it is really important that we delve into that to get some straight answers.

The thing about national parks – we will hear it is going to protect. The greatest threats to public land, to forests, are out-of-control bushfires and pests and weeds, and out-of-control bushfires and pests and weeds do not recognise a reclassified piece of land. What this government has done over time has really endangered regional Victorians – but not only regional Victorians; it is actually nipping at the heels of suburbia as well. During its time this government has introduced Safer Together, and if you go out into the regions and talk to people about the Safer Together policy, they throw their hands up in frustration. In fact I even spoke recently to a fantastic fellow who worked for DEECA. He is now retired and onto other things, but he was a facilitator who implemented, who sorted out, this Safer Together, and he said it is still hard to manage and hard to define. And it is clearly, with this government, hard to bring to fruition. Over the last decade this government has only provided a reduction in burns – and by that I mean fuel reduction and mechanical burns – of 1.5 per cent. This is an indictment, because the 2009 Victorian Bushfires Royal Commission said that the appropriate target, the rolling target per annum, should be 5 per cent. In fact I think they actually were up to 8 per cent, but they brought it down – for, we will say, the rationale of actually making it happen – to 5 per cent. And what does that mean? It actually protects people if you do cool burns, if you take the fuel load out. You cannot know where lightning is going to strike or if there is a fire bug. You cannot stop the wind blowing and the conditions being dangerous. But you can – this government can and should – manage fuel load. And it has not for a decade, and regional Victorians are paying the price.

In terms of invasive weeds, go out there; go and talk to some of these people. Walk into our state forests and national parks, and you will see blackberries in vast quantities choking out our naturally beautiful areas, our iconic areas and landscapes that all Victorians treasure. You see serrated tussock and other noxious weeds, and you see them competing for and overtaking natural flora. Of course it degrades the habitat. Also, you get foxes, wild dogs – they are wild dogs, not dingoes; there is a difference – pigs and rabbits. Feral cats kill thousands and thousands of native birds every year. But what happens with these bushfires – and we saw it in 2019–20 and we saw it this year in the Grampians area – is they incinerate everything. Unless this government is going to take this seriously and turn around its mode, we are going to see, again, more serious impact on life, on property, on stock and on native flora and fauna. And what have we got now? We have got a government that is not fire-ready, and it will not be fire-ready in these new national parks either. We have 350 either G-Wagons or Unimogs offline. I had a former forester who lives in East Gippsland contact me. He is working hard, and he rang me today and said, 'I just have to tell you, Melina, those Unimogs, they overheat. When they go out in the bush up into the tracks, their engines overheat and they won't work.' So you are putting these people in these vehicles and putting them in front of out-of-control bushfires. Now the government has taken them offline, and what has it done? It is borrowing other vehicles from interstate and it is calling on the CFA to backfill. It has known about this problem for best part of eight years. This is dangerous.

And what did we have? We also had the Premier talk – and I must just go back to that. The Premier said, hand on her heart in Bendigo a year and a half ago:

> I want to be very clear as premier and … a proud … Victorian, I won't be putting a padlock on our public forests. It's not who I am. It's not what I believe in.

Well, I have said this before, and we will say it again, the Liberals and the Nationals: this is being cute with the truth, because whilst you are not putting a fence around it with a padlock, you are restricting access – and not only that; you are restricting access for traditional owners too. I know that at the time in the Wombat forest when there was a shocking windstorm and there was a lot of windrow and there were trees falling over, VicForests was engaged to take that windrow timber off and use it. The people that threw their hands up in outrage were the Greens, and I find that the most amazing thing. You have got, on one hand, 'Protect and facilitate and bring about better outcomes for traditional owners', but if you are doing something that they do not want you to do, like actually taking the timber off the ground and making the best use of it, they have got an amendment coming through to say that you cannot do that. We will wait for them to bring that amendment on. But indeed it works as long as you suit their ideology – well, certainly we do not subscribe to that.

Let me get to the point on firewood, because this is a really significant issue for regional people. One of the most damaging and short-sighted aspects of this bill is its treatment of firewood. This government has stubbornly refused to understand that once the bill has declared a national park, national reserve or heritage area, firewood collection is permanently banned – as I said, unless you are in the Premier's seat, where until June 2029, after the next election, you can collect firewood in Bendigo Regional Park. It is saying no to firewood. For thousands of regional families, particularly older residents, low-income householders and communities without access to natural gas, firewood is not a luxury, it is a basic necessity. Once the government shut down the sustainable native timber industry it also made it excruciatingly difficult for people to access firewood, and my colleague Tim Bull has raised this on many occasions. Sometimes you are looking at the difference between people actually heating their homes and not. It is absurdly breathtaking in its ridiculous nature. Of course collection of firewood also helps to reduce that fuel load build-up.

What I would like to do now is just speak to some of our amendments, and I am happy to circulate them now. There are a couple of amendments. One: we will stick to our guns in terms of our opposition to creating three new national parks – 65,000 hectares – and that will be by moving a reasoned amendment to call on the government to basically withdraw the bill and then redraft it into two separate bills. That is taking into account more stakeholder consultation, and this is about the establishment of

Mount Buangor, Pyrenees and Wombat-Lerderderg national parks. We want to make sure that people are able to communicate in terms of traditional recreational activities, invasive species management, fire management and the rural economy and then retain the other parts of the bill. As I said, some we support – deer hunting – and others we are more ambivalent about. The other amendment in relation to this would be: should that fail, and I hope that it does not, we will then move amendments subsequently in each of the associated clauses to remove them – to pick the national parks out of this bill. So that is the second one that I would seek support on.

The third one – and I appreciate the fantastic people, prospectors and miners, who helped me to understand; indeed, I sent a letter off to the department, and I thank them for their response – is that in the 1975 parks act there is a section that facilitates the minister to issue mineral search authorities for national parks. It is consistent in that National Parks Act. Now, what the government has not done in this bill is actually include these new national parks and incorporate that particular section – it is 32D of the National Parks Act – which allows the minister to authorise, by notice in the *Government Gazette*, prospecting and recreational fossicking in limited areas listed in certain schedules of the act. It is about saying you actually can do this – you can go out – and the minister can then facilitate and enable this to happen. It is not in this bill at the moment, so right now it does not exist, and we would seek to put that in. It is still the minister, the power is with the minister, but certainly it is an important one, and we thank the prospecting and mining fraternity, those people that love to get out there.

What we know with so many of the people, four-wheel drivers et cetera, is they actually leave the bush in a better state than when they started. They look to improve it; they look to take the rubbish out. I was talking to somebody from that area as well who said that they actually got sick. They would take all the junk and rubbish and old tins and whatever, because that area out there is not pristine. It has actually been used for forestry over the years. It is not pristine Wilsons Promontory forested area. It is great scrub, a great location, there is no doubt about it, but please do not think that it is this pristine forest. But those prospectors and miners take that rubbish out.

In conclusion, the Premier said she would never put a padlock on public land, but Labor has systematically, over time, underfunded Parks Victoria and DEECA. They have cut rangers and field officers. They have created more suits in Melbourne – pen-pushers that are not supporting our native flora and fauna. This government has also not released a state of the forests report. The last one was in 2018. That is the report on its own homework. How is it actually looking after all of the important values in the forests, in our national parks and state forests? It is not doing landscape assessments, it is not doing monitoring and it is not doing reporting. That is not good enough. The government has stopped fuel reduction burning, drilled it down to a minimum. They have allowed pests and weeds to explode. They have ended the native timber industry. They have removed legal firewood supply in these areas specifically. They have ignored recreational groups and ignored farming groups. They have ignored beekeepers, and they are shutting them out of Wilsons Promontory. They have ignored local councils, they have ignored the science and they have ignored common sense. The Liberals and Nationals will stand up for regional Victorians. They will stand up for city people who want to enjoy life and get out there, be with their family and experience the very best. They will stand up for traditional users. We will, and we will stand up for common sense.

We will move these amendments. We will oppose the locking up of land provisions, and we will continue to fight for public access to public land and better management, active management, of our public land. I move:

> That all the words after 'That' be omitted and replaced with 'the bill be withdrawn and redrafted as two separate bills to:
>
> 1. take into account stakeholder consultation on the impact of the establishment of the Mount Buangor, Pyrenees and Wombat-Lerderderg national parks on traditional recreational activities, invasive species management, fire management and the rural economy; and
> 2. retain the remaining provisions of the bill.'.

Sheena WATT (Northern Metropolitan) (20:56): I appreciate the call and the opportunity to speak in support of the Parks and Public Land Legislation Amendment (Central West and Other Matters) Bill 2025. Victoria is known around the world for its natural beauty. From the tall forests and winding rivers to the open grasslands, our landscape is simply remarkable. These are the places where families camp, where children learn about nature and where communities come together to celebrate the outdoors. These are also places of deep cultural and environmental significance – country that has been cared for by traditional owners for countless generations and country that continues to provide habitat for wildlife and space for people to reconnect with the world around them – and they remind us all of our shared responsibility to care for the land that sustains us all. This bill strengthens that responsibility. It ensures that some of the most valued and vulnerable natural environments are protected for the future while also supporting recreation and community access. It is also about caring for the land, creating opportunities and giving Victorians more reason to get outside and enjoy what makes our state special.

This bill establishes three new national parks, Mount Buangor, Pyrenees and Wombat-Lerderderg, along with two new conservation parks at Cobaw and Hepburn. It also expands the Bendigo Regional Park and creates Mirboo North Conservation Park. It adds new areas to the Yellingbo Landscape Conservation Area, which will be renamed the Liwik Barring Landscape Conservation Area, and provides for new riparian management licences along three riverfront sites. It also adjusts the boundaries of several existing national and coastal parks, including the Alpine, Brisbane Ranges and Dandenong Ranges national parks, as well as the Gippsland Lakes Coastal Park and the Yallock-Bulluk Marine and Coastal Park. This bill also establishes a new Wandong Regional Park and updates plans for a number of existing parks to support the granting of Aboriginal title over those areas, including Baw Baw and Kinglake national parks, Avon wilderness park and Cathedral Range State Park.

Further amendments strengthen the operation of the Great Ocean Road and Environs Protection Act 2020 and authorise small extensions of the lease areas of Princess Park and the St Kilda Marina to allow for long-term leasing. Finally, I will say that the bill makes a series of minor improvements across several acts, such as removing outdated provisions and replacing some gender-specific language to ensure consistency with modern drafting standards.

Each of these areas has its own story. I just think of the Pyrenees ranges, which offer sweeping and rugged terrain. The Wombat and Lerderderg forests sit at the heart of Victoria's park network. They are close enough to Melbourne for a day trip but extraordinary enough to feel like a whole world away. Families, hikers, campers and other visitors already know how special these places are. In Hepburn and Cobaw, the creation of new conservation parks will link and protect vital corridors of bushland, supporting biodiversity and providing open space for people to walk, ride and explore. Taken together, these reforms expand Victoria's network of protected public land to over 4 million hectares.

This work builds on years of scientific assessment and consultation through the Victorian Environmental Assessment Council central west investigation. That process began all the way back in 2017 and drew on the expertise of traditional owners, community groups, scientists and land users. These new parks were a recommendation from the 2021 response to the Victorian Environmental Assessment Council's *Central West Investigation Final Report*. The bill ensures that sensitive ecosystems are managed appropriately and that species that depend on them are given a better chance to survive. It also reflects our state's *Biodiversity 2037* strategy, a commitment to reversing the decline of native species and to secure healthy landscapes for the future. The reality is that the pressure on nature, growing climate change, invasive species and land fragmentation threaten biodiversity across the state. Expanding and connecting our park estates helps to build resilience. It provides the space for ecosystems to adapt and to thrive. These protections are an investment not only in nature but in clean air, healthy water and quality of life.

The bill also recognises that our parks are there for everyone. They are places to walk, camp, picnic, ride and simply enjoy. They provide an escape for families and a challenge for those seeking adventures. From a hike through the Lerderderg Gorge to a quiet afternoon near the Avoca River,

public land gives every Victorian the chance to slow down and reconnect with nature. That accessibility matters. For young people discovering the bush for the first time, for families looking for an affordable way to spend time together and for older Victorians who simply want to enjoy the peace and beauty of our landscapes, parks are a vital part of our shared culture. They bring people together in ways that few other spaces can.

This bill supports that vision for ensuring that these new parks are well managed and safe. It gives Parks Victoria and the Department of Energy, Environment and Climate Action (DEECA) the tools to protect biodiversity while also improving visitor facilities, signage and access. Visitors will benefit from clear walking tracks, upgraded picnic areas and safer camping sites. Regional communities will benefit too, as these investments attract more people to visit, stay and spend locally. These spaces attract more visitors to our region, create local jobs and educational opportunities and boost the regional economy. The creation of these new parks will add to that. Towns like Daylesford, Beaufort, Trentham and Avoca are already gateways to the central west, but with this bill, they can look forward to even more opportunities in hospitality and local services.

It is a win for conservation, but it is also a win for regional jobs. The process that led to this bill has been detailed and deliberate. It balances environmental protection with practical land management. It considers the interests of local communities, traditional owners, environmental organisations and industry. Some existing uses of public land will continue under clear and sustainable conditions. Beekeeping, grazing and firewood collection have all been reviewed to ensure that they align with best practice. Transitional arrangements are in place to help users adapt to new boundaries or management arrangements, and Parks Victoria will continue to engage closely with affected stakeholders. Fire management and emergency access remain the utmost priority. The new park boundaries have been carefully designed to ensure that firefighting, forest health and public safety operations can continue without interruption. These are practical measures that make sure conservation and safety go together.

It also formalises the permanent protection of Mirboo North as a conservation park. This area, whilst small in size, is rich in biodiversity and community significance. For years local groups have worked hard to protect it, and this bill delivers on that advocacy. Along the Great Ocean Road, the bill supports improvements to how public land is managed. That includes ensuring that iconic sites such as the Twelve Apostles and the new visitor centre are protected and maintained for the millions of people who come to see them each and every year. This legislation ensures that these irreplaceable landmarks remain accessible while preserving their natural and culturally significant values. Together these measures show a government that is serious about environmental protection and ensuring Victorians can continue to enjoy their parks safely and sustainably. The Allan Labor government has a strong record when it comes to caring for public land. Over the past decade we have invested in expanding and restoring Victoria's parks, improving biodiversity monitoring and delivering programs that connect people with nature. Initiatives such as *Biodiversity 2037*, the parks revitalisation program and the creation of new marine and coastal reserves have all been part of that effort. This bill before us continues that work.

Importantly, it has been shaped through genuine consultation. Community input was vital. Environmental organisations, Landcare groups, local residents and small businesses all contributed to the process. DEECA has worked closely with traditional owner groups, Parks Victoria, VEAC and local councils. The government acknowledges the leadership of groups like the Victorian National Parks Association and Environment Victoria, who have long championed stronger protections for the central west. Their advocacy and their passion have helped shape a bill that delivers both environmental and social benefits, and I would like to give my thanks to them both.

Moving on now to traditional owners, they have certainly played a central role throughout this process. These lands included in the bill are part of the country of the Dja Dja Wurrung, Wadawurrung, Wurundjeri Woi Wurrung, Taungurung and Gunaikurnai peoples. Their knowledge and care for country continue to guide how these landscapes are managed. The bill allows for co-management arrangements that recognise leadership and embed cultural knowledge in how we care for these places.

This approach reflects the truth of our parks – that they are living landscapes. They are places with cultural heritage, environmental conservation and community enjoyment – they can all coexist. When we protect the land, we protect culture. When we share these spaces respectfully, we strengthen our connection to country and strengthen our connection to each other.

Victorians have a strong sense of pride in their natural spaces. They expect government to protect them, to manage them responsibly and to make sure they remain open to everyone. This bill delivers on that expectation. It provides a clear and practical framework for protecting special places, strengthening biodiversity and promoting sustainable recreation and tourism. It also shows that conservation and access are not in conflict. We can preserve what is special while still encouraging people to experience it. We can protect wildlife and still make room for walking tracks and picnic tables. We can care for land while sharing its beauty with others.

When we talk about national parks, they are not just patches of green on a map. We are talking about preserving deep history and beauty, about what we hand on to those that come after us. Expanding Victoria's park network means cleaner air, healthier water and thriving ecosystems. It means that future generations will have places to explore, to learn and to fall in love with nature, just as we have now. These new parks will stand as a reminder of what good environmental leadership looks like: practical and forward looking. These parks offer a refuge for wildlife, a classroom for students, a playground for families or just a quiet retreat.

The bill before us is an important step in Victoria's ongoing story of protecting land for the public good, a story that, for me, began when I moved back home and found myself working in the public land division of the then Department of Sustainability and Environment. This work has been quite foundational to my Melbourne story, and so to stand here today with a piece of legislation before us that builds on some of the aspirations that I heard all those years ago from traditional owners and other groups managing our parks and our public land is a point of great pride for me because this bill further strengthens protection for our most precious natural areas. It honours our partnerships with traditional owners, it supports regional communities and it creates new opportunities for education, tourism and recreation. Most of all, it ensures that the beauty and diversity of our public land will endure. These places are enormously special. They belong to all of us, but with that comes a responsibility to care for them. I just want to say that there is probably more that I could say about my love of Victoria's beautiful public land estate, but I will leave it there and commend this bill to the house.

John BERGER (Southern Metropolitan) (21:09): I rise to speak on the Parks and Public Land Legislation Amendment (Central West and Other Matters) Bill 2025. This is a bill which those of us who love nature, love the great outdoors and believe in protecting our natural assets will find very exciting. In short, we are creating three new national parks, two new conservation parks, seven new or expanded regional parks and a number of new nature reserves. This is fantastic news for the conservation community and all Victorians who care about preserving our natural environment for the benefit of future generations. This is the first substantial addition to the national parks in Victoria in 14 years, and communities in the central west such as Bendigo, Gisborne, Hepburn and others have good reason to celebrate this achievement. In particular I would like to applaud the Victorian National Parks Association, who I know have worked extremely hard in their advocacy on this important issue and who have welcomed the introduction of this bill into the Parliament.

Through this bill the Allan Labor government is demonstrating our steadfast commitment to boosting the Victorian tourism industry, supporting regional communities and businesses and helping to protect the many threatened species who live in the affected areas. The Wombat-Lerderderg National Park, the Mount Buangor National Park and the Pyrenees National Park will together protect approximately 65,265 hectares of land. We know that regional communities value these parts of their state for their environmental value, as well as for the opportunities they provide for outdoor recreation. It is not just for people out in the regions who care about protecting our beautiful natural landscapes. However, I know that constituents in Southern Metro Region care deeply about protecting the environment and also enjoy getting out of the city and into nature on weekends. These natural assets belong to all

Victorians, and it is important that we continue to ensure that all Victorians have access to them, for the purposes of both access to nature and access to outdoor recreation. Whether you are keen on hiking, camping, fishing, horseriding or mountain bike riding, we in the Allan Labor government understand how important these activities are to our constituents, whether they be from the city or from the regions. We also understand how important protecting our environment's biodiversity is to Victorians, and this is a priority for the community across the state, not just in some particular areas.

The path towards creating these new national parks has been a long one. In fact this bill is implementing the recommendations of the Victorian Environmental Assessment Council's *Central West Investigation: Final Report* back in 2021. We took these recommendations seriously and on their merits. That is why we listened and are now establishing these new national parks. The process of creating new national parks cannot happen overnight. The process is not easy, and the issue is too important not to have an extensive and thorough process of community and expert consultation. It requires strenuous analysis and surveying of the land itself, as well as a consultation process which does not leave anybody behind.

To now have a bill before the chamber ready to go to create these new national parks is something that all of us in this chamber can be proud of, and it is worth noting that this government's environmental agenda does not start or end with this bill. This is only one item in a long list of achievements and successes. We have invested a record $800 million in protecting and promoting biodiversity since coming into office, ensuring that our beautiful natural landscapes can continue to thrive for years and decades to come. We also ended native forest logging in this state, protecting an area of native forest across the state which is larger than the entire landmass of that little island to the south of us known as the state of Tasmania.

As always in the conservation agenda, we know that there are multiple legitimate land uses for some of our most treasured natural assets. We also know that with the right regulation, the right planning and a consultation process that seeks to understand the competing interests of different groups we have been able to produce a bill which gets the right balance. With that I commend the bill to the house.

Tom McINTOSH (Eastern Victoria) (21:13): I stand to support the Parks and Public Land Legislation Amendment (Central West and Other Matters) Bill 2025, which is going to see new national parks at Mount Buangor, Pyrenees, Wombat-Lerderderg, Cobaw, Hepburn, Bendigo and the Wimmera Heritage River and is going to enable seasonal recreational deer hunting in the Errinundra and Snowy River national parks. One that I am quite close to is the new conservation park at Mirboo North, and I want to acknowledge the work of, in particular, Marg, Ian, Julie, Wendy and others who have done a lot of work on that. The community is going to really appreciate that they are close to town in having that area conserved and looked after, particularly after the events in recent years. I am very proud to be part of a party that is taking actions that need to be taken and protecting areas of high ecological value whilst ensuring that we have big areas of our state that people from all over Victoria, whether they are rural, regional or metropolitan, can get out and enjoy.

Of course if you listen to the Liberals and the Nationals and the bandwagon they have been on for the last 15 months whipping up fear and telling people there are going to be padlocks on everything, you would think you would not be able to do anything in this state. But of course the Labor Party sits in the centre making rational, grown-up decisions, while we have the Greens of the Nationals and the Greens of the inner city fighting their way to the fringes and the populist elements. It was interesting. I will not repeat the unparliamentary words of the Nationals member opposite, who said that there was no-one on this side wanting to speak. Well, our benches were full, and the coalition benches are empty, with no-one other than their lead speaker here to speak on this bill.

I am going to keep it a short contribution, but I am a big believer that it is difficult to appreciate what you cannot enjoy. We want Victorians right across our incredible, beautiful state, no matter where people live, to get out and appreciate our natural spaces. When you appreciate it, you will support it.

When you get to see how stunning it is, how beautiful it is, you will support investing in caring for it, in managing it. That is why I support this bill, and I will leave my comments there.

Lee TARLAMIS (South-Eastern Metropolitan) (21:16): I move:

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

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

Adjournment

Gayle TIERNEY (Western Victoria – Minister for Skills and TAFE, Minister for Water) (21:16): I move:

That the house do now adjourn.

Education system

Trung LUU (Western Metropolitan) (21:17): (2118) My matter is for the Minister for Education regarding the material being taught in our government schools. The action I seek is for the minister to urgently investigate the circulation of unauthorised teaching materials aimed at promoting political activism in Victorian schools and ensure that classrooms remain places of learning, not ideological indoctrination. It has come to light that a rogue group of teachers is distributing a 15-page guide encouraging staff to teach children as young as three years of age that Palestinians are 'dying because the country is being attacked by Israel'. This is not education, it is radicalisation. The guide shows how teachers can wear political symbols in the classrooms and how to embed anti-Israel rhetoric into subjects like health, PE and science, and it even instructs kindergarten educators to tell toddlers that Palestinians are 'hungry, sad and dying'. Teachers are being asked to report how they have used the guide to 'break the silence on Palestinian genocide'. This is deeply disturbing. Our schools should be safe, inclusive environments where students are taught to think critically, not be fed a one-sided political narrative. The complexity of the Middle East deserves balanced, age-appropriate discussion, not propaganda disguised as curriculum. The Department of Education has rightly called this behaviour 'regrettable', but words are not enough. Opposition spokesperson my colleague next door Jess Wilson, the member for Kew, said it best:

If hatred is allowed to fester in schools, it will only end up as more violence on our streets.

The Australian Education Union has not endorsed this guide, yet some members are promoting it. This raises serious questions about oversight, accountability and the role of unions in our classrooms. I call on the minister to take decisive action immediately, identify where these materials are being used, hold those responsible to account and reaffirm that political activism has no place in Victorian classrooms, especially not kindergartens – yes, kindergartens. Are these people really educators or activists? Radicalisation that starts in the classroom never ends in the classroom. We have seen that very clearly in recent days outside on the steps of Parliament, in the streets of Melbourne and in the condemnation from senior police command of these activists' violence. If we fail to act now, we risk compromising the integrity of our education system and the wellbeing of our children.

Prahran police station

John BERGER (Southern Metropolitan) (21:19): (2119) My adjournment is for the Minister for Police in the other place. Prahran police station is located just a short walk from my electorate office, and I would first like to acknowledge the work that they do in serving the community. Prahran police are made up of 51 officers, nine of whom are specialists in family violence matters. Our government has introduced some of the toughest crime laws in the country over the past year. Earlier this year the Allan Labor government implemented the Justice Legislation Amendment (Anti-vilification and Social Cohesion) Act 2025, introducing new criminal offences for vilification and protecting Victorians from hate speech and conduct. The Crime Amendment (Performance Crime) Act 2025 signed into legislation in August made it a crime to post and boast about certain crimes online, and last month it was reported that over 1300 machetes were surrendered by Victorians and over 3400 by

major retailers throughout Victoria through its machete ban, facilitated by disposal bins located at police stations such as Prahran police station's machete safe disposal bin site. In Victoria's state budget 2025–26 we invested $5.4 million into police recruitment and $3 million into community crime prevention. This adds onto the $4.5 billion invested into Victoria Police last year. These changes have given our officers more power to crack down on crime, and the hardworking individuals of the Prahran police force work tirelessly to keep the community safe. This is why the action that I seek is for the minister to visit Prahran police station to hear about how their work is going with these changes and the investment.

Indian community

Anasina GRAY-BARBERIO (Northern Metropolitan) (21:21): (2120) My adjournment matter this evening is for the Premier, and the action I seek is funding investment in preventative programs to address racism at its root, specifically towards the Indian community in the northern and western parts of Victoria. Over the past few weeks my inbox has been filled with shocking stories of abuse, racism and violence experienced by multiple members of the Indian and South Asian diaspora here in Melbourne. One community member told me about an incident he witnessed where a white man in his mid-30s shouted racist slurs at a group of South Asian high school boys in the city, screaming the name Gandhi at them as they were walking down the street. The man then went on to threaten physical violence at the students before throwing a drink at them. In another story, another community member told me about a white man hurling racial slurs and abusive language at an Indian taxidriver who was simply trying to pay for his fuel. When the community member tried to intervene, the man became even more aggressive and started spewing anti-immigration rhetoric around preventing Indians from entering the country.

These are not isolated events, Premier. We are seeing, hearing and reading about a troubling rise in anti-immigrant hate across this country and here in Victoria. Whether it is neo-Nazis and white supremacists openly rallying on the steps of Parliament and calling for migrants to go home or politicians and media singling out the Indian community in public discourse, there is now a very real climate of fear and alienation among South Asian Australians, which is manifesting in everyday violence and abuse. These are just some of the stories that I have been told personally, but how many are out there? How many more community members are scared for their lives because of racist rhetoric that has become so normalised and so ingrained in Australian culture that migrants are being abused on our streets so brazenly?

It is the responsibility of this government, and of all of us in this place, to prevent racism at its root. Our community needs more than reassurance. We need a concrete, funded strategy. What educational initiatives are being deployed in schools and communities to combat prejudice before it takes hold? What public campaigns are actively combating anti-immigrant sentiment and calling out this specific form of racism? Indian Australians are a vital part of our community. They deserve to feel safe, protected and valued, not to be targeted or racially profiled. The Australian race discrimination commissioner recently said:

> Racism is a fire. Once lit, it spreads, igniting more hate in its path.

Premier, what are you doing to put out this fire, and better yet, stopping it from being lit in the first place?

Probus clubs

Gaelle BROAD (Northern Victoria) (21:24): (2121) My adjournment matter is to the Minister for Consumer Affairs regarding a large fee that the Probus Club of Bendigo has been asked to pay. The overarching Probus organisation, Probus South Pacific Limited, has encouraged clubs to register their new constitution with Consumer Affairs Victoria. Consumer Affairs Victoria recently informed the Bendigo club that the cost to register an updated constitution has increased to $437.10. For some small Probus clubs with only a few members who are retirees, this is a significant cost. Probus South Pacific

has asked the Minister for Consumer Affairs to waive or reduce these fees for member clubs, but their request was declined. The local Probus club member who brought this to my attention has also been in contact with Premier Jacinta Allan's office as his local member. I note the response provided by their office from the minister's office is that a review of fees was undertaken by CAV and applied the government's *Pricing for Value* guide. To quote the response:

> As a result of this work, changes were made under the new regulations to the prescribed fees payable to the Registrar to ensure the incorporated associations scheme is operating at cost recovery and that fee amounts accurately and fairly reflect transaction costs.

It is important to note that Victoria applies a much higher fee than other states and territories, which range from just $23 to $84. The response, also from the office of the Minister for Consumer Affairs, provided background information on the CAV fees and indicated that clubs can decide when to update their rules and that CAV can also consider waiving fees for changing a club's rules. To quote directly from the correspondence:

> CAV can also consider waiving fees for changing a club's rules. These requests can be made when a club submits new rules for assessment and waivers are assessed on a case-by-case basis.

I note that my colleague Ms Crozier has also asked the Minister for Consumer Affairs to address this issue after she was also contacted by a Probus club in her electorate. As there are over 400 Probus clubs across Victoria, rather than expecting each one to be considered on a case-by-case basis, the action I seek is for the minister to reconsider this exorbitant fee and reduce the financial burden on Probus members across the state.

TAFE funding

Tom McINTOSH (Eastern Victoria) (21:26): (2122) We know that if the Liberals had half a chance they would cut every single TAFE they could. In fact they probably have not even set foot inside a TAFE. All they know about TAFEs is cutting them out of the budget, as they have done in the past and will do in the future. I am proud to have done an apprenticeship through a Victorian TAFE. The action I seek from the Minister for Skills and TAFE is for Minister Tierney to update the house on the investment being made in TAFEs in Eastern Victoria.

Northern Metropolitan Region transport infrastructure

Evan MULHOLLAND (Northern Metropolitan) (21:27): (2123) My adjournment is to the Premier. It is something of deep, deep importance and I think goes to the heart of the decisions in this government. We have seen this week an important report from Infrastructure Victoria which goes to the needs and priorities of infrastructure across our state. One of the very important infrastructure projects it does recommend, as does my community in the northern suburbs, is the duplication of the Upfield line. Infrastructure Victoria recommends a duplication of the Upfield line and a new station at Campbellfield, as well as connecting that track with Roxburgh Park, which would give us the ability to connect these two lines, run more frequent trains, have a new station past Craigieburn at Kalkallo, have a new station at Beveridge and eventually electrify all the way to Wallan. Again, it has got costs in here of $1 billion to $2 billion by 2030 for part of the project, and around $4 billion to $5 billion for the whole project.

Another thing that is quite important is an outer metropolitan ring-road. Something that would connect the ring-road to the new intermodal terminal at Beveridge and go around the west would make Victoria a logistics hub of Australia and really be a boon for our economy. But that is all given a backdrop of the government's decisions on the Suburban Rail Loop. A fraction of what the Suburban Rail Loop is costing – $34 billion, they say; we know it is going to be $50 billion – would deliver these kinds of services and infrastructure to my community in the north.

What I have heard and what I am seeking the Premier to clarify is that the federal government is being asked for $9 billion for the Suburban Rail Loop in the eastern suburbs. Part of those discussions is that they will cave and provide the $9 billion, but they gave them a choice of duplicating the Upfield line,

doing some rail extensions or an outer metropolitan ring-road or putting it all into the Suburban Rail Loop in the eastern suburbs. These kinds of conversations in Canberra and at an NRL game in Sydney do not stay silent for long, Premier. I am seeking the action of the Premier to clarify whether this is true, that she has abandoned the northern suburbs, abandoned my community and chosen to plough $9 billion more into the Suburban Rail Loop in the eastern suburbs.

Avalon Airport

Jacinta ERMACORA (Western Victoria) (21:30): (2124) My matter is for the Minister for Industry and Advanced Manufacturing. The Allan Labor government is bringing back international and domestic flights to Avalon. My request is for the minister to provide details of how the expanded services will benefit tourism in western Victoria.

Housing

Ann-Marie HERMANS (South-Eastern Metropolitan) (21:30): (2125) My adjournment is to the Minister for Housing and Building, and I must raise the urgent issue of mortgage stress in Berwick, Narre Warren and across the Casey region, which has recently been highlighted in the Star News. I ask the minister to listen to and work with local councils, community organisations and financial service providers to deliver targeted support to households struggling to meet their mortgage obligations.

Families in Berwick, Narre Warren and across Casey need real, coordinated action now from all levels of government to help them to stay in their homes and avoid homelessness and further financial and social harm. Recent data from Digital Finance Analytics reveals a shocking picture – that 100 per cent of the 18,324 households in Berwick and 94.4 per cent of the 19,385 households in Narre Warren are currently facing mortgage stress. Across the broader Casey region almost half of all households are struggling to keep up with their repayments. This is not just a financial statistic but one of a human crisis that is affecting families, children and communities. Families are being forced to cut back on essentials just to make mortgage repayments, and the stress of managing repayments is leading to increased social pressures, including rises in crime and family violence, with the latest Crime Statistics Agency figures showing a 23.4 per cent increase in crime and a 13.6 per cent increase in family violence incidents in Casey over the last year. Local residents and community groups, including the Casey Residents and Ratepayers Association, have highlighted that mortgage stress is compounded by council rate increases, rising living costs and insufficient local support services, not to mention the dreadful impost now of the emergency services levy.

The $4 million provided to Mortgage Stress Victoria offers free legal and financial counselling, but the reality is that a more coordinated, practical support is urgently required. Early intervention, hardship programs and accessible finance advice are critical to helping families avoid default, foreclosure and homelessness. The City of Casey has made efforts to assist households through flexible payment plans and local midwives, schools and social service providers are seeing firsthand the pressure on families, yet without a coordinated state-level response many households will continue to struggle. Mortgage stress is placing enormous pressure on families' mental health, children's wellbeing and the broader social fabric of the community. I therefore plead with the minister to listen to the struggling families in my area and work with them to develop a practical, targeted response to mortgage stress in Casey, including outreach programs, financial counselling and early intervention support. Will the minister commit to taking immediate action? Our residents cannot wait, and hope alone does not meet anyone's needs realistically.

Energy policy

David DAVIS (Southern Metropolitan) (21:33): (2126) My matter for the adjournment tonight is for the Minister for Energy and Resources but also for the Premier, and it is particularly for the Premier in the context of an email I have received, which has been sent to the Premier by Kevin Scolyer, who is a person in the north of the state. He is associated with the Nathalia compressed natural gas action

group. That is a group of people who have been impacted by the state government's decision to withdraw support from Solstice Energy and to force them to close their whole network across 10 different towns that had compressed natural gas as part of their energy mix. The gas is being pulled out of those towns; the rug is being pulled out of the businesses and households in those towns. This was a 20-year contract, and the state government is supporting Solstice pulling out 10 years early. The natural gas action group makes the legitimate point that the agreement to cancel the particular contract – the development agreement, or DA, as they call it – should not have occurred. They say the statutory, licensing, regulation and code-of-practice requirements have been infringed. They say contracts and agreements have been breached and the Essential Services Commission responsibilities have been contravened. They say residents had a cosy, comfortable energy source in their homes, and now they have not. How on earth has this been allowed to happen?

On 31 October, the group made a request for compensation to the Premier's office:

> We respectfully ask that you throw your weight behind our request for compensation …

Of course these people should be treated appropriately. Of course they should have support to make sure that they can have a secure future. It is absolutely outrageous. Jaclyn Symes in this chamber, who as the Minister for Regional Development was initially responsible for part of this, and the Premier have obviously allowed this to occur and have allowed an agreement to be unwound. I think the Premier needs to meet with Solstice Energy, but she also needs to meet with the Nathalia CNG action group. I understand Nathalia has got a big day out not this Saturday but the one after.

Wendy Lovell interjected.

David DAVIS: An energy expo – perhaps the Premier would like to attend that. She should certainly meet with this group. They are seeking compensation, and they have a legitimate cause to complain. The gas has been turned off in their area; the contracts have been broken. It is absolutely outrageous.

Australian Synchrotron

Richard WELCH (North-Eastern Metropolitan) (21:36): (2127) My adjournment matter is for the Minister for Economic Growth and Jobs. The Australian Synchrotron in Clayton, Melbourne, is an incredibly valuable research institute here in Melbourne. It was an investment that the Victorian government started around 2007 and was supported by successive governments, and then, under probably sensible planning at the time, it was transferred to federal control and federal funding about 11 years ago. Why is it so important? It is incredibly important because it is not just an advanced research centre – one of the very few in the Southern Hemisphere and one of only two in Australia; it creates an ecosystem, an ecosystem of research and an ecosystem of jobs for advanced science. We attract talent to the state because of this institution. Advanced manufacturing benefit from it. They can go and do their experiments and do tests at this centre. It is actually a centre for the development of health science as well. A number of really important, fascinating research elements come along with the synchrotron.

The problem we have now is that the federal government are cutting a significant amount of its budget, such that it is going to have to close 20 per cent of the lines that it runs. In doing so, that means they are going to have to let go of scientists as well. Whilst you can mothball the lines and turn them back on again, you cannot simply get that calibre of scientists to come and work here, and you cannot recreate the ecosystem of research that you have created over 18 years of having this centre. The loss is bad for industry and bad for science, but to be more specific, it is bad for industry and science in Victoria. It is bad for our place as an advanced manufacturing hub and as an advanced medicine hub, so it is absolutely in the state's interest that we do not allow this to happen.

Whilst it is a federal funding issue, this government has certainly been willing to invest through Breakthrough Victoria and the SEC, and it has been willing to invest in all sorts of things supposedly for research and innovation purposes. This is an absolutely spot-on eligible entity we should be

preserving. The consequences will magnify if we do not. It is not a significant amount that is needed. I urge the minister to engage with the administration of the synchrotron and work out if we can get a short-term funding package so that we can keep those lines open.

Goulburn Valley Health

Wendy LOVELL (Northern Victoria) (21:39): (2128) My adjournment matter is for the Minister for Health, and the action that I seek is for the minister to commit funding for the completion of the integrated cancer centre at Goulburn Valley Health. When the Minister for Health toured Goulburn Valley Health in 2023 to view the progress on stage 1 of the development works, the minister referred to the works as the final stage of the hospital's redevelopment. That statement shocked and enraged our entire community, because the minister is fully aware that there is a stage 2 of the hospital's redevelopment, and the state government had even set aside $2 million in the 2019 budget towards planning for stage 2 of the works. I have continued to forcefully advocate for the state government to fund all components of stage 2 of the hospital's redevelopment, including increased acute and subacute inpatient capacity, additional places for ambulatory care, services for specialist clinics, additional car parking and a helipad, and clinical support and diagnostic services. It is vital that this second stage is fully completed so that the hospital can deliver expanded and improved medical services that are necessary for closing treatment gaps in our region.

One of the most urgently needed components of the hospital's 2021 master plan is the construction of an integrated cancer centre in one building at Shepparton hospital. GV Health is the only public health service in regional Victoria that does not offer comprehensive cancer treatment facilities. Whilst the first stage of the new cancer centre, which has been funded by federal funding, will create room for more patients, radiotherapy will remain offsite. Finishing the second stage of the cancer centre will bring all oncology services under one roof so that patients from our region can get the care they need in one place without having to travel for treatment.

The federal government committed $26 million to cover planning, design and the start of construction for the integrated cancer centre, and Goulburn Valley Health recently announced the good news that they are in the process of appointing consultants to carry out the detailed design work. But now the state government needs to step up and provide the rest of the funding needed to complete construction of the cancer centre, and this is estimated to be about $90 million. This is a drop in the bucket for a government that spends billions of dollars of Victorian taxpayer money on big metropolitan projects yet so often fails to do the right thing by rural and regional Victorians by funding the health services that they deserve. An integrated cancer centre at the hospital is one of the top priorities for the City of Greater Shepparton, and the state government must now do its part and provide the necessary funding to complete the cancer centre.

Coastal erosion

Melina BATH (Eastern Victoria) (21:42): (2129) My adjournment debate is for the Minister for Environment. It also cuts across planning, but I would like the Minister for Environment to take the lead on this. Coastal erosion is not only a statewide issue, it is a nationwide issue. We have got the Twelve Apostles in the west. We have got Torquay, where the area in front of the surf club is being worn down.

David Davis interjected.

Melina BATH: Wait, Mr Davis, I am getting to Inverloch, where there is erosion occurring. In Loch Sport there is certainly erosion and also down in Inverloch, at the surf club, which I know very, very well. Over in Silverleaves the fabulous people in that little community are really threatened. The government has been fairly piecemeal in how it is making amends on these things. I am asking the minister to look interstate, to look to WA and to make a review of Western Australia's successful coastal framework as a potential model for Victoria. I am asking the minister to do some research and come back, not necessarily to go there but ask his staff to investigate.

What we are seeing is many of these communities – Silverleaves, Inverloch, places in the west – enduring months and years of concern as coastal erosion is impacting and eating away infrastructure, such that they are at real risk. The communities have faced fragmentation in terms of responsibility: is it the council's fault or the state's fault? They look for Commonwealth government funding and planning provisions as well. It is quite a reactive establishment.

What WA has done since 2020 is it has invested more than $25 million across 240 projects, moving systematically from planning into risk identification, design and construction. It looks at hotspots, so it goes and it investigates hotspots, it maps hotspots and then it makes an assessment. These decisions are evidence-based and staged over time. They have got community involvement. This is exactly the discipline that Victoria could use. It could be of benefit, not like an ad hoc approach with sandbags and scrambling. WA also couples policy capability and funding. I ask the minister to investigate this WA coast framework as a potential model to be used in Victoria and on Victoria's coasts.

Federation anniversary

Bev McARTHUR (Western Victoria) (21:45): (2130) My adjournment tonight is a heartfelt plea to the Minister for Creative Industries to ensure Museums Victoria properly commemorates the 125th anniversary of Australian Federation next year. On 3 September 1901 a massive Australian flag measuring 11 metres by 5.5 metres was raised for the first time on the main dome of the Royal Exhibition Building. Prime Minister Edmund Barton conducted the historic ceremony before a large cheering crowd. The moment followed the federal flag competition exhibition, which attracted more than 32,000 entries and produced five joint winners.

Why is this relevant to Mr Brooks, you might ask? As members here know, the Royal Exhibition Building is a UNESCO World Heritage site and was the temporary home of Australia's first Commonwealth Parliament. Its role in the birth of our national flag deserves proper recognition. Yet a correspondent of mine, flag historian John Vaughan OAM, has been trying since February to engage Museums Victoria about commemorative activities. Despite multiple calls to the Ask Us helpline and written approaches to senior curators, he has received no substantive response. Mr Vaughan has proposed several thoughtful initiatives: displaying any existing records, mementos or photographs from the 1901 flag raising; exhibiting the Speaker's Australian flag roadshow, which circulates a similarly sized flag to schools; and launching a public search for the original flag or related historical material. These are exactly the kinds of activities that would bring our Federation story to life.

Substantial public funding supports Museums Victoria. The recent state budget allocated $475.3 million over five years to our major cultural institutions, including $9.6 million for Royal Exhibition Building preservation. Victorians deserve to see these investments translate into responsive institutions that take opportunities to celebrate our shared history. Celebrating our national flag would be an opportunity to bring all of us together as one unified people.

The action I seek, Minister, is for you to get enthused about the idea, to direct Museums Victoria to respond to Mr Vaughan's correspondence and to work collaboratively on an appropriate commemorative activity for the 125th anniversary of the first raising of the Australian national flag at the Royal Exhibition Building. This is not merely a request about getting your agencies to respond to correspondence, it is a plea for us to honour a historic and pivotal moment when Victoria hosted the birth of Australia's most enduring national symbol and a chance to celebrate the event as one people.

Responses

Enver ERDOGAN (Northern Metropolitan – Minister for Casino, Gaming and Liquor Regulation, Minister for Corrections, Minister for Youth Justice) (21:48): Today there were 13 matters: Mr Luu to the Minister for Education, Mr Berger to the Minister for Police, Ms Anasina Gray-Barberio to the Premier, Mrs Broad to the Minister for Consumer Affairs, Mr McIntosh to the Minister for Skills and TAFE, Mr Mulholland to the Premier, Ms Ermacora to the Minister for Industry and Advanced Manufacturing, Mrs Hermans to the Minister for Housing and Building, Mr Davis to the Minister for

Energy and Resources, Mr Welch to the Minister for Economic Growth and Jobs, Ms Lovell to the Minister for Health, Ms Bath to the Minister for Environment and Mrs McArthur to the Minister for Creative Industries. I will make sure all of those are passed on for response.

The PRESIDENT: The house stands adjourned.

House adjourned 9:49 pm.